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The Charter

Chapter C Charter

[**HISTORY: Adopted by the General Court of the Commonwealth of Massachusetts by Acts 1993, c. 131, approved 9-2-1994. Amendments noted where applicable.**]

Part I.

INCORPORATION AND AUTHORITY.

Section 1 Incorporation continued.

The inhabitants of the Town of Sudbury, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the Town of Sudbury.

Section 2 Short title.

This instrument may be cited and shall be known as the Sudbury Home Rule Charter Act.

Section 3 Powers of the town.

The intent and purpose of this act is to secure for the voters of the town of Sudbury, through the adoption of this act, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the commonwealth, as fully and as though each such power were specifically and individually enumerated herein. To the extent that the provisions of this act modify or repeal existing general laws and special laws or the body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

Part II.

LEGISLATIVE BRANCH.

Section 4 Town meeting.

The legislative powers of the town shall continue to be exercised by a town meeting open to all voters of the town.

Part III.

CHIEF EXECUTIVE FUNCTION.

Section 5 Select board.

[**Amended by Acts 2012, c. 410, approved 1-4-2013; Acts 2020, c. 245, approved 12-29-2020**]

(a) Composition, term of office.

There shall be a select board composed of 5 members elected for terms of 3 years each, so arranged that the term of at least 1 member shall expire each year.

(b) Powers and duties.

The executive powers of the town shall be vested in the select board. The select board shall have all of the powers and duties given to boards of selectmen under the constitution and laws of the commonwealth and such additional powers and duties as may be authorized by this act, by by-law or by other town meeting vote. The select board shall cause the laws and orders for the government of the town to be enforced and shall cause a record of its official acts to be maintained. The select board shall be the chief policy making board of the town and shall act by the issuance of policy statements and guidelines to be followed and implemented by all town agencies serving under the board.

The select board shall be the licensing authority of the town and shall have power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

To aid the select board in the conduct of its official business and duties, the select board shall appoint a town manager.

(c) Appointment powers.

The select board shall appoint a town manager, town counsel, and town accountant. The select board shall also appoint all boards, committees, and commissions except as otherwise provided by this act, by by-law or other vote of the town meeting and such other regional authorities, districts, or committees in accordance with any applicable laws, or interlocal agreement.

Part IV. **ADMINISTRATIVE OFFICER/TOWN MANAGER.**

Section 6 **Appointment, qualifications for the town manager.**
[Amended by Acts 2020, c. 245, approved 12-29-2020]

The select board shall appoint a town manager who shall serve at the pleasure of the board. The town manager shall be especially fitted by education, training and experience in public or business administration to perform the duties of the office. Any vacancy in the office of town manager shall be filled as soon as possible by the select board. Pending the appointment of a town manager or the filling of any vacancy, the select board shall appoint a suitable person to perform the duties of the office. In the event of temporary absence or disability of the town manager, the select board may designate a qualified person to serve as acting town manager and to perform the duties of the town manager during such temporary absence or disability. The town manager shall receive such compensation for services as the select board shall determine, but such compensation shall not exceed the amount appropriated therefor by the town.

Section 7 **General responsibilities of the town manager.**
[Amended by Acts 2020, c. 245, approved 12-29-2020]

The town manager shall be the chief administrative officer of the town, shall act as the agent for the select board and shall be responsible to the select board for the proper operation of town affairs for which the town manager is given responsibility under this act. The town manager, under the policy direction of the select board, shall supervise, direct and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility, authority or control by this act, by by-law, by town meeting vote, or by vote of the select board. The town manager shall have the power to delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town manager is authorized to exercise under this act. All actions that are performed under such delegation shall be deemed to be the actions of the town manager.

Section 8 Appointment responsibilities.

Except as otherwise provided by this act, the town manager shall appoint, based upon merit and fitness alone, a director of finance, a police chief, a fire chief, a town clerk, a treasurer-collector, a director of assessing, a director of public works and all department heads and officers, subordinates, and employees under the direct supervision of the town manager and officers, subordinates, employees for whom no other method of selection is provided in this act., except employees of the school and health departments. The town manager may appoint ad hoc committees as is deemed necessary.

Section 9 Personnel management responsibilities.

The personnel management powers, duties and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

- (a) To administer and to adopt personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements, except for school department agreements, entered into by the town.
- (b) To fix compensation of all town employees and officers appointed by the Town Manager within the limits established by appropriation and any applicable compensation plan and/or collective bargaining agreements.
- (c) To be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except employees of the school department; such contracts shall be subject to the approval of the select board. The town manager may, subject to the approval of the select board, employ special counsel to assist in the performance of these duties. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**

Section 10 Financial management responsibilities.

The town manager, with the assistance of the finance director and the treasurer-collector, shall be responsible for all the financial management functions of the town, unless otherwise provided by this act. Such functions shall include, but are not intended to be limited to, the following:

- (a) To prepare and submit, after consultation with all town departments, an annual operating budget and capital improvement program for all town departments.
- (b) To insure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the select board as may be required. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**
- (c) To approve warrants for payments of town funds prepared by the town accountant.
- (d) To be responsible for the purchase of all supplies, materials, and equipment, except books and other educational materials for schools and books and other media materials for libraries. The town manager shall award all contracts for all town departments with the exception of the school and health departments, subject to the approval of the select board. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**
- (e) To keep the select board and finance committee fully informed as to the financial condition of the town and to make recommendations to the select board and to other elected and appointed officials as the town manager deems necessary or expedient. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**
- (j) To prepare, annually, a financial forecast of town revenue, expenditures and the general financial condition of the town.

Section 11 Administrative responsibilities.

The administrative powers, duties and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

- (a) To attend all regular and special meetings of the select board, unless excused. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**
- (b) To attend all sessions of the town meeting and to answer all questions addressed to the town manager which are related to the warrant articles and to matters under the general supervision of the town manager.
- (c) To administer either directly or through a person or persons supervised by the town manager, in accordance with this act, provisions of general or special laws, by-laws and other votes of the town meeting.
- (d) to investigate or inquire into the affairs of any town department or office, under the supervision of the town manager.
- (e) to coordinate activities of all town departments, officers, boards or commissions of the town.
- (f) To keep the select board fully informed as to the needs of the town requiring action by them, or by the town, as the town manager deems necessary or expedient. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**
- (g) To be responsible for the efficient use, maintenance and repair of all town facilities, except those under the jurisdiction of the school committee.
- (h) To develop and maintain a full and complete inventory of all town owned real and personal property.
- (i) To perform such other duties as necessary, or as may be assigned by this act, by-law, town meeting vote, or vote of the select board. **[Amended by Acts 2020, c. 245, approved 12-29-2020]**

Part V.

ADMINISTRATIVE ORGANIZATION.

Section 12 General power to reorganization.

[Amended by Acts 2020, c. 245, approved 12-29-2020]

The town manager may reorganize, consolidate or abolish, create, merge, or divide, alter the term of office, the manner of selection of any town department, office, agency or function under the jurisdiction of the town manager.

The select board may reorganize, consolidate or abolish, create, merge, reassign responsibilities and duties or divide, alter the term of office, the number of members, the manner of selection, of any board, commission or committee of the Town under the jurisdiction of the select board.

Section 13 Department of public works.

[Amended by Acts 2020, c. 245, approved 12-29-2020]

Until such time as another form of organization is provided for in accordance with section twelve of this act, there shall be established a department of public works. The department of public works shall be charged with responsibility for the management of public works operations of the town including, but not limited to, the following: highways; solid waste and recycling activities; maintenance of cemeteries, town property,

open space, public memorials, and commons; engineering services; building maintenance of all town buildings, except those of the school department; maintenance of vehicles and equipment; and other operations, and functions as may be deemed necessary or desirable. The department of public works shall also perform such functions and responsibilities as required by bylaw, vote of the town meeting or upon direction of the town manager or select board. The functions of the highway surveyor and the tree warden shall be incorporated into the department of public works. The town manager shall appoint a director of public works. The director shall be especially fitted by education, training and experience to perform the duties of the office; the director shall have such other qualifications as the town manager may from time to time provide.

Until such time as another form of organization is provided for in accordance with section twelve of this act, personnel responsible for building inspection and zoning enforcement, electrical, gas and plumbing inspection shall be under the direction of the director of public works.

Part VI. **ELECTED TOWN OFFICERS.**

Section 14 **Elected town officials.** [Amended by Acts 2020, c. 245, approved 12-29-2020]

The registered voters of the town of Sudbury shall, in accordance with any applicable laws, by-laws, votes of the town, or interlocal agreement continue to elect the following: Board of assessors Board of health select board Moderator School committee Library trustees Planning board Housing authority Park and Recreation commission Other such regional authorities, districts, or committees as may be established by law or interlocal agreement.

Section 15 **Transition provisions.**

- (a) Upon the adoption of this act the incumbent serving as town clerk, shall continue to serve in said office for the balance of the term for which the town clerk was elected. Thereafter, the town clerk shall be appointed in accordance with this act.
- (b) Upon the adoption of this act the incumbent serving as highway surveyor shall continue to serve in said office for the balance of the term for which elected. Upon the expiration of said term of office or if a vacancy shall sooner occur, the functions of the office shall be transferred to the department of public works.
- (c) The incumbents serving as constables shall continue to serve in said offices for the balance of the terms for which they were elected. Upon the expiration of said terms of office or if a vacancy shall sooner occur, the offices shall be appointed by the select board. [Amended by Acts 2020, c. 245, approved 12-29-2020]
- (d) The department of public works shall become operational thirty days after the appointment of the director of public works.
- (e) Within six months of the effective date of this act the select board shall appoint a town manager. [Amended by Acts 2020, c. 245, approved 12-29-2020]

Part VII. **GENERAL PROVISIONS.**

Section 16 **Severability.**

The provisions of this act are severable. If any of the provisions of this act are held to be unconstitutional or

invalid, the remaining provisions of this act shall not be affected thereby.

Section 17 Existing law.

All laws, bylaws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Sudbury on the effective day of this act, or any portion or portions thereof, not inconsistent with the provisions of this act shall continue to be in full force and effect until otherwise provided by other laws, by-laws, votes, rules and regulations, respectively.

Nothing contained herein shall impair contractual rights established prior to the adoption of this act, or any amendment thereto.

Section 18 Existing employees.

Any person holding a town office, or employment under the town, shall retain such office or employment, and shall continue to perform their duties until provisions shall have been made in accordance with this act, for the performance of said duties by another person, or agency. No person in the permanent full-time service or employment of the town shall forfeit pay grade for time in service.

Part I: Administrative Legislation

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Chapter 1 General Provisions

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

Article I General Penalty

[Adopted as Art. VI, § 2, of the General Bylaws]

§ 1-1 Violations and penalties.

Every violation of these bylaws not otherwise provided for herein or by the General Laws or Special Laws of the Commonwealth shall be subject to a penalty of ~~\$300~~, and all penalties recovered from such violations shall be paid into the Town Treasury to inure such use as the Town shall from time to time direct.

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Article II Noncriminal Disposition of Violations

[Adopted as Art. VI, § 3, of the General Bylaws]

§ 1-2 Scope and authority.

This bylaw provides for a noncriminal disposition of a violation of any Town bylaw or any rule or regulation of any Town officer, board or department, the violation of which is subject to a specific penalty. This bylaw is enacted in accordance with MGL c. 40, § 21D (herein called "Section 21D").

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§ 1-3 Enforcing person.

"Enforcing person" as used in this bylaw shall mean any police officer, regular or special, of the Town of Sudbury with respect to any offense; the Building Inspector and any such other official as the Select Board may from time to time designate, each with respect to violations of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may

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be an enforcing person with respect thereto.

§ 1-4 **Notice of violation.**

An enforcing person taking cognizance of a violation of any bylaw, rule or regulation may, as an alternative to instituting criminal proceedings, give the offender a written notice to appear before the Clerk of the Framingham District Court for a noncriminal disposition of the violation, in accordance with Section 21D. The provisions of Section 21D are incorporated by reference herein.

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§ 1-5 **Noncriminal proceedings.**

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

Article III
Bylaw Amendments

[Adopted as Art. X of the General Bylaws]

§ 1-6 **Amendment procedure.**

These bylaws may be amended at any Annual or Special Town Meeting.

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§ 1-7 **Supersession of other bylaws.**

These bylaws shall supersede all previous bylaws.

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§ 1-8 **Warrant articles.**

The Select Board, upon the submission to them it for insertion in the warrant for any Annual or Special Town Meeting of all articles relating to the adoption of any bylaw or amendment to any bylaw, shall refer such articles to the Town Counsel, who shall submit, in writing, to the Town Meeting, at which action is to be taken, their opinion as to the legality thereof, together with a statement containing such information as they shall deem will be of assistance to the voters in passing thereon. Each voter, board, committee and commission submitting such articles shall cooperate with the Town Counsel by furnishing all information which they may have on the subject matter of the proposed bylaw or amendment to a bylaw.

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Chapter 5
Boards and Committees

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

Article I
General Provisions

[Adopted as Art. III, §§ 6 and 8, of the General Bylaws]

§ 5-1 **Dissolution of committees.**

All special committees created by act of the Town Meeting shall, unless the Town by vote shall otherwise determine, be deemed to be dissolved as of the date of the adjournment of the Annual Town Meeting next following their creation or extension. All special committees in existence at the time of passage of this article shall be deemed to be in existence until the adjournment of the Annual Town Meeting of 1962.

§ 5-2 **Vacancies; applicability.**

If any appointed committee member is absent from five consecutive regularly scheduled meetings of his committee, except in the case of illness, their position shall be deemed vacant and shall be filled by vote of

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said committee, attested copy of which shall be sent by the Secretary of said committee to the Town Clerk and to the appointing authority. 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 pertinent appointing authority shall thereupon appoint their successor to complete the unexpired term of the member in whose office such vacancy originally occurred. This bylaw shall apply only to those committees whose formation is not specifically covered by the General Laws of the Commonwealth or by other existing bylaws of the Town.

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Article II Finance Committee

[Adopted as Art. IV of the General Bylaws]

§ 5-3 Composition and eligibility.

There shall be a Finance Committee consisting of nine 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.

§ 5-4 Appointment; term; officers; recordkeeping.

The Moderator shall, at the Annual Town Meeting, appoint sufficient members to the Finance Committee for such terms of office as will result in a total membership of nine, with the terms of three of the total membership expiring each year. 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. Said committee shall cause to be kept a true record of its proceedings.

§ 5-5 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, their 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 their successor to complete the unexpired term of the member in whose office such vacancy originally occurred.

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§ 5-6 Duties.

It shall be the duty of this Committee to consider all articles of any Town Meeting Warrant which have any direct or indirect financial impact on the Town and to report its recommendations, in writing, to the Select Board. The Committee may also make recommendations on those articles which do not have financial impact on the Town as it chooses, and such recommendations shall likewise be reported to the Select Board. The Select Board shall cause the report for the annual meeting to be printed in the Town Report and the Finance Committee's reason for approval or disapproval printed directly beneath the article considered in the Town Warrant.

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§ 5-7 Annual report.

[Amended 4-6-2010 ATM by Art. 6]

- A. Each Town department shall annually submit to the Finance Committee, not later than January 31, an estimate of its requirements for the ensuing year, and the Select Board shall report all other requests for appropriations on or before February 5.
- B. The Finance Committee shall, not later than March 31, submit to the Select Board its written report with its recommendations, including the amounts requested by those originating the above estimates. The Select Board shall cause the Finance Committee's budget submittal, including requested amounts, recommendations and the Finance Committee's report of reasons for differences, to be printed in the

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warrant for the Annual Town Meeting.

§ 5-8 **Special Town Meeting.**

For Special Town Meeting, the Select Board shall immediately furnish the Finance Committee with a copy of the Warrant. The Finance Committee shall hold such hearings as may in its judgment be required, and report in writing to the Select Board at the meeting.

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Article III
Council on Aging

[Adopted as Art. XI(A) of the General Bylaws]

§ 5-9 **Establishment; composition; term of office.**

The Select Board shall appoint a Council on Aging to consist of nine residents of the Town. Appointments shall be for terms of three years. The Select Board shall annually appoint three members. No fewer than two of the members shall be over 65 years of age. Members may serve no more than two consecutive terms. However, upon the expiration of one year after completion of a second consecutive term, a former member shall be eligible for reappointment.

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[Adopted as Art. VIII of the General Bylaws; amended 1-3-1946 STM by Arts. 2 and 3; 4-5-1984 ATM by Art. 15] ¶
§ 5-9 General provisions. ¶
This article as printed in the 1941 revision was abrogated upon adoption of the votes under Articles 2 and 3 of the Warrant for Special Town Meeting held January 3, 1946. ¶
A. . ARTICLE 2. VOTED: To accept General Laws, Chapter 41, Section 81 B through J. ¶
B. . ARTICLE 3. VOTED: To establish a Planning Board to consist of five members, under General Laws, Chapter 41, Section 81 A. These to be elected at the next Annual Town Meeting as follows: one for one year, one for two years, one for three years, one for four years, and one for five years, and as these original terms expire their successors shall be elected for terms of five years each. The terms of the Planning Board members were changed from five to three years upon adoption of the vote under Article 15 of the Warrant for the Annual Town Meeting held April 5, 1984

§ 5-10 **General duties.**

The duties of said Council on Aging shall be to:

- A. Identify the total needs of the community's older adult population.
- B. Educate the community and enlist the support and participation of all citizens concerning these needs.
- C. Design, promote or implement services to fill these needs or coordinate present existing services in the community.
- D. Promote and support any other programs which are designed to assist the older adults in the community.

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Deleted: ARTICLE 15. VOTED: To change the term of the members of the Planning Board from five years to three years, with this change to be effected by the election of successors to expired terms to three-year terms commencing with the next Annual Town Meeting. ¶
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§ 5-11 **Other responsibilities.**

The Council on Aging shall cooperate with the Commonwealth of Massachusetts Executive Office of Elder Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange and program planning which exists for better community programming for older adults.

§ 5-12 **Annual report.**

The Council on Aging shall give an annual report, in writing, to the Select Board with a copy of that report directed to the Commonwealth of Massachusetts Executive Office of Elder Affairs.

§ 5-13 **Private nature of certain information.**

The names, addresses, telephone numbers, or other identifying information about older adults in the possession of the Council shall not be public records, but the use of these records shall comply with MGL c. 19A, § 14 et seq., as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

Article IV
Community Preservation Committee

[Adopted 4-2-2002 as Art. XXIX of the General Bylaws]

§ 5-14 **Establishment.**

- A. There is hereby established a Community Preservation Committee consisting of nine voting members pursuant to MGL Chapter 44B. The composition of the Committee, the appointment authority and the

term of office for the Committee members shall be as follows:

- (1) One member of the Conservation Commission as designated by the Commission for a term of three years.
 - (2) One member of the Sudbury Historical Commission as designated by the Commission for an initial term of two years and thereafter for a term of three years.
 - (3) One member of the Planning Board as designated by the Board for a term of three years.
 - (4) One member of the Park and Recreation Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.
 - (5) One member of the Sudbury Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three years.
 - (6) One member of the Finance Committee as designated by the Committee for an initial term of one year and thereafter for a term of three years.
 - (7) One member of the Select Board, as designated by the Board for a term of three years.
 - (8) Two members who are Sudbury residents, to be appointed by the Select Board, one member to be appointed for a term of one year and thereafter for a term of three years, and one member to be appointed for a term of two years and thereafter for a term of three years.
- B. Should any of the Commissions, Boards, Committees or Authorities who have appointment authority under this article be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Committee or Authority shall become the responsibility of the Select Board,

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§ 5-15 **Duties.**

- A. The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation, including the consideration of regional projects for community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Sudbury Historical Commission, the Planning Board, the Park and Recreation Commission and the Sudbury Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee 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.
- B. The Community Preservation Committee shall make recommendation to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition and preservation 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 rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in MGL Chapter 44B. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited; provided, however, that any project approved by the Town for the acquisition of artificial turf for athletic fields prior to July 1, 2012, shall be a permitted use of community preservation funding.
- 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

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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 funds for general purposes that are consistent with community preservation.

§ 5-16 Quorum required; cost estimates.

A. The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote.

B. Recommendations to the Town Meeting shall include their anticipated costs.

§ 5-17 Severability.

In case any section, paragraph or part of this article be 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.

§ 5-18 When effective.

Each appointing authority shall have 10 days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Town Manager shall make the appointment.

Chapter 11 Capital Planning

[**HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. XXV of the General Bylaws. Amendments noted where applicable.**]

§ 11-1 Establishment; composition; term; membership requirements.

[**Amended 5-7-2013 ATM**]

There shall be a committee known as the "Capital Improvement Advisory Committee" (CIAC) composed of seven members: six members appointed by the Select Board and one member appointed by the Finance Committee. The CIAC shall choose its officers annually. The term of office shall be three years, not more than three of which shall expire within the same year. Members of standing boards and committees, as well as Town or school employees, shall be precluded from membership on the CIAC. CIAC members may serve on ad hoc committees created by the Select Board.

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§ 11-2 Duties.

[**Amended 5-7-2018 ATM; 5-7-2019 ATM**]

The CIAC shall study all capital proposals which involve major tangible items with a total project cost of more than \$100,000 in a single year or over \$200,000 in multiple years and which would likely require an article at Town Meeting for the project's authorization. The CIAC shall make a report with recommendations to the Finance Committee and the Select Board on these proposals.

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§ 11-3 Town Manager responsibility.

The Sudbury Town Manager shall develop an operating budget for proposed capital expenditures for the upcoming fiscal year, containing those items whose costs do not meet this threshold and are to be included in the annual budget and financing plan submitted to Town Meeting. The Town Manager shall work with representatives of the Sudbury Public Schools and the Lincoln-Sudbury Regional High School in developing this budget. This capital expenditures budget shall be submitted to the Sudbury Finance Committee at the same time as the budgets of other Sudbury cost centers.

Chapter 16

Civil Defense

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury 1991. Amendments noted where applicable.]

§ 16-1 Department of Civil Defense.

There is hereby established a Department of Civil Defense (hereinafter called the "Department"). It shall be the function of the Department to have charge of civil defense as defined in Section 1, Chapter 639, Acts of 1950, and to perform civil defense functions as authorized or directed by said chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the Governor under said Chapter 639.

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§ 16-2 Director of Civil Defense.

A. The Department shall be under the direction of a Director of Civil Defense (hereinafter called the "Director"), who shall be appointed by the Select Board. The Director shall have direct responsibility for the organization and for the administration of the Department, subject to the direction and control of the Select Board. The Director may, within the limits of the amount appropriated therefor, and subject to the approval of the Select Board, appoint such experts, clerks and other assistants as the work of the Department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639 of the Acts of 1950.

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B. The Director shall also have authority, subject to the approval of the Select Board, to appoint district coordinators and may accept and may receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gifts, grant or loan, for the purposes of civil defense, offered by the federal government or any agency or officer thereof or any person, firm or corporation subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The Director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

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§ 16-3 Police aid to other municipalities in event of violence.

The Police Department is hereby authorized to go to aid another city or town at the request of said city or town in suppression of riots and other forms of violence therein.

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§ 16-4 Term of bylaw.

This bylaw shall remain in force during the effective period of Chapter 639, Acts of 1950, and any act in amendment or continuation thereof or substitution therefor.

§ 16-5 Definitions.

All references to Chapter 639, Acts of 1950, as now in force shall be applicable to any act or acts in amendment or continuation of or substitution for said Chapter 639.

Chapter 20

Equal Opportunity

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. VII(A) of the General Bylaws. Amendments noted where applicable.]

§ 20-1 Affirmative action by Town.

The Town of Sudbury shall take affirmative action to provide equal employment opportunity, without

discrimination.

§ 20-2 **Contracts.**

All Town agencies shall enter into contracts for the purchase of goods or services and for the construction, maintenance, renovation or repair of any building, structure, street, way, utility or other public work only with contractors taking affirmative action to provide equal employment opportunity without discrimination.

§ 20-3 **Affirmative action defined.**

As used in this bylaw, "affirmative action" means positive steps to ensure all persons equal employment opportunity without discrimination at all stages of the employment process.

A. At the discretion of the appropriate Town agency, it may include, but is not limited to, the following:

- (1) Inclusion in all solicitations and advertisements for employees of a statement that the contractor is an "equal opportunity employer";
- (2) Placement of solicitations and advertisements for employees in media that reach minority groups;
- (3) Notification, in writing, to all recruitment sources that the contractor solicits the referral of applicants without discrimination;
- (4) Direct solicitation of the support of responsible and appropriate agencies to assist in recruitment efforts;
- (5) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (6) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on discrimination;
- (7) Review of the employment process to eliminate all discrimination;
- (8) Communication of all job orders simultaneously to the sources of minority manpower, such as those sources listed by the Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission.

Deleted: Equal Opportunity Employer";

B. In determining whether the steps taken or proposed by any bidder or contractor constitute affirmative action under this bylaw, the Town agency shall take into account the relevant characteristics of the bidder or contractor, the number of persons they employ and the location of their principal and branch offices.

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§ 20-4 **Definitions.**

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

BIDDER

Includes any bidder, subbidder or prospective contractor and their subcontractors, any other subcontractor or other contracting party.

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CONTRACT

Includes any contract, subcontract or other agreement.

CONTRACTOR

Includes and is defined as any contractor, and their subcontractors, any other subcontractor or other contracting party, who employs more than six persons.

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DISCRIMINATORY, DISCRIMINATE, or DISCRIMINATION

Includes all action which denies or tends to deny equal employment opportunity because of race, color, age, religious creed, national origin, sex, gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, genetic information, pregnancy or a condition related to said pregnancy, including, but not limited to, lactation or the need to express breast milk for a nursing child, ancestry, status as a veteran or age (as defined by state statutes).

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EMPLOYMENT PROCESS

Includes recruitment, selection, placement, promotion, training, layoff and termination of employment.

TOWN AGENCY

Includes all boards, employees, commissions, committees, departments and other agencies, including the School Committee.

§ 20-5 Requirements for bidders and contractors.

- A. Each bidder, contractor, and subcontractor shall include in all bids, progress and compliance reports a statement setting forth the affirmative action they are currently undertaking and will undertake during the contract period, and a written statement with supporting information, signed by an authorized agent of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs with which the bidder or contractor deals, to the effect that the union or other agency's practices and policies are not discriminatory. In the event that the union or other agency refuses to execute such a statement, the bidder or contractor shall certify such facts.
- B. A copy of any such report shall be filed in the office of the Town Clerk and shall upon filing become a public record.

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§ 20-6 Enforcement.

The Select Board shall enforce this bylaw.

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§ 20-7 Applicability.

- A. This bylaw shall apply to:
- (1) All contracts involving expenditures in excess of \$10,000; and
 - (2) The municipal employment process.
- B. Where a contract is for less than \$10,000, a Town agency may apply the provisions of this bylaw to any contract, bidder or contractor.

§ 20-8 Severability.

If any provision of this bylaw shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the validity or constitutionality of any of the remaining provisions.

Chapter 25 Finances

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

Article I

General Provisions

[Adopted as Art. III, §§ 1, 5, and 7, of the General Bylaws]

§ 25-1 Statutory authority.

The Town's financial affairs shall be governed by the applying sections of Chapters 41 and 44 of the General Laws, revision of 1921, and amendments and additions thereto.

§ 25-2 Charity funds.

The income of all charity funds, except as otherwise provided in deed of gift, shall be awarded and distributed by the Select Board, and the names of the recipients of said income shall be filed with the Town Clerk.

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§ 25-3 Fees to be paid to Treasury.

All Town officers shall pay into the Town Treasury all fees received by them by virtue of their office.

Article II Revolving Funds

[Adopted as Art. XXXIII of the General Bylaws]

§ 25-4 Establishment of revolving funds.

[Amended 5-1-2017 ATM by Art. 10; 10-16-2017 STM; 5-6-2019 ATM by Art. 15; 9-12-2020 ATM; ~~5-2-2023 ATM by Art. 30~~]

There are hereby established in the Town of Sudbury pursuant to the provisions of MGL c. 44, § 53E 1/2, the following revolving funds:

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Program or Purpose	Authorized Representative or Board to Spend	Department Receipts
Public health vaccinations expenses, including salary and benefits, and tobacco control efforts for prevention of youth access and addiction to nicotine products through participation in the MetroWest Tobacco Control Coalition	Board of Health	Reimbursement from private insurance, Medicare/Medicaid and MassHealth for vaccinations and permit fees from tobacco retail permits
Plumbing and gas inspectional services	Building Inspector	Permit fees
Portable sign administration and inspectional services	Building Inspector	Annual registration collected pursuant to the Zoning Bylaw, Chapter 295, Subsection 3259A
Conservation trail maintenance on Town-owned designated conservation lands	Conservation Commission	License fees collected from agricultural use of conservation land
Wetlands Bylaw administration	Conservation Commission	Permit application fees

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Program or Purpose	Authorized Representative or Board to Spend	Department Receipts
Senior Center classes and programs	Council on Aging	Fees collected
Van transportation driver salary and benefits and van expenses	Council on Aging	Payments from MWRTA and fares
Cemetery maintenance	DPW Director	Sale of lots and other fees excepting perpetual care funds
Permit expenses, including salaries, benefits, purchase and maintenance of required equipment	Fire Chief	Permit fees
Library maintenance and utility charges for room use	Goodnow Library	Fees from non-Town agency use of meeting rooms
Funding the replacement of books, CDs, DVDs, <u>audiobooks</u> and other materials lost or damaged by patrons, in addition to incidental costs associated with service for patrons such as document copying, printing, passport acceptance applications, microfilm, and notary services, and including library programs offered to the public	Library Director	Lost book fees, application fees, copying fees, and fees associated with other library services at the Goodnow Library
Recreation programs and activities	Park and Recreation Commission	Fees collected
Teen Center programs and activities	Park and Recreation Commission	Fees collected
Youth programs and activities	Park and Recreation Commission	Fees collected
School bus transportation, additional or supplemental	Sudbury <u>public schools</u>	User fees collected
School additional or supplemental instrument music lessons after school	Sudbury <u>public schools</u>	User fees collected
Local Access TV services - Town institutional network (I-Net)	Town Manager	Fees and other income collected
Upkeep of Town-owned houses	Town Manager	Rental receipts
Purchases or payment of expenses	Town Clerk	Fees, fines, charges, and penalties

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Program or Purpose	Authorized Representative or Board to Spend	Department Receipts
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required for regulation of dogs imposed under Ch. 117, Art. II

Zoning Board of Appeals
consultants and part-time employee salaries, as well as costs of training members and staff on matters within the Board's jurisdiction, such as zoning and comprehensive permits, and administering comprehensive permit applications

Zoning Board of Appeals

Application fees

Payment of Town electrical costs and funding of energy-saving initiatives by the Energy and Sustainability Committee

Facilities Director

Saving from renewables, solar arrays or similar equipment installed on land, buildings, or other property owned by the Town, excluding land, buildings, or other property at L-S Regional High School by the Energy and Sustainability Committee

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Forestry activities

Conservation Commission

Funds generated from forestry activities

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Purchase and equipping of vehicles and equipment (Police, Fire, and Public Works Departments)

Town Manager

Sale of surplus vehicles and equipment

§ 25-5 **Limitations on expenditures.**
Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with MGL c. 44, § 53E 1/2.

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Chapter 43 Legal Affairs

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. VII of the General Bylaws. Amendments noted where applicable.]

§ 43-1 **Appointment of Town Counsel.**

The Select Board shall appoint a member of the Bar in good standing to serve as Town Counsel from the date of their appointment and until their successor is appointed and enters upon the performance of their duties. The Select Board may employ special counsel to assist the said Town Counsel.

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§ 43-2 **Duty of Town Counsel.**

It shall be the duty of the Town Counsel to advise the Town in legal matters and to conduct all of the legal affairs of the Town.

§ 43-3 **Select Board to be agents of Town.**

Except as otherwise specifically provided by the General Laws, the Select Board shall be the agents of the Town to institute, prosecute and defend in the name of the Town, or otherwise, 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.

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§ 43-4 **Authority of Select Board.**

The Select Board shall have the authority to settle at their discretion any action, suit or other proceeding to which the Town is a party or in which the interests of the Town are or may be involved provided funds are available therefor.

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§ 43-5 **Selection of Town Counsel.**

[Amended 10-16-2017 STM by Art. 6]

A. At least every 36 months, at the time of appointment, the Select Board shall discuss the performance of Town Counsel in regular session, and determine whether it would be in the best interest of the Town to issue a request for proposals for Town Counsel candidates. If the Select Board votes to request proposals for the position of Town Counsel, the following competitive review procedure shall be utilized. The competitive review procedure for selecting a qualified legal service provider shall be as follows, in the sequence listed, and the Select Board shall allow at least four months to complete the listed steps:

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(1) Step 1. The Select Board shall request proposals from a minimum of three legal services providers. The request for proposals shall state the criteria by which candidates will be judged. Criteria shall include, but not be limited to, qualifications, experience, and cost for providing services.

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(2) Step 2. The Select Board shall review all proposals in sufficient detail to judge whether they are sufficiently responsive to the selection criteria to merit a subsequent interview.

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(3) Step 3. The Select Board shall invite at least three responsive candidates to make oral presentations to the Select Board in open session. Each candidate shall be allotted an equal length of time before the Select Board.

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(4) Step 4. After interviewing the responsive candidates and deliberating the merits of each responsive proposal, the Select Board shall choose by majority vote the most responsive candidate for the succeeding term of Town Counsel and document the basis for the selection.

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(5) If the Select Board does not approve of any of the candidates for Town Counsel among those interviewed, then the preceding four steps shall be repeated.

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B. If the Select Board is unable to complete the selection process specified in Subsection A to reappoint or replace Town Counsel by the end of the incumbent Town Counsel's term, the Select Board may extend the term of the incumbent Town Counsel or appoint a qualified interim Town Counsel, in either case for a period not to exceed 120 calendar days, to allow the Select Board to complete the selection process. Such an extension or interim appointment may only occur once after an unsuccessful selection process.

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Chapter 52 Officers and Employees

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

Article I
Holding Elective Office

[Adopted as Art. III, § 9, of the General Bylaws]

§ 52-1 **Limit on elective office.**

No person shall hold more than one elective office at any one time. The prohibition set forth herein shall not apply to members of a charter commission. In addition, Charter Commission members are eligible to serve on the Finance Committee.

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Article II
Tree Warden

[Adopted as Art. XIX of the General Bylaws]

§ 52-2 **Appointment.**

The Town Manager shall annually on or before May 1 appoint a suitably qualified person to the office of Tree Warden for a term to expire on April 30 of the following year, and shall set the compensation therefor. The Town Manager may fill any vacancy in the office occurring before the expiration of the current term.

§ 52-3 **Effective date.**

This article shall take effect in the year 1990.

Chapter 61 Records and Reports

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. III, §§ 2, 3, and 4, and Art. XXIII of the General Bylaws. Amendments noted where applicable.]

§ 61-1 **Annual report.**

- A. All Town Boards and officials, whether appointed or elected, and all committees having had any financial transactions during the preceding financial year, shall make a written report in detail, which report shall be delivered to the Accountant on or before December 1. The Accountant shall audit these reports and deliver them to the Select Board not later than January 10.
- B. The Select Board shall cause all such reports, as well as reports of any other board or committees, to be printed in pamphlet form. Receipt of the pamphlets shall be scheduled for a date which will permit the Town Clerk to have them in the hands of the citizens of the Town at least 10 days before the Annual Meeting.

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§ 61-2 **Recordkeeping.**

All boards and department heads shall cause records of their doings and accounts to be kept in suitable books, and the persons having charge of the same shall transmit them to their successors in office. Whenever any vote affecting any Town officer or officers is passed, the Clerk shall transmit a copy of the same to such officer (officers), and the said copy shall be kept by said officers and be transmitted to their successors if anything therein contained shall appertain to their duties.

§ 61-3 **Voter access to records.**

Any voter shall at any reasonable time have access to the books of the Town, and have the right to examine them and take copies thereof, by applying to the officer having charge of the same. Complete public records request guidelines for the Town of Sudbury are available on the Town website.

Chapter 68

Town Meetings

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

Article I Dates; Times; Notice

[Adopted as Art. I of the General Bylaws]

§ 68-1 **Annual Town Election.**
[Amended 4-8-2008 ATM by Art. 21]

The Annual Town Election shall be held on the last Monday in March at such place and time as the Select Board may determine. Those elected at the Annual Town Election, with the exception of the Moderator, shall take office at the close of the Annual Town Meeting. The Moderator shall take office on the day after election, or as soon thereafter qualified for a term of three years.

Deleted: § 61-4 Water Resources Protection Committee (WRPC) annual report. ¶

The Annual Report submitted by the Water Resources Protection Committee (WRPC)-which is a Water District Committee and not a Town of Sudbury Committee although its Principal and Associate Members are nominated by the Water District, the Selectmen, the Planning Board, the Board of Health, and the Conservation Commission-shall be published in the Town of Sudbury Annual Report under the same standards and editorial policies as are the Annual Reports submitted by the Town Boards and Committees.¶

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§ 68-2 **Annual Business Meeting.**
[Amended 4-6-2010 ATM by Art. 6]

The Annual Business Meeting shall begin on the first Monday in May at such place as the Select Board shall determine. The Select Board, after a public hearing, may delay the start of the Annual Town Meeting for up to seven days, provided that it acts no later than the last day in February preceding. All sessions of the meeting shall begin at 7:30 p.m. and, unless otherwise voted by 2/3 of those present and voting, shall be adjourned to 7:30 p.m. of the next Monday, Tuesday, or Wednesday, whichever comes first (legal holidays excluded), upon completion of the article under discussion at 10:30 p.m.; except that any such meeting shall be adjourned before that time if a quorum shall be declared to have been lost, or at 8:30 p.m. if a quorum has not been assembled by then.

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§ 68-3 **Fall Town Meeting.**
[Added 5-4-2016 ATM by Art. 31; amended 5-7-2018 ATM by Art. 17]

A Town Meeting shall be held during the months of September, October or November at such date, time and place as the Select Board shall determine, unless the following applies. By the end of July, the Select Board, shall discuss in public session, hold a public hearing and vote to determine whether a fall Town Meeting should occur. The public hearing shall be posted in accordance with the Open Meeting Law. The Select Board, shall also solicit input from the Town via email or mail for a period of one week before the public hearing.

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§ 68-4 **Warrant report.**
[Amended 5-4-2016 ATM by Art. 31]

The Select Board shall cause a Warrant Report to be printed and distributed to the citizens of the Town at least seven days prior to commencement of the Annual Town Meeting and 14 days prior to commencement of a Special Town Meeting. The Warrant Report will contain a copy of the articles as set forth in the official Warrant, a summary of the intent and scope of each article prepared by the submitter, the report and recommendations of the Finance Committee, reports by other Town officials, boards or committees having an interest in a specific article, and supporting data such as maps and charts. The individual or group submitting information shall meet requirements for timing, format and brevity established by the Select

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§ 68-5 Notice of Town Meeting.
[Amended 5-4-2016 ATM by Art. 31]

Notice of every Town Meeting shall be given by posting a printed attested copy of the Warrant therefor at the Town Hall at least seven days before the Annual Town Meeting and at least 14 days before any Special Town Meeting.

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Article II
Procedures

[Adopted as Art. II of the General Bylaws]

§ 68-6 Warrant articles for Annual Town Meeting.
[Amended 4-6-2010 ATM by Art. 6]

The Warrant for each Annual Town Meeting shall be closed January 31 preceding the Annual Town Meeting in each year. No article, including articles consisting of resolutions, shall be taken up at Town Meeting unless it appears in the printed warrant. The preceding sentence shall not apply to resolutions memorializing townspeople and Town employees. Except as hereinafter specified, the Warrant for any Special Town Meeting shall be closed at least 25 days prior to the scheduled date of the meeting; provided, further, that there shall be at least 10 days between the call of any Special Town Meeting and the closing of the Warrant therefor. This section shall not apply to any Special Town Meeting held for the purpose of considering the approval or disapproval of an amount of debt authorized by a regional district school committee, in accordance with MGL c. 71, § 16(d), or held for an emergency purpose.

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§ 68-7 Quorum required.

Except for the election of Town officers, no meeting shall be legal unless a quorum is present, and a quorum shall consist of 100 registered voters; once a quorum has been assembled, the continued existence of a quorum shall be presumed until a count of the voters present, which shall be taken upon the call of seven or more registered voters, establishes that a quorum is not present.

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§ 68-8 Call to order.

The Moderator shall, at the time and place appointed, call the meeting to order, and forthwith proceed to read the call for the meeting, and the return of the person or persons who served it.

§ 68-9 Powers and duties of presiding officer.

The powers and duties of the presiding officer, not especially provided for by law, or by these bylaws, shall be determined by the rules and practices contained in the most recent edition of Town Meeting Time, so far as they are adapted to the conditions and powers of the Town.

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§ 68-10 Duties of Moderator.

The Moderator while presiding over a Town Meeting shall not participate in the discussion of any matter under consideration of the said Town meeting, but they may upon request answer all questions relating to procedure in Town meetings as may be submitted to them and to correct any errors of procedure which may occur.

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§ 68-11 Speaking at meetings.

Every person speaking shall address the Chair standing and uncovered. No person not a voter shall address the meeting without first obtaining consent of the meeting.

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§ 68-12 **Nonvoting members.**

Every nonresident appointed representative of the Town shall be a nonvoting member of Town Meeting.

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§ 68-13 **Order of consideration for warrant articles.**

No article in the Warrant for any Town Meeting shall be taken up for consideration out of the order in which it appears therein, except by a four-fifths vote of the voters present and voting thereat.

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§ 68-14 **Motions to be in writing.**

All motions shall be reduced to writing before being submitted to the meeting, if required by the presiding officer or Clerk.

§ 68-15 **Proponents of warrant articles.**

When an article comes before any session of the Town Meeting, the proponent(s) shall be recognized first for the purpose of making a motion under the article and then for making a presentation in support thereof, if the motion is seconded. If the proponent is an elected or appointed board or committee within which there is a minority position in opposition to the article, a spokesperson for that position will be recognized next. Thereafter, the Finance Committee shall be recognized if it wishes to speak on the article, followed by the Planning Board and/or any other Board or Committee which is required by law to report on the article.

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§ 68-16 **Limitations on speech.**

No person shall speak more than twice upon any question, except to correct an error or make an explanation until all others who have not spoken upon the question and desire to do so shall have an opportunity. The initial presentation by the proponent(s) of an article may not exceed 10 minutes in length, and no other speech may exceed five minutes in length unless consent is given by a majority of those present and voting.

§ 68-17 **Debate.**

When a question is under debate, motions may be received to adjourn, to lay the matter on the table, to move the previous question, to postpone indefinitely, to postpone to a time certain, to commit, and to amend; which several motions shall have precedence in the order in which they are herein enumerated, and the first three shall be decided without debate, provided that the Moderator need not allow a vote on a motion for the previous question unless, in their opinion, there has been a reasonable opportunity for debate on the question.

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§ 68-18 **Motions to reconsider.**

A motion to reconsider a matter previously acted upon at the same session shall require an affirmative vote of 2/3 of those voters present and voting. A motion to reconsider a matter after adjournment of the session at which it was acted upon shall require a unanimous vote of those present and voting unless written notice of an intention to move reconsideration of the matter, signed by 15 voters who attended that session, is given to the Town Clerk on or before 12:00 noon of the next weekday (legal holidays excluded) following the session at which the matter for which reconsideration is sought was acted upon. The Town Clerk shall publish notice of such intention by advertisement or by posting in their office or elsewhere in the Town Hall. The Moderator shall at the start of the next session announce the matter on which reconsideration is sought and shall further announce that the motion for reconsideration shall be the first order of business at the next succeeding session of the Town Meeting unless all business is completed prior to 10:30 p.m. of the same session, in which case the motion for reconsideration shall be the last item of business that evening. When the matter to be reconsidered comes before the meeting, the Moderator shall recognize for the motion the person who gave notice to the Town Clerk, unless they shall defer to another. All discussion on the motion must be confined exclusively to the merits or demerits of reconsideration. Passage of a motion to reconsider shall require an affirmative vote of 2/3 of those present and voting. If notice of reconsideration is given on more than one matter, they shall be taken up in the order in which they were submitted to the Town Clerk.

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§ 68-19 **New legislation by General Court.**

Every vote, resolution, amendment, order or other action of the Town Meeting which instructs or requests any Town inhabitant, official, committee or board to study, propose, prepare, draft, present, file, petition for

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or otherwise initiate new legislation by the General Court of the Commonwealth of Massachusetts or the Congress of the United States, shall specify in terms whether or not such inhabitant, official, committee or board is required to present a draft of such legislation to the Town Meeting for approval before submitting it to said General Court or Congress.

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§ 68-20 Legal errors.

If a legal error in an action of the Town Meeting, attested to by the Town Counsel, is discovered, the Moderator shall, when presented with such error, recognize the Town Counsel for the purpose of identifying the error and explaining its effect. Following the explanation of the Town Counsel, the Moderator shall request a motion by the Select Board to correct the error. Such motion shall not be subject to the rules of reconsideration and shall require a simple majority unless otherwise mandated by state law or any portion of these bylaws. Action under such motion shall be limited to correction of the error.

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§ 68-21 Accounting errors.

If the Town Accountant or, in their absence, the Assistant Town Accountant discovers that information presented to the Town Meeting contains an accounting error, they shall request to be recognized for the purpose of identifying the error and explaining its effect. The Moderator shall recognize the Town Accountant for such purpose. Following the explanation, the Moderator shall request a motion by the Select Board to correct the error. Such motion shall not be subject to the rules of reconsideration and shall require a simple majority unless otherwise mandated. Any voter or Town official who discovers such an accounting error shall notify the Town Accountant, who, if they concur, shall proceed as described above.

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§ 68-22 Moderator to determine majority votes.

The Moderator may determine, without a count, that a two-thirds, four-fifths, or nine-tenths vote has been achieved, which determination shall satisfy the provisions of MGL c. 39, § 15, or any other law requiring a two-thirds, four-fifths, or nine-tenths vote, unless a count is requested in conformance with the procedural requirements set forth in Town Meeting Time.

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§ 68-23 Recognition by Moderator.

All persons speaking on any article may be recognized by the Moderator after the presentation by the proponent(s) of the article, if any, but no speaker may be recognized in accordance with any prearranged speaking order. Notwithstanding the foregoing, in the event there is no speaker identified as the proponent, the Moderator may recognize speakers after the motion on the floor has been seconded.

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§ 68-24 Voting.

[Added 5-2-2022 ATM by Art. 25]

A. Voting. When a question is put, the sense of the meeting shall be determined by a vote held using voice votes, raised hands, a placard, an electronic voting system or other voting indicia; the preference would be to use an electronic voting system, if the same is available, for action on main motions and any motion requiring more than a majority vote. For purposes of this bylaw, the term "electronic voting technology" shall mean any electronic voting system approved by the Town Clerk and the Town Moderator which allows for the counting of votes using a wireless or mobile device, including handheld clickers, mobile phone application, or the like, as it may be decided from time to time.

B. Counting: electronic voting. If the count is taken using electronic voting technology, the Moderator shall declare the vote and provide an opportunity for any voter to notify the Town Moderator that they believe their vote was recorded in error; if so, the Moderator shall direct that the record be corrected by the Town Clerk. If seven or more voters doubt the vote, the Town Moderator may request another vote using the handheld technology or otherwise set the manner of voting. If Town Meeting approves a motion for reconsideration, the motion at issue immediately prior to the vote will be back before the voters, and the electronic voting system shall be used to record and tabulate the votes taken on the main motion.

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C. Counting: other methods. If such electronic voting equipment is unavailable, the Town Moderator shall notify the Town Meeting as to what manner of voting will be used and, unless 20 people stand in opposition, such method shall be implemented. If 20 voters do stand, then the Moderator's recommendation is pending before the meeting, subject to amendment like any other motion. If the Moderator is unable to decide the vote or if the declaration by the Moderator is immediately questioned by 10 or more voters rising in their places, the Moderator shall then direct that a count be taken, whether by counting raised hands, raised placards or other indicia of vote, or by secret ballot or otherwise, as determined by the Moderator in the Moderator's sole discretion.

Article III Annual Town Forum

[Adopted as Art. III, § 11, of the General Bylaws]

§ 68-25 **Frequency; participation.**
[Added 5-8-2013 ATM by Art. 41; amended 5-4-2016 ATM by Art. 27]

The Town will conduct a Town Forum on an annual (minimum requirement) basis. The Forum will be an open, public meeting for Town residents. The Town Forum will provide a planned, scheduled opportunity for constructive engagement between the Town and residents. The Town participants/panel may include all department heads, committee chairpersons and trust chairpersons. The Select Board will encourage broad participation for Town officials in the Town Forum. One member of the Town panel will act as moderator. The moderator will facilitate and manage questions from Town residents to the appropriate panel member for response.

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Chapter 72 Town Property

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. XII of the General Bylaws. Amendments noted where applicable.]

§ 72-1 **Disposal of Town-owned personal property.**
[Amended 10-16-2017 STM]

A. Any board or officer in charge of a department of the Town may, with the approval of the Town Manager for property having an aggregate value of less than \$10,000* or with the approval of the Select Board for property having an aggregate value of \$10,000* or more, transfer to another Town department or another municipality or transfer by sale any personal property of the Town, within the possession or control of the department, which has become obsolete or is not required for further use by the department or any other Town department; provided, however, that in the case of transfer by sale of such property which has, in the opinion of the Town Manager, an aggregate value in excess of \$2,000, or in the case of transfer by sale of personal property (regardless of its value) which, in the opinion of the Select Board, the Historical Commission and the Committee for the Preservation and Management of Town Documents and is contained in a list maintained by them, is historically significant to the Town, the sale shall be by public bid in a manner prescribed by said Select Board; and provided, further, that in the case of transfer by sale of such historically significant property, the Select Board shall send advance written notice of such transfer by sale and such public bid to the Historical Commission and to the Committee for the Preservation and Management of Town Documents. For purposes of this Subsection A, all personal property located in the Hosmer House shall be deemed to be historically significant to the Town. The disposal of personal property with an estimated resale or salvage value of \$10,000 or more shall also be in accordance with all requirements of General Laws, including but not

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limited to MGL c. 30B, § 15.

B. Procedures for disposition of surplus supplies valued at less than \$10,000 can include any one or combination of the following methods:

- (1) Advertised¹ solicitation of at least three oral or written quotations;
- (2) Advertised¹ silent auction;
- (3) Advertised¹ yard sale;
- (4) Use of an established market, such as an online auction service (eBay, e.g.).

¹ "Advertised" as used in these procedures for surplus supplies with a resale or salvage value of less than \$10,000* means that the advertisement is posted for at least two weeks on the Town website and/or advertised at least twice in a newspaper of general circulation in the community.

* The disposal and dollar threshold of these goods must conform to all Massachusetts General Laws, as amended.

§ 72-2 **Sale of tax possession property.**

A. The Select Board is hereby empowered to sell at public auction all or any of the Town property acquired by virtue of sale for nonpayment of taxes, which sales have been confirmed by the Land Court or the Commissioner of the Department of Revenue, and it is authorized to give deeds therefor.

B. The Select Board shall, not less than 21 days before such sale, file a notice thereof with the Town Clerk, who shall post a copy of the notice in the Town Hall. The Select Board shall also have a copy of the notice published, at least 21 days before such sale, in a newspaper having a circulation in the Town. Such notice shall contain a description of the property to be sold sufficient to identify it, shall state the date, time and place appointed for the sale thereof and the terms and conditions of such sale. Failure to send or post a notice as herein provided, or any insufficiency in the notice sent or posted, shall not invalidate the title to any property sold hereunder, provided the deed is approved by the Select Board. The Select Board may reject any and all bids at such sale or any adjournment thereof if, in its opinion, no bid is made which approximates the fair value of the property. No bid is accepted until the deed, drawn in accordance therewith, has been approved by the Select Board and accepted by the successful bidder.

C. The Select Board shall include, as a part of its report in the Annual Town Report, a listing, by parcel, of all property sold under this bylaw, which listing shall include the date of the sale, the name of the purchaser, a general description of the property sold and the sales price.

D. This bylaw shall not be construed to prevent the Town of Sudbury from disposing of such property under the provisions of MGL c. 40, § 3.3.

§ 72-3 **Acceptance of gifts.**

The Select Board may accept, from time to time, in behalf of the Town of Sudbury, gifts of land and interest in land for the following purposes: walkway and sidewalk purposes, storm drainage and above- and belowground general drainage purposes, for slope maintenance purposes, for the purposes of rounding street corners and for any purpose approved by the Planning Board and shown on a plan approved by the Planning Board under MGL c. 41, § 81K to 81Y, inclusive.

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Chapter 76

Town Seal

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. XVI of the General Bylaws. Amendments noted where applicable.]

§ 76-1 Authorization for use required.

The Town Seal, or any reproduction or facsimile thereof, shall not be used, unless authorized by law, without the written authorization of the Town Clerk.

Part II: General Legislation

Chapter 105 Advertising

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

Article I Distribution of Advertising Materials

[Adopted as Art. V, § 21, of the General Bylaws]

§ 105-1 Unsolicited advertising.

It shall be unlawful for any person to distribute advertising material at a home within the Town by placing such material at the home or on the property of the person owning or occupying the home if the owner or occupant of the home requests, in writing, that deliveries of such material be stopped until further notice. Violation of this article shall be subject to a penalty of \$50.

Article II Outdoor Advertising

[Adopted as Art. V, § 1, of the General Bylaws]

§ 105-2 Outdoor advertising devices restricted.

No person, firm, association or corporation shall erect, display or maintain a billboard, sign or other outdoor advertising device, except those exempted by MGL c. 93, §§ 30 and 32;

- A. Within 50 feet of any public way.
- B. Within 300 feet of any public park, playground, or other public grounds, if within view of any portion of the same.
- C. Nearer than 50 feet to any other such billboard, sign or other advertising device, unless said billboard, signs, or other advertising devices are placed back to back.
- D. On any location at the corner of any public ways and within a radius of 150 feet from the point where the center lines of such ways intersect.
- E. Nearer than 100 feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of eight feet or height of four feet.

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F. Nearer than 300 feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of 12 1/2 feet or a height of six feet.

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§ 105-3 **Restrictions in residential areas.**

No billboard, sign or other advertising device shall be erected, displayed or maintained in any block in which 1/2 of the buildings on both sides of the street are used exclusively for residential purposes, except that this provision shall not apply if the written consent of the owners of a majority of the frontage on both sides of the street in such block is first obtained and is filed with the Department of Public Works, together with the application for a permit for such billboard, sign or other advertising device.

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§ 105-4 **Permit required.**

No billboard, sign or other advertising device shall be erected, displayed or maintained until a permit therefor has been issued by the Department of Public Works, pursuant to the following provisions:

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A. Upon receipt from said Department of a notice that application for a permit to erect, display or maintain a billboard, sign or other advertising device within the limits of Sudbury has been received by it, the Select Board shall hold a public hearing on said application in Sudbury, notice of which shall be given by posting the same in three or more public places in said Town, at least one week before the date of such hearing.

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B. A written statement as to the results thereof shall be forwarded to the Department, containing, in the event of a disapproval of such application, the reasons therefor, within 30 days from the date of notice to the Town that an application for such a permit had been made.

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§ 105-5 **Exceptions.**

This bylaw shall not apply to signs or other devices which advertise or indicate either the person occupying the premises in question or the business transacted thereon, or advertise the property itself or any part thereof, as for sale or to let; and provided, further, that this bylaw shall not apply to billboards, signs or other advertising devices legally maintained, at the time of its approval by the Attorney General.

§ 105-6 **Violations and penalties.**

Violation of this article shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed a separate violation.

Chapter 109 Alarm Systems

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

Article I Burglar Alarm Systems

[Adopted as Art. V(B) of the General Bylaws]

§ 109-1 **Definitions and word usage.**

For the purpose of these rules and regulations, the following terms, phrases, words and their derivations shall have the meaning given herein. When not consistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

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AUTOMATIC DIALING DEVICE

Refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

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CENTRAL STATION

An office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

CHIEF OF POLICE

The Chief of Police of the Town of Sudbury or their designated representative.

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COMMUNICATIONS CONSOLE

The instrumentation on an alarm console at the receiving terminal of a signal line which, through either visual or audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

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DISTURBANCE OF THE PEACE

Any interruption of the peace, quiet, and good order of a neighborhood or community, particularly by unnecessary and distracting noises.

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An alarm system which has the capability of transmitting system signals to and receiving them at the Sudbury Police Department.¶

FALSE ALARM

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of their employees or agents.
- B. Any signal or oral communications transmitted to the Police Department requesting, or requiring, or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are activations of alarms systems caused by utility company power outages, communications console problems, electrical storms or other acts of nature beyond the control of the police alarm user.

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INTERCONNECT

To connect an alarm system to a voice-grade telephone line either directly or through a mechanical device that utilizes a standard telephone for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

POLICE ALARM SYSTEM or ALARM SYSTEM

An assembly of equipment and devices or a single device such as a solid-state unit which plugs directly into a 110-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Systems which monitor any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of these rules and regulations except as specifically noted below.

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POLICE ALARM USER or USER

Any person on whose premises the alarm system is maintained within the Town except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this bylaw are persons who use alarm systems to alert or signal others within the premises in which the alarm system is located of an attempted unauthorized intrusion, or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "police alarm system," as that term is used in the bylaw, and shall be subject to this bylaw.

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POLICE or POLICE DEPARTMENT

The Town of Sudbury Police Department or any authorized agent thereof.

PUBLIC NUISANCE

Anything which annoys, injures or endangers the comfort, repose, health or safety of any considerable number of persons or of any community or neighborhood.

TOWN

The Town of Sudbury.

§ 109-2 Administrative rules.

- A. The Chief of Police may promulgate such rules as may be necessary for the implementation of this bylaw.
- B. Alarms signaling the presence of medical emergencies may, with prior written approval of the Chief of Police, be connected to the alarm console or received over the special telephone lines provided by the alarm console contractor.

§ 109-3 Automatic dialing devices.

- A. Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
 - (1) A central station.
 - (2) An answering service.
 - (3) Any privately owned or privately operated facility or terminal.
- B. No automatic dialing device shall be connected to the Police Department telephone lines after the effective date of this bylaw.
- C. Within three months of the effective date of this bylaw all automatic dialing devices now interconnected to any Police Department telephone lines shall be disconnected therefrom. The user of each such device shall be responsible for having the device disconnected upon notification by the Chief of Police.

§ 109-4 Control and curtailment of signals emitted by alarm systems.

- A. Control.
 - (1) Every alarm user shall submit to the Chief of Police the names and telephone numbers of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the system is installed.
 - (2) All alarm systems shall be equipped with a device which will give at least a ten-second audible signal prior to alarm system activation in order to warn the alarm user of an open alarm circuit.
 - (3) Within six months of the effective date of these regulations, all alarm systems which use an audible horn or bell shall be equipped with a device which will shut off such horn or bell 15 minutes after activation of the alarm system.
 - (4) All alarm systems installed after the effective date of these regulations which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within 15 minutes after activation of the alarm system.

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- A. . Police alarm systems may be connected at the Police Department in compliance with the following:¶
 - (1) . Prospective police alarm users who want to connect a police alarm system to the Sudbury Police Station shall apply in writing to the Chief of Police for such permission. ¶
 - (2) . At such time as these Rules and Regulations become effective Police Alarm users who wish to continue the connection of their Police Alarm Systems to the Sudbury Police Station shall apply in writing to the Chief of Police for such permission within three months after such effective date. ¶
 - (3) . New owners or occupants of premises having a Police Alarm System connected to the Sudbury Police Station, and who wish to continue the connection, shall apply in writing to the Chief of Police for such permission within one month of taking ownership or occupancy. ¶
 - (4) . The Chief of Police may deny an application to connect a Police Alarm System to the Sudbury Police Station for the following reasons:¶
 - (a) . The system or user fail to comply with these rules and regulations. ¶
 - (b) . Other reasonable cause, affecting adversely the functioning of the total system or any of its parts. ¶
 - (5) . The following information shall be provided to the Police Department regarding each Police Alarm System connected to the Sudbury Police Department.¶
 - (a) . Names, addresses and telephone number of the applicant Police Alarm user. ¶
 - (b) . Type of Alarm System. ¶
 - (c) . Names, addresses and telephone numbers (home and ...

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Deleted: All fees and charges related to services rendered to users by alarm companies or the police console contractor shall be set forth in the form of a written agreement between the alarm user and the parties providing the service. All su ...

Deleted: Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on his premises

Deleted: No alarm system designed to transmit emergency messages directly to the Police Station shall be worked on, tested, or demonstrated without obtaining permission of the Chief, or his delegated representative. An unauthorized tes ...

Deleted: Tests of any system may be conducted with the express permission of the Chief, or his delegated representative, having first been applied for and received. ¶

G. . The provisions of this bylaw concerning false alarms ...

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(5) Any alarm system emitting a continuous uninterrupted signal for more than one hour which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by them under Subsection A(1) of this section, and which interrupts the peace, comfort or repose of a neighborhood or of inhabitants of the area where the alarm system is located shall constitute a disturbance of the peace. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Chief of Police shall endeavor to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user under Subsection A(1) of this section in an effort to abate the disturbance. The Chief of Police shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

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B. Curtailment.

(1) In the event that the Chief of Police is unable to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under § 109-5A(1) of this article, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the Chief of Police is otherwise unable to abate the nuisance, they may direct a police officer or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

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(2) If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property shall not conduct, engage in, or undertake any search, seizure, inspection or investigation while they are upon the property, shall not cause any unnecessary damage to the alarm system or to any part of the home or building and shall leave the property immediately after the audible signal has ceased. After an entry upon property has been made in accordance with this section, the Chief of Police shall have the property secured, if necessary. The reasonable costs and expense of abating a disturbance in accordance with this section may be assessed to the alarm user. In addition to reasonable costs and expenses, the alarm user shall be subject to a penalty of \$50.

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(3) Within 10 days after abatement of a disturbance in accordance with this section, the alarm user may request a hearing before the Select Board, and may present evidence showing that the signal emitted by their alarm system did not constitute a disturbance of the peace at the time of abatement; that unnecessary damage was caused to their property in the course of the abatement; that the costs of the abatement should not be assessed to them; or that the requirements of this section were not fulfilled. The Select Board shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to their property necessitated by the abatement, or excuse the alarm user from paying the costs of the abatement.

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§ 109-5 False alarms, cost assessment schedule.

A. After the Police Department has recorded three separate false alarms within a twelve-month period from an alarm system, the Chief of Police shall notify the alarm user, in writing and by certified mail, of such fact and require the said user to submit, within 15 days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, because of absence from the Town, or on any other reasonable basis, requests an extension of the time for filing the report, the Chief of Police may extend the 15 days for a reasonable period. If the said user fails to submit such a report within 15 days or within any such extended period, the Chief of Police shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within 15 days from the Chief of Police's order.

Deleted: C. . Testing of equipment. No alarm system designed to transmit emergency messages directly to the Police Department shall be worked on, tested or demonstrated without obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department. An unauthorized test constitutes a false alarm. ¶

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B. In the event that the Chief of Police determines that a report submitted is unsatisfactory, or that the alarm user has failed to show by the report that they have taken or will take reasonable steps to eliminate or reduce false alarms, then the Chief of Police shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within 15 days from the date of receipt of the Chief of

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Police's order.

C. Any user of an alarm system which transmits false alarms shall be assessed a fine of \$35 for a third false alarm occurring within a calendar year, \$50 for a fourth false alarm occurring within a calendar year, and \$100 for a fifth and all subsequent false alarms occurring during a calendar year. All fines assessed hereunder shall be paid to the Town Treasurer-Collector for deposit in the general fund. Upon failure of the user of an alarm system to pay two consecutive fines assessed hereunder within 60 days of assessment, the Police Chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within 15 days from the date of receipt of the Police Chief's order.

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D. Any user of an alarm system who has, in accordance with this section, been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Select Board. Notice of an appeal shall be filed with the Select Board within 10 days of the date of the order of discontinuance. Thereafter, the Select Board shall consider the merits of the appeal and, in connection therewith, shall hear evidence presented by all interested persons. After hearing such evidence, the Select Board may affirm, vacate or modify the order of discontinuance.

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§ 109-6 Violations and penalties.

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The following acts and omissions shall constitute violations of this bylaw punishable by a fine of \$50:

- A. Failure to obey an order of the Police Chief to discontinue use of an alarm system, after exhaustion of the right to appeal.
- B. Failure to disconnect an automatic dialing device from any telephone numbers at the Police Department within six months after the effective date of this bylaw.
- C. Interconnection of an automatic dialing device to any numbers at the Police Department after the effective date of this bylaw.
- D. Failure to pay two consecutive fines assessed under this bylaw within 60 days of the date of assessment.
- E. Failure to comply with the requirements of § 109-5, Control and curtailment of signals emitted by alarm systems.

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Article II Fire Alarm Systems

[Adopted as Art. V(D) of the General Bylaws]

§ 109-7 Definitions.

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When used in this bylaw, unless a contrary intention clearly appears, the following words shall have the following meanings:

CENTRAL STATION OPERATING COMPANY

A company equipped to receive a fire alarm signal from each of its customers and which then transmits to the Sudbury Fire Department (SFD) the location of any such alarm it receives.

FIRE ALARM MALFUNCTION

The transmittal of a fire alarm to a central station operating company or directly to the SFD by way of master box, which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or some other reason that causes a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.

FIRE ALARM SYSTEM

Any heat-activated, smoke-activated, flame-energy-activated or other such automatic device capable of transmitting a fire alarm signal to either a central station operating company or directly to the SFD by way of a master box.

FIRE ALARM SYSTEM OWNER

An individual or entity which owns the title to and/or has on their business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the SFD by way of a master box.

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FIRE CHIEF

The Chief of the Sudbury Fire Department.

MASTER BOX OWNER

An individual or entity who has on their business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the SFD by way of a master box.

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§ 109-8 Connection by way of master box.

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A. Every master box owner whose fire alarm system as of the date of adoption of this bylaw is connected to the SFD by way of a master box shall pay the following fees:

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(1) Annual fee for churches and nonprofit organizations shall be determined by vote of the Select Board.

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(2) Annual fee for all others shall be determined by vote of the Select Board.

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B. Every master box owner whose fire alarm system is connected after the date of adoption of this bylaw to the SFD by way of a master box shall pay the following fees:

(1) Permit fee shall be determined by vote of the Select Board.

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(2) Connection fee shall be determined by vote of the Select Board.

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(3) Annual fee for churches and nonprofit organizations shall be determined by vote of the Select Board.

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(4) Annual fee for all others shall be determined by vote of the Select Board.

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C. Requirements prior to connection by master box owner.

(1) Before any fire alarm system is connected to the SFD, the master box owner shall install a key box providing the SFD access as required and specified in § 109-14, and provide the Fire Chief with the following information:

(a) The name, address, and home and work telephone numbers of the master box owner and other persons or businesses protected.

(b) The street address where the master box is located.

(c) The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located.

(d) The insurance carrier (with a copy of the insurance policy) for the building.

(e) Such other information as the Fire Chief may require.

(2) If, as of the date of adoption of the bylaw, a fire alarm system has already been connected to the SFD by way of a master box, the master box owner shall comply with the requirements of this section within 60 days after the SFD has sent them notice by certified mail, return receipt requested, of the requirements of this section.

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(3) If a master box owner fails to comply with this section, the Fire Chief may assess a penalty of \$50 for each day of noncompliance.

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§ 109-9 Connection of central station operating companies to SFD.

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A. Every central station operating company or other entity which makes a direct connection after the date of adoption of this bylaw to the SFD shall pay the following fees:

(1) Permit fee shall be determined by vote of the Select Board.

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(2) Connection fee shall be determined by vote of the Select Board.

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(3) Annual fee for churches and nonprofit organizations shall be determined by vote of the Select Board.

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(4) Annual fee for all others shall be determined by vote of the Select Board.

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B. Requirements prior to connection by central station operating company.

(1) Before any central station operating company is connected to the SFD, it shall provide the Fire Chief with the following information:

(a) The name, address, and telephone numbers of the central station operating company.

(b) The names, addresses and home and work telephone numbers of a least two persons who can be contacted 24 hours a day, who are authorized by the central station operating company to respond to an alarm signal and who have access to the premises emitting the alarm signal to the central station operating company.

(c) The name, address, home and work telephone numbers, and location of the premises of each customer of the central station operating company who has a fire alarm system equipped to send a fire alarm signal to the central station operating company.

(d) The insurance carrier (with a copy of the insurance policy) for the company.

(e) Such other information as the Fire Chief may require.

(2) If, as of the date of adoption of the bylaw, a central station operating company already has a direct connection to the SFD, the central station operating company shall comply with the requirements of this section within 60 days after the SFD has sent it notice by certified mail, return receipt requested, of the requirements of this section.

(3) If a central station operating company fails to comply with this section, the Fire Chief may assess a penalty of \$50 for each day of noncompliance.

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§ 109-10 Updating information.

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Every master box owner and every central station operating company shall be responsible for updating the information herein required to be provided to the Fire Chief. If the information provided changes, the master box owner and the central station operating company shall provide the Fire Chief with the updated information and shall pay the fee, if any, required by this bylaw. If a master box owner or a central station operating company fails to comply with this section, the Fire Chief may assess a penalty of \$50 for each day of noncompliance.

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§ 109-~~11~~ **Fire alarm systems malfunctions; penalties.**

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A. If there is a fire alarm system malfunction, the Fire Chief may assess a penalty against a fire alarm system owner for each malfunction occurring during any fiscal year according to the following schedule:

(1) First through third malfunction: ~~no charge~~. Upon recording of the third false alarm by the SFD, the Fire Chief shall notify the owner of the building, in writing and by certified mail, of such fact, and at this time inform the owner of the Department's policy with regard to charging for false alarms.

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(2) Fourth through sixth malfunction: \$100.

(3) Seventh through ~~11th~~ malfunction: \$200.

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(4) Each malfunction after the ~~11th~~: \$300.

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B. Private fire alarm systems connected to the Sudbury Fire Department by other automatic means or through a central station system shall also be subject to the schedule of penalties set forth in Subsection A of this section.

C. Any false fire alarm which is the result of the failure of the property owner, occupant or its agents to notify the Sudbury Fire Department of repair, maintenance or testing of an internal fire alarm system within the protected premises shall cause a penalty to be assessed in accordance with the schedule of penalties set forth in Subsection A of this section.

D. For the purposes of this bylaw, a "false fire alarm" shall be defined as follows:

(1) The operation of a faulty smoke or heat detection device.

(2) Faulty control panel or associated equipment.

(3) A water pressure surge in automatic sprinkler equipment.

(4) Accidental operation of an automatic sprinkler system.

(5) An action by an employee of the owner or occupant of the protected premises or a contractor employed by the owner or the occupant, causing accidental activation of an internal fire alarm system.

E. Property owners will be billed once a month for the malfunction activity occurring during the previous month.

F. If any bill is not paid within 30 days of issuance, written notice will be sent; if the bill is not paid after a second thirty-day period, a final notice will be sent, informing the owner and/or occupant that the master box will be disconnected and ~~their~~ insurance company notified.

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§ 109-~~12~~ **Restrictions on tape dialers and similar automatic telephone devices.**

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[Amended 4-6-2009 ATM by Art. 18]

Except as otherwise authorized by the Fire Chief, no fire alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines of the SFD.

If, upon adoption of this bylaw, a fire alarm system is equipped with such a tape dialer or similar automatic telephone device without authorization, the fire alarm system owner shall have 60 days from adoption of this bylaw to disconnect such tape dialer or similar automatic telephone device. If a fire alarm system owner fails to comply with this section, the Fire Chief may assess a penalty of \$50 for each day of ~~non-compliance~~.

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§ 109-~~13~~ **Secured key access.**

- A. Any building, other than a residential building of less than six units, which has an alarm system or other fire protection system shall be provided with a secure key box installed in a location accessible to the SFD in case of emergency. This key box shall contain keys to the structure served by the alarm system, keys to the fire alarm control panels and other keys necessary to operate or service fire protection systems. In addition, if required by the Fire Chief, a lock box, sufficient in size, shall be obtained and shall contain a list and material safety data sheets for hazardous substances present on the site in significant quantities. As used herein, the phrases "hazardous substances" and "significant quantities" shall be as defined by applicable Town, Commonwealth of Massachusetts and federal laws and regulations governing the storage of these substances.
- B. The key box and/or lock box shall be of a type approved by the Fire Chief and compatible with the key box system presently in use. The key box and/or lock box shall be located and installed as approved by the Fire Chief.
- C. No permit for a fire alarm system will be issued until the permit applicant has placed an order for a key box/lock box as specified above.
- D. Any building owner violating this section of this bylaw after receiving due notice by the SFD shall be subject to a penalty of \$50 for each day of noncompliance.

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§ 109-~~14~~ **Appeal procedure.**

Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this bylaw may, within 10 days of such action, file an appeal, in writing, to the Select Board of the Town of Sudbury (the "Board"). After public notice, the Board shall hold a hearing, after which it shall issue a decision in which it may suspend, affirm, annul, or modify the action taken by the Fire Chief giving its written reasons therefor. The Board shall send its decision to the owner by first class mail within 10 days of the hearing.

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§ 109-~~15~~ **Regulations and enforcement.**

- A. The Fire Chief may promulgate such regulations as may be necessary to implement this bylaw.
- B. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this bylaw.
- C. This bylaw may be enforced by civil process, as authorized by MGL c. 40, § 21D, and Chapter **1**, General Provisions, Article **II**, of the Town of Sudbury Bylaws.

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§ 109-~~16~~ **Deposit of fees and fines.**

All fees and fines collected shall be paid to the Sudbury Fire Department, which will forward all amounts collected to the Town Treasurer-Collector for deposit in the general fund.

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§ 109-~~17~~ **Severability.**

The provisions of this bylaw shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

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Chapter 113 Alcoholic Beverages

[**HISTORY:** Adopted by the Town Meeting of the Town of Sudbury as Art. V, § 20, of the General Bylaws. Amendments noted where applicable.]

§ 113-1 **Public consumption.**

No person shall drink any alcoholic beverages as defined in MGL c. 138, § 1, while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person in control thereof.

Deleted: Chapter 138, Section 1, of the Massachusetts General Laws

§ 113-2 **Violations and penalties.**

Violations of this bylaw shall be subject to a penalty of \$50. All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final disposition of the violation, at which time they shall be returned to the person entitled to lawful possession.

Chapter 117

Animals

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

Article I

Animal Control

[Adopted as Art. V, §§ 4, 5, and 6, of the General Bylaws]

§ 117-1 **Fastening animals to trees; damage to trees.**

No person shall tie or fasten any horse, cattle or team to any of the trees in the public ways of the Town, nor drive into the same any nails, spikes, hooks or clasps, nor affix any boards or signs thereto. Violation of this section shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

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§ 117-2 **Animals obstructing streets and sidewalks.**

No person shall pasture or tether any animal in any way or street in the Town in such a manner as to obstruct the streets or sidewalks. Violation of this section shall be subject to a penalty of \$50.

§ 117-3 **Pasturing on public ways.**

No person shall pasture any animal upon any street or way in the Town, with or without a keeper, except within the limits of such way adjoining their own premises and on the same side of the street therewith. Violation of this section shall be subject of a penalty of \$50.

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Article II

Dogs

[Adopted as Art. V, § 3, of the General Bylaws]

§ 117-4 **Statement of purpose.**

This bylaw is intended to guide those persons owning or keeping dogs in their role as responsible pet owners so as not to adversely affect the residents of the Town of Sudbury.

§ 117-5 **Reference to Massachusetts General Laws.**

- A. Any reference to a "section" in this bylaw shall mean Chapter 140 of the Massachusetts General Laws, unless otherwise stated.
- B. The provisions of Massachusetts General Laws Chapter 140, §§ 136A through 174D, inclusive, as may

be amended from time to time and except as modified herein, are incorporated into this bylaw relating to the regulation of dogs.

§ 117-6 Definitions.

Unless otherwise set out in this bylaw, any term defined in § 136A shall have the same meaning in this bylaw and shall be expressly incorporated herein.

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ANIMAL SHELTER

Any premises designated for the purpose of impounding and caring for animals held under authority of this bylaw.

AT LARGE

Off the premises of the owner and not under the control of the owner or authorized person either by leash, cord, chain or other means.

KENNEL

As defined in MGL c. 140, § 136A; includes personal kennels.

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[Amended 5-5-2015 ATM by Art. 36]

LICENSE PERIOD

From January 1 of each year to December 31 of the same year.

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LIVESTOCK OR FOWL

Animals or fowl kept or propagated by the owner for food or as a means of livelihood; also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge and other birds and quadrupeds determined by the Division of Fisheries and Wildlife to be wild and kept by, or under a permit from, said Division in proper houses or suitable enclosed yards. Such phrase shall not include dogs, cats and other pets.

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OWNER

Any person or persons, firm, association or corporation owning, keeping or harboring a dog within the Town.

PERSON

An individual, partnership, company or corporation.

PERSONAL KENNEL

A pack or collection of more than four dogs, three months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided, further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally owned dog; and provided, further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.

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[Added 5-5-2015 ATM by Art. 36]

RESTRAINT

A dog shall be deemed to be under restraint if it is on the premises of the owner accompanied by a

person who shall have the dog under control, or is in a suitably enclosed area, including an effective electric Invisible Fence®, or, if outside the premises of the owner, is accompanied by a person who shall have the dog under control by holding it firmly on a leash no greater than six feet in length.

[Amended 5-5-2015 ATM by Art. 36]

§ 117-7 **Animal Control Officer.**

[Amended 5-5-2015 ATM by Art. 36]

- A. The Town Manager shall appoint an Animal Control Officer under the provisions of MGL c. 140, §§ 151 and 151A, to carry out the provisions of this bylaw, and perform such other duties and responsibilities as may be determined. The Town Manager shall determine hours and conditions of work for the Animal Control Officer. Compensation for persons appointed under this bylaw shall be consistent with other bylaws dealing with salaries of appointed officials.
- B. The Animal Control Officer shall seek out and notify all owners of all dogs within the Town that have not been licensed within the required time under the provisions of this bylaw; shall seek out, catch and confine any dogs within the Town that are found on public property, or on private property where said dog is trespassing and the owner or person in control of such property wants the dog removed, if said dog is in violation of any section of this bylaw.
- C. No person shall interfere with, hinder, molest or abuse an Animal Control Officer in the exercise of such responsibilities. The provisions of MGL c. 140, §§ 151 and 151A, regarding killing and/or transfer of any dogs shall apply and are expressly incorporated in this bylaw. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Animal Control Officer, either privately or in the course of carrying out official assignments as an agent for this Town, or any other agent of the Town, shall give, sell, or turn over any animal which may come into custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates the provisions of this subsection shall be fined as provided in MGL c. 140, § 151.
- D. It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all dogs held in custody, a monthly telephone log of calls regarding dogs, all bite cases reported and the investigation of same.

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§ 117-8 **Hearing authority.**

[Amended 5-7-2018 ATM by Art. 19]

The Select Board shall act as the hearing authority for all matters pertaining to the enforcement of this bylaw. The hearing authority shall investigate or cause the investigation of the complaint.

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§ 117-9 **Dog fund.**

- A. A Dog Fund is hereby created by the Town under provisions of MGL c. 44, § 53E 1/2. Said fund shall be used as a depository for all moneys collected as fees, fines, charges, penalties and other like moneys imposed under this bylaw. It shall be used to make purchases necessary to administer this bylaw and to pay any expenses relating to this bylaw or for any other costs that Massachusetts General Laws require to be paid. Said fund shall be administered by the Treasurer-Collector and may also receive funds through usual municipal financing methods. Receipts allocated to this fund shall be deposited in a special account by the Treasurer-Collector.

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- B. Expenditures may be charged against this fund without prior appropriation, subject to the approval by the Town Clerk, and shall be limited to purposes directly connected to the enforcement of the provisions of the Dog Bylaw. Said expenditures, or incurred liabilities, shall not exceed the available balance of the

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fund at any given time.

§ 117-10 Vaccination requirement.
[Amended 5-5-2015 ATM by Art. 36]

- A. Whoever is the owner of a dog, cat or ferret six months of age or older shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health. Such owner shall produce a veterinarian's certificate that such dog, cat or ferret has been so vaccinated, setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued. An exemption from such vaccine may be granted by the Board of Health only upon presentation of a licensed Massachusetts veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons as provided in § 145B.
- B. Unvaccinated dogs, cats or ferrets acquired or brought into the Town shall be vaccinated within 30 days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.
- C. Unvaccinated dogs, cats or ferrets shall be revaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.
- D. Whoever violates this section shall be punished by a fine of not more than \$100 per animal, or by a noncriminal penalty of \$50 per animal.

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§ 117-11 Registration, licenses and fees.
[Amended 4-6-2009 ATM]

- A. Any owner of a dog which is six months of age or older and is located in the Town of Sudbury shall obtain a license for that dog commencing on January 1 of each year, as required by Massachusetts General Laws Chapter 140.
- B. The fee for every license shall be:
- (1) Neutered male dogs and spayed female dogs: \$15.
- (2) Unneutered male dogs and unspayed female dogs: \$20.
- C. The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk on a form prescribed and supplied by the Town Clerk, and shall be subject to the condition expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock, fowl, wildlife, or domesticated animals.
- D. The owner of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag on a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following information: Town of Sudbury; year of issue; and tag number. The Town Clerk shall maintain a record of the identifying numbers.
- E. If any such tag shall be lost, the owner of such dog shall forthwith secure a substitute tag from the Town Clerk. The fee for a duplicate tag shall be determined by the Town Clerk.
- F. The Town Clerk shall not grant such license for any dog unless the owner of the dog provides the Town Clerk with a veterinarian's certification that the dog has been vaccinated in accordance with § 145B, certification that such dog is exempt from the vaccination requirement under said § 145B or a notarized

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letter from a veterinarian that either of these certifications was issued relative to such dog. **[Amended 5-5-2015 ATM by Art. 36]**

§ 117-12 Kennel registration, licenses, and fees.
[Amended 5-3-2011 ATM by Art. 19]

- A. Any person maintaining a kennel shall have a kennel license. (See § 117-6 for definition of what constitutes a kennel.) The fee for kennel licenses shall be:
- (1) Four dogs: \$60.
 - (2) Five to six dogs: \$90.
 - (3) Seven to 10 dogs: \$150.
 - (4) Eleven dogs or more: \$175.
- B. Any person who meets all requirements of the Town of Sudbury Zoning Bylaw and § 137A may apply for a kennel license from the Town Clerk and for a fee as set out in this bylaw. The Town Clerk shall, upon application, issue without charge a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.
- C. The provisions of MGL c. 140, § 138, shall be expressly incorporated herewith and shall henceforth apply under this bylaw.
- D. The Animal Control Officer may at any time inspect or cause to be inspected any kennel and if, in their judgment, the same is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall file with the Town Manager a petition setting forth the facts; and the Town Manager shall, upon this petition, or upon a petition of 25 citizens setting forth that they are aggrieved, or annoyed to an unreasonable extent by one or more dogs at a kennel maintained in Town, because of excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, the Town Manager, within seven days after a filing of such petition, shall give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. Within seven days after such public hearing, the Select Board shall make an order either revoking or suspending such kennel license or otherwise regulating said kennel, or dismissing said petition. Within 10 days after such order, the holder of such license may bring a petition in the District Court as outlined in § 137C. Any person maintaining a kennel after the license therefor has been so revoked or while such license is so suspended, shall be fined as set forth in § 117-26A of this bylaw. The Select Board may, in the case of any suspension, reinstate such license. **[Amended 5-5-2015 ATM by Art. 36]**

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§ 117-13 Kennel regulations.

The Town Clerk shall not issue a kennel permit pursuant to the provisions of § 137A, unless:

- A. A written report from the Animal Control Officer has been received certifying as follows: **[Amended 5-5-2015 ATM by Art. 36]**
- (1) That the premises where the applicant's kennel is located has been inspected.
 - (2) That the premises proposed are appropriate for use as a kennel and that such use will have no significant adverse effect on the peace and quiet of the neighborhood or on the sanitary conditions there.
- B. The applicant for a kennel permit has first obtained a special permit from the Zoning Board of Appeals

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pursuant to Subsection 2313 of the Zoning Bylaw of the Town of Sudbury.

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§ 117-14 **Failure to license.**
[Amended 5-5-2015 ATM by Art. 36]

All owners or keepers of dogs kept in the Town of Sudbury during the preceding six months and who, on the first day of April of each year, have not licensed said dog or dogs, as prescribed by MGL c. 140, § 137, shall pay a late fee as determined by the Town Clerk, payable to the Town, in addition to the license fee, for each dog so unlicensed. In addition to the license fee and late fee, any all such owners or keepers of dogs not compliant with the licensing requirement after June 1 may be subject to an additional penalty of \$50 for each dog, and the Animal Control Officer may issue additional penalties of \$50 every 21 days after the initial \$50 penalty until compliance.

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§ 117-15 **Control of dogs.**
[Amended 5-5-2015 ATM by Art. 36]

- A. All dogs in the Town of Sudbury shall be restrained, kept on a leash or under the direct and complete control of a responsible person at all times. The owner or keeper of a dog who violates this bylaw shall be subject to a penalty as set forth in § **117-26A** of this bylaw.
- B. Any dog whose actions result in a complaint filed with the Animal Control Officer shall be restrained during the entire twenty-four-hour period after the third complaint if, in the opinion of the Animal Control Officer, such complaints are warranted and constitute a violation of any provision of this bylaw.

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§ 117-16 **Nuisance abatement.**
[Amended 5-5-2015 ATM by Art. 36]

A. Nuisance defined.

- (1) "Nuisance dog": a dog that:
 - (a) By excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or
 - (b) By excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or
 - (c) Has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.
- (2) Dogs shall be kept in such a manner that no nuisance is produced regarding sanitary conditions, housing, food, shelter, water, or other factors which may cause a nuisance. Upon determination by the Animal Control Officer, based on evidence, that a dog is causing a nuisance, the owner of such dog shall be subject to a penalty as set forth in § **117-26B** of this bylaw.
- B. Every female dog in heat shall be confined in a building or secured enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding. The owner of any unspayed and unleashed female dog found by the Animal Control Officer roaming in season (heat) off the premises of the owner shall be subject to a penalty as set forth in § **117-26B** of this bylaw.
- C. When the owner of a male dog is notified by the Animal Control Officer that the dog is a nuisance to residents while attracted to the residence of a female dog in heat, the owner of the male dog shall be required to keep the male dog restrained.

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§ 117-17 **Dog waste disposal.**

Each person who owns, possesses or controls a dog walking in any area within the Town other than their own private property is responsible for the removal and disposal of any feces left by the dog. Persons walking dogs must carry with them a device designed to dispose of dog feces. Such devices include but are not limited to plastic bags or "pooper-scoopers." Exempt from the requirements of this bylaw are assistance dogs in the service of their handlers. The owner or keeper of a dog that violates this section shall be subject to a penalty as set forth in § 117-26B of this bylaw.

§ 117-18 **Quarantine of dog that bites.**

The dog owner shall immediately and within 24 hours, notify the Animal Control Officer if the dog bites a person. For biting a person, the dog must be quarantined subject to MGL c. 129, § 21. Any and all violations of a quarantine order will be subject to general penalties under Massachusetts General Laws c. 129, § 30.

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§ 117-19 **Dangerous dogs.**

[Amended 5-5-2015 ATM by Art. 36]

A. "Dangerous dog": a dog that either, without justification, attacks a person or domestic animal, causing physical injury or death; or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal; provided, however, that no dog shall be deemed dangerous solely based upon growling or barking or solely growling and barking; based upon the breed of the dog; or if the dog was reacting to another animal or to a person and the dog's reaction was not grossly disproportionate to any of the following circumstances:

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- (1) The dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;
- (2) The person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;
- (3) The person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog; or
- (4) At the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure, including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of seven, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

B. Dogs who have violated any of the above conditions can be declared to be a dangerous dog by the Select Board upon written complaint of a citizen, the Animal Control Officer, Police Department or other public safety agent.

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§ 117-20 **Emergency treatment.**

[Amended 5-5-2015 ATM by Art. 36]

Any veterinarian registered under the provisions of MGL c. 112, § 55 or 56A, who renders emergency care or treatment to, or disposes of any dog or cat injured on any way in the Town shall receive payment of reasonable costs from the owner of such dog or cat, if known, or, if not known, shall receive a fair and reasonable sum (not to exceed \$250 without the approval of the Select Board) from the Town's Dog Fund provided under this bylaw for such care, treatment and/or disposal; provided, however, such emergency care, treatment and/or disposal shall be for the purpose of maintaining life, stabilizing the animal or alleviating

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pain or suffering until the owner of such dog or cat is identified, or for a period of 24 hours, whichever is sooner. Any veterinarian who renders such emergency care or treatment to, or euthanizes or disposes of, such dog or cat shall notify the Animal Control Officer and, upon notification, the Animal Control Officer shall assume control of any such dog or cat.

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§ 117-21 Confinement of dogs.
[Amended 5-5-2015 ATM by Art. 36]

A. The Animal Control Officer shall seek out, catch and confine any dog which they find, after a complaint from an identified person or through their own observation, has:

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- (1) Bitten or threatened the safety of any person;
- (2) Killed or maimed any domesticated or farm animal or wildlife excepting small rodents;
- (3) Chased any motor, recreational, or pedal vehicle, or any animal carrying or drawing a person;
- (4) Damaged property;
- (5) Committed any act which places its owner in violation of a section of this bylaw.

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B. Any violation shall be fined as set forth in § **117-26A** of this bylaw.

§ 117-22 Disposition of dogs; storage fees.
[Amended 5-5-2015 ATM by Art. 36]

- A. Any dog confined by the Animal Control Officer, unless picked up by the owners, shall be kept for at least seven days (twenty-four-hour consecutive time period from the time the animal is obtained by the Animal Control Officer).
- B. A storage fee for the boarding of impounded dogs shall be charged at a rate based on contractual agreements between the Town and the contractor.
- C. Any dog confined by the Animal Control Officer shall not be released to the owner until the owner produces evidence of a current dog license and pays all penalties and storage fees.

§ 117-23 Damage caused by dogs.
[Amended 5-5-2015 ATM by Art. 36]

A. The provisions of MGL c. 140, § 161, shall apply to whoever suffers loss in a manner described in § 161.

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B. All funds expended under this section shall come from the Dog Fund provided under this bylaw.

C. If the Select Board determines, after notice to parties interested and a hearing, the identity of the person who is the owner of any dog which is found to have worried, maimed or killed livestock, fowl, or domesticated animals, thereby causing damages for which their owner may become entitled to compensation from the Dog Fund under this bylaw, they shall serve upon the owner of such dog a notice directing him/her within 24 hours to confine the dog or have it humanely euthanized. A person who owns or keeps a dog and who has received such notice and does not within 24 hours humanely euthanize such dog or thereafter keep it on his/her premises or under the immediate restraint and control of some person shall be penalized as set forth in § **117-26A** of this bylaw.

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§ 117-24 Liability for dogs.
[Amended 5-5-2015 ATM by Art. 36]

The owner of a dog which has done damage to livestock, fowl, or domesticated animals shall be liable in tort to the Town for all damages so done in which the Town has been requested to pay as provided by Massachusetts General Laws Chapter 140 or by this bylaw. Such action may be brought by the Select Board,

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§ 117-25 Noncriminal disposition.
[Amended 5-5-2015 ATM by Art. 36]

If any person so notified by non-criminal citation desires to contest the violation alleged in the citation notice, they may avail themselves of the procedures established by law. If the owner of a dog fails to respond to a noncriminal citation within 21 days, the Town Clerk shall forward a copy of the citation to the District Court, where it shall be handled under the provisions of MGL c. 40, § 21D.

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§ 117-26 Violations and penalties.
[Amended 4-7-1999 ATM by Art. 30; 5-5-2015 ATM by Art. 36]

- A. With the exception of §§ 117-16 and 117-17 (see Subsection **B** below), and except as otherwise provided in this bylaw, a violation of any other section of this bylaw shall be punishable by a fine or noncriminal penalty of \$50 for each offense.
- B. A violation of §§ 117-16 and 117-17 of this bylaw shall be punishable by a warning for the first offense in any calendar year; a \$25 fine or noncriminal penalty for the second offense; and a \$50 fine or noncriminal penalty for each subsequent offense.
- C. Any person authorized to enforce provisions of this bylaw may issue a noncriminal citation to the owner of any dog violating the provisions of this bylaw. Any such citation shall include, in addition to the violation charge, the name and address of the owner of the dog, the date and location of the alleged offense, and, if not a warning, the amount of the penalty due. Said citation shall be on a form prescribed by and furnished by the Animal Control Officer.

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§ 117-27 Severability; compliance with other provisions.

If any part, section or provision of the bylaw is found to be invalid, the remainder of this bylaw shall not be affected thereby. No provision or interpretation of a provision of this bylaw is intended to be either in conflict with or an attempt to change any statutory provision in MGL c. 140 pertaining to dogs.

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Chapter 124 Boating

[**HISTORY: Adopted by the Town Meeting of the Town of Sudbury 4-8-2008 as Art. V, § 32, of the General Bylaws. Amendments noted where applicable.**]

§ 124-1 Operation of motorboats.

No motorboat shall be operated upon any portion of the Sudbury River or its tributaries within the Town of Sudbury in a manner which endangers the safety of the public or is detrimental or injurious to the neighborhood or to the value of property thereon.

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§ 124-2 Evidence of violation.

A. It shall be prima facie evidence of the violation of this bylaw if such boat is operated:

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- (1) By a motor not having an underwater exhaust;
- (2) In a noisy or obnoxious manner;

- (3) At any unreasonable rate of speed;
- (4) Without slowing down and exercising due caution while approaching and passing persons or any other watercraft; or
- (5) At any speed in excess of 10 miles per hour.

§ 124-3 Enforcement; cooperation with other towns and/or agencies.

The Town may join with any other Town through which said Sudbury River or any of its tributaries flows, or a government agency, in the enforcement of this ~~bylaw~~ or a similar bylaw adopted by such other ~~town~~, insofar as such bylaws relate to said river or its tributaries, and may appropriate money for the enforcement in whole or in part of any and all such bylaws.

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§ 124-4 Violations and penalties.

Violations of this bylaw are subject to a penalty as provided in Chapter 1, Article I, General Penalty.

Chapter 129

Buildings and Building Construction

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

Article I

Pumping Water from Private Buildings

[Adopted as Art. V, § 28, of the General Bylaws]

§ 129-1 Fire Department resources and fees.

The Fire Chief may use the resources of ~~their Department~~ to pump water from private buildings at the request of the owner or tenant thereof in an emergency and subject to the availability of such resources, ~~provided that~~ the owner or tenant shall be charged the following fee for such service rendered to the same building ~~if, in the~~ opinion of the Fire Chief, the condition could have been avoided by remedial action, including the installation of a sump pump, on the part of the owner or tenant.

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A. First call: ~~no charge.~~

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B. Second call: ~~fee shall be determined by vote of the Select Board.~~

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C. Third and subsequent calls: ~~fee shall be determined by vote of the Select Board.~~

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Article II

Public Buildings

[Adopted as Art. VI, § 1, of the General Bylaws]

§ 129-2 Damage to public buildings.

It shall be ~~unlawful to~~ cut, mark, deface, defile or in any manner damage or injure any public building belonging to the Town or any ~~outbuilding~~ connected with said public buildings, or ~~to~~ damage or injure any fence enclosing any land belonging to the Town. ~~It shall be the duty of the Select Board to prosecute all parties who violate this section. The penalty for violation of this section shall be as provided in Chapter 1, General Provisions, Article I, General Penalty.~~

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Article III Building Code

[Adopted as Art. XV of the General Bylaws]

§ 129-3 State Building Code; Stretch Energy Code.
[Amended 4-6-2010 ATM by Art. 24]

~~The State Building Code is incorporated herein by reference, adopted under Chapter 802 of the Acts of 1972, including 780 CMR, 115AA, "Stretch Energy Code."~~

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Deleted: ", and the following sections:

§ 129-4 Building permit fees.

[Amended 4-1-2002 ATM by Art. 2; 4-6-2009 ATM by Art. 14]

Fees to be paid shall be ~~set by the Select Board. No fee shall be charged for the issuance of any building permit to the Town or for work upon any building owned by the Town.~~

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§ 129-5 Building inspection fees.

No fee shall be charged for the periodic inspection and certification of buildings and structures or parts thereof owned by the Town.

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Chapter 133 Burial Places

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. XIV of the General Bylaws. Amendments noted where applicable.]

§ 133-1 Burial funds.

The Town Treasurer-~~Collector~~ is hereby authorized to receive on behalf of the Town and hold and apply funds or money which may be deposited with ~~them~~ for the perpetual care, preservation, improvement or embellishment of any public or private burial place within the Town, or burial lots situated in such burial places; and ~~they~~ shall keep a record of all funds or money which may be so deposited with ~~them~~.

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§ 133-2 Perpetual care amount.

The ~~Select~~ Board shall determine the appropriate principal sum to be deposited for the perpetual care of burial lots and graves in cemeteries in the Town, and ~~it~~ shall prepare and issue to the Treasurer-~~Collector~~ a schedule of such amounts.

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Chapter 137 Burning, Open

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V, § 7, of the General Bylaws. Amendments noted where applicable.]

§ 137-1 Permit required.

No person shall burn or cause to be burned, material of any kind within or on any public or private property, including but not limited to public or private ways, except in accordance with a permit issued by the Sudbury Fire Department.

§ 137-2 **Violations and penalties.**

Violation of this bylaw shall be subject to a penalty of \$100.

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Chapter 145 Demolition Delay

[**HISTORY: Adopted by the Town Meeting of the Town of Sudbury 4-14-2004 by Art. 51 as Art. XXVIII of the General Bylaws. Amendments noted where applicable.**]

§ 145-1 **Intent and purpose.**

- A. This bylaw is adopted for the purpose of protecting the historic and aesthetic qualities of the Town of Sudbury by preserving, rehabilitating or restoring, whenever possible, buildings, structures or archaeology sites which constitute or reflect distinctive features of the architectural or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage and character of the Town of Sudbury.
- B. The intent of this bylaw is to provide an opportunity to develop preservation solutions for properties threatened with demolition, and to allow the owner, the Sudbury Historical Commission and other appropriate Town departments time to find grants or some person or group willing to purchase, preserve, rehabilitate or restore the building or structure.

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§ 145-2 **Definitions.**

For the purposes of this bylaw, the following words and phrases have the following meanings:

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DEMOLITION PERMIT

The permit issued by the Building Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.

HISTORICALLY SIGNIFICANT BUILDING, STRUCTURE OR ARCHAEOLOGY SITE

One which is:

- A. Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or
- B. Historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

SHC

The Sudbury Historical Commission.

§ 145-3 **Regulated buildings and structures.**

The provisions of this bylaw shall apply only to the following buildings or portion thereof or structures:

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- A. A building or portion thereof, structure or archaeology site listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or
- B. A building or portion thereof, structure or archaeology site located within 200 feet of the boundary line of any federal, state or local historic district; or

C. A building or portion thereof, structure or archaeology site included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, or designated by the SHC for inclusion in said Inventory; homes listed in the "Old Homes Survey" of the SHC, plus those structures or portion thereof constructed prior to January 1, 1940, Town-wide or any building or portion thereof or structure of indeterminate age. Notwithstanding the preceding sentence, the provisions of this bylaw shall not apply to any building or portion thereof or structure located in a local historic district and subject to regulation under the provisions of Chapter 40C of the Massachusetts General Laws.

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§ 145-4 Procedure.

A. The Building Inspector shall forward a copy of each demolition permit application for a building or structure identified in § 145-3 of this bylaw to the SHC within five business days after the filing of such application, and shall notify the applicant, in writing, of this action. No demolition permit shall be issued at this time.

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B. Within 30 business days after its receipt of such application, the SHC shall schedule with the applicant a site inspection for the SHC to assist in its determination if a building, or portion thereof, or structure is historically significant.

C. If the SHC determines that the building or structure is not historically significant, it shall so notify the Building Inspector and the applicant, in writing, and the Building Inspector may issue a demolition permit. If the SHC determines that the building or structure is historically significant, it shall notify the Building Inspector and the applicant, in writing, that a demolition plan review must be made prior to the issuance of a demolition permit. If the SHC fails to notify the Building Inspector of its determination within 30 business days of the site inspection, then the building or structure shall be deemed not historically significant and the Building Inspector may issue a demolition permit.

D. Within 60 days after the applicant is notified that the Commission has determined that a building or structure is historically significant, the applicant for the permit shall submit to the SHC five copies of a demolition plan, which shall include the following information:

- (1) A map showing the location of the building or structure to be demolished with reference to lot lines and the neighboring buildings and structures;
- (2) Photographs of all street facade elevations;
- (3) A description of the building or structure, or part thereof, to be demolished;
- (4) The reason for the proposed demolition; and
- (5) A brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.

E. Not later than 30 business days of receipt of such plan, the SHC shall hold a public hearing with respect to the application of a demolition permit, and shall give public notice of the time, place and purposes thereof at least 14 days before the said hearing in the local newspaper and by mailing, postage prepaid, a copy of such notice to the applicant, to the owners of all adjoining property and other property deemed by the SHC to be materially affected, to the Select Board, Planning Board, Zoning Board of Appeals and to such other persons as the SHC shall deem entitled to notice. The Commission shall determine that a building or structure should preferably be preserved only if it finds that the building or structure is an historically significant building or structure which, because of the importance made by such building or structure to the Town's historical and/or architectural resources, is in the public interest to preserve, rehabilitate or restore (as defined in § 145-2).

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F. If, after the public hearing, the SHC determines that demolition of the property, or any part thereof,

would be detrimental to the historical or architectural heritage or resources of the Town, such building or structure shall be considered to be a preferably preserved building, and the SHC shall file with the Building Inspector and the applicant within 30 days of the hearing thereon a written report on the demolition plan, which shall include the following:

- (1) A description of the age, architectural style, historic association and importance of the building or structure to be demolished.
 - (2) A determination as to whether or not the building or structure should preferably be preserved, and no demolition permit shall be issued until six months after the date of such determination by the Commission.
- G. The SHC shall also notify the Massachusetts Historical Commission, Town Planner, Town Manager, Community Preservation Committee and any other interested parties in an effort to obtain assistance in preservation funding or in finding an adaptive use of the building which will result in its preservation. The SHC shall invite the owner of record of the building or structure to participate in an investigation of alternatives to demolition, including but not limited to incorporation of the building into future development of the site, adaptive reuse of the building or structure, seeking a new owner willing to purchase and preserve, restore or rehabilitate the building or part thereof, or moving the building.
- H. Once a building or portion thereof or a structure has been designated to a preferably preserved status, the owner shall be responsible for properly securing the building or structure to the satisfaction of the Building Inspector. Should the owner fail to secure the building or structure, the loss of such through fire or other cause shall be considered voluntary demolition and all noncompliance penalties shall pertain.

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§ 145-5 Emergency demolition.

If the condition of a building or structure poses a serious and imminent threat to the public health or safety due to its deteriorated condition, the owner of such building or structure may request the issuance of an emergency demolition permit from the Building Inspector. As soon as practicable after the receipt of such a request, the Building Inspector shall inspect the property with a member of the SHC or designee. After the inspection of the building or structure, the Building Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect the public health or safety. If the Building Inspector finds that the condition of the building or structure poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate demolition thereof, they may issue an emergency demolition permit to the owner of the building or structure. Whenever the Building Inspector issues an emergency demolition permit under the provision of this section, they shall prepare a written report describing the condition of the building or structure and the basis for their decision to issue an emergency demolition permit with the SHC. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by MGL c. 143, §§ 6 through 10. In the event that a Board of Survey is convened under the provisions of MGL c. 143, § 8, with regard to any building or structure identified in § 145-3 of this bylaw, the Building Inspector shall request the Chair of the SHC or their designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the SHC.

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§ 145-6 Violations and penalties.

Anyone who demolishes a building or structure identified in § 145-3 of this bylaw without first obtaining, and complying fully with the provisions of, a demolition permit, shall be subject to a fine of \$300. In addition, unless a demolition permit was obtained for such demolition, and unless such a permit was fully complied with, the Building Inspector shall not issue a building permit pertaining to any parcel on which a building or structure identified in § 145-3 of this bylaw has been demolished for a period of five years after the date of demolition.

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§ 145-7 **Issuance of building permit.**

As determined by the SHC, a building permit may be issued at any time for new construction after the six-month delay, but within the five-year period as described in § 145-6, which would replicate the exterior of the demolished significant structure, including but not limited to use of materials, design, dimensions, massing, arrangement of architectural features and execution of decorative details.

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§ 145-8 **Appeals to Superior Court.**

Any person aggrieved by a determination of the SHC may, within 60 days, in accordance with MGL c. 249, § 4, after the filing of the notice of such determination with the Building Inspector, appeal to the Superior Court for the Middlesex County. The Court shall hear all pertinent evidence and shall annul the determination of the SHC if it finds the decision of the Commission to be unsupported by the evidence or exceed the authority of the Commission or may remand the case for further action by the SHC or make such other decree as justice and equity require.

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§ 145-9 **Severability.**

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

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Chapter 151 Earth Removal

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V(A) of the General Bylaws. Amendments noted where applicable.]

§ 151-1 **Earth Removal Board.**

The Earth Removal Board is hereby established and shall consist of five registered voters of the Town, to be annually appointed by the Select Board for a term of one year. Appointment to the Earth Removal Board may be made contingent on the member holding another office or membership on another board or committee, in which case removal or resignation from such other office, board or committee shall be deemed removal or resignation from the Earth Removal Board. Vacancies shall be filled by appointment for the remaining portion of the term. The Earth Removal Board can proceed or act only when a quorum of four or more members are present. A majority vote in favor of the issuance of an earth removal permit shall be required for the issuance of an earth removal permit.

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§ 151-2 **Earth removal permit.**

No person, firm or corporation shall remove any soil, loam, sand, gravel, stone, or other earth material from any land in the Town not in public use without first obtaining a permit, hereinafter called an "earth removal permit," therefor from the Earth Removal Board, as provided in the following sections.

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§ 151-3 **Requirement for permit.**

Without restricting the generality of the previous section, an earth removal permit shall be required under this bylaw for the removal of soil, loam, sand, gravel, stone or other earth material in the course of excavation incidental to the construction of a business, industrial, research or commercial building or facility of any kind for which a building permit is required. This requirement for an earth removal permit extends also to any material removed for the installation of walks, driveways, parking lots, and similar appurtenances to said commercial building or facility.

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§ 151-4 **Exceptions to permit requirement.**

An earth removal permit shall not be required under this bylaw for the removal of soil, loam, sand, gravel, stone or other earth material in the course of excavation incidental to the construction of a single-family

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residential building for which a building permit is required and to the installation of walks, driveways, and similar appurtenances to said building, provided that the quantity of material removed does not exceed that displaced by the portion of building, walk, driveway, or similar appurtenance below finished grade, or in the course of customary use of land for a farm, garden or nursery. This exemption does not cover removal of earth from the premises involving topographical changes or soil-stripping or loam-stripping activities, nor shall tentative or final approval of a subdivision plan be construed as authorization for the removal of earth material from streets shown on the subdivision plan.

§ 151-5 Application for permit.

An application for an earth removal permit shall be in writing and, among other things as required by the Earth Removal Board, shall contain an accurate description of the portion of land from which earth is to be removed, shall state fully the purposes for the removal thereof, and shall include plans of the land involved in such form as the Board may require. The Board may charge reasonable fees for making an application for earth removal. Upon receipt of an application for an earth removal permit for removal of earth from any land, the Board shall appoint a time and place for a public hearing, notice of which shall be mailed to the applicant and abutters and published in a newspaper having a circulation in the Town at least 21 days before such hearing.

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§ 151-6 Granting of permit.

An earth removal permit for removal of soil, loam, sand, gravel, stone or other earth material shall be granted only if the Earth Removal Board shall rule that such removal is not detrimental to the neighborhood. The exercise of any earth removal permit granted under provisions of this bylaw shall be subject to conditions, limitations and safeguards to be set forth therein by the Board to protect the health, welfare, convenience, and safety of the public, and to promote the best interests of the neighborhood and of the Town. These conditions may include, but are not limited to:

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- A. Method of removal.
- B. Type and location of temporary structures.
- C. Hours of operation.
- D. Routes for transporting the material through the Town.
- E. Area and depth of excavation.
- F. Distance of excavation from street and lot lines.
- G. Steepness of slopes excavated.
- H. Reestablishment of ground levels and grades.
- I. Provisions for permanent and temporary drainage.
- J. Disposition of boulders and tree stumps.
- K. Replacement of loam over the area of removal.
- L. Planting of the area to suitable cover.
- M. Inspection of the premises at any time by the Board or its representative.

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§ 151-7 Bond condition; term of permit.

The Earth Removal Board may require, as a condition of the granting of an earth removal permit to remove

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soil, loam, sand, gravel, stone, or other earth material, that the permittee shall furnish cash, certified check, or a surety company bond to the Town as obligee in a penal sum to be fixed by said Board as it shall deem sufficient to cover the cost of the performance of all labor and materials as shall be required to carry out all the conditions, limitations, and safeguards as may be imposed by said Board in connection with the removal of the particular substances for which the earth removal permit is issued. No earth removal permit shall be issued under provisions of this bylaw for a period of more than one year, though earth removal permits may be renewed without hearing at the discretion of the Board.

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§ 151-8 Enforcement.

If the Earth Removal Board shall be informed or shall have reason to believe that any provision of this bylaw or of any earth removal permit or condition thereof has been, is being, or is about to be violated, the Board shall make, or cause to be made, an investigation of the facts, and if the Board finds any violation, the Board shall send a notice ordering cessation of the improper activities to the owner of the premises in question or his duly authorized agent, and to the occupant of the premises. If after such notice the violation continues, the Board may suspend any earth removal permit it has issued or take such other action as is necessary to enforce the provisions of the bylaw and/or seek penalties as provided in MGL c. 40, § 21, Clause 17. If any earth removal permit is suspended, an early date shall be set by the Board for a public hearing, notice of which shall be given to the permittee and shall be published at least seven days before such hearing in a newspaper having a circulation in the Town. Any earth removal permit granted by the Board may be revoked for cause shown after such a public hearing. The suspension or revocation of an earth removal permit shall not relieve the permittee of their obligations thereunder except at the discretion of the Board.

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§ 151-9 Record of proceedings.

The Earth Removal Board shall record all proceedings brought under this bylaw in a book to be kept for that purpose and shall file in the office of the Town Clerk a copy of all decisions, and the said Town Clerk shall keep a proper index thereof.

§ 151-10 Effective date.

This bylaw shall take effect upon its approval by the Attorney General and as provided by law; provided, however, that any continuous earth removal activities in actual legal working operation on December 1, 1959, may continue unaffected by this law until April 1, 1960. Permits for operation of the latter activities will be required after April 1, 1960.

§ 151-11 Severability.

If any provision of this bylaw shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the validity or constitutionality of any of the remaining provisions.

Chapter 156 Environmental Protection

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

Article I Plastic Bag Ban

[Adopted 5-2-2017 by Art. 35 as Art. XXXIV of the General Bylaws]

§ 156-1 Findings and purpose.

A. Plastic checkout bags have a significant impact on the marine and terrestrial environment, including, but not limited to: 1) harming marine and terrestrial animals through ingestion and entanglement; 2)

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polluting and degrading the terrestrial and marine environments; 3) clogging storm drainage systems; 4) creating a burden for solid waste disposal and recycling facilities; 5) requiring the use of nonrenewable fossil fuel in their composition. Studies have shown that even alternative "compostable" or "biodegradable" bags require very specific and controlled conditions in order to biodegrade, and have potentially negative environmental effects similar to conventional plastic bags. Such bags should therefore be subject to the same restrictions as conventional plastic checkout bags.

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- B. The purpose of this bylaw is to protect the Town's unique natural beauty and irreplaceable natural resources by reducing the number of single-use plastic checkout bags that are distributed in the Town of Sudbury and to promote the use of reusable bags.

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§ 156-2 Definitions.

The following words shall, unless the context clearly requires otherwise, have the following meanings:

CHECKOUT BAG

A bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

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HEALTH AGENT

The Health Agent for the Sudbury Board of Health or their designee.

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RECYCLABLE PAPER BAG

A paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag:

- A. The word "recyclable" or a symbol identifying the bag as recyclable; and
- B. A label identifying the bag as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.

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RETAIL ESTABLISHMENT

Any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

REUSABLE CHECKOUT BAG

A sewn bag with stitched handles that is specifically designed for multiple reuse and that:

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- A. Can carry 25 pounds over a distance of 300 feet;
- B. Is machine washable; and,
- C. Is either:
- (1) Made of natural fibers (such as cotton or linen); or
 - (2) Made of durable, nontoxic plastic other than polyethylene or polyvinyl chloride that is generally considered a food-grade material that is more than 4 mils thick.

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THIN-FILM, SINGLE-USE PLASTIC CHECKOUT BAGS

Those bags typically with handles, constructed of high-density polyethylene (HDPE), low-density polyethylene (LDPE), linear low-density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and nonwoven polypropylene

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fabric), if said film is less than 4.0 mils in thickness.

§ 156-3 Regulated conduct.

A. No retail establishment in the Town of Sudbury shall provide thin-film, single-use plastic checkout bags to customers after June 30, 2018, for retail establishments with a floor area equal to or exceeding 3,500 square feet or with at least two locations under the same name within the Town of Sudbury that total 3,500 square feet or more; or after June 30, 2018, for retail establishments less than 3,500 square feet.

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B. If a retail establishment provides or sells checkout bags to customers, the bags must be one of the following:

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Deleted: Retail Establishment

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(1) Recyclable paper bag; or

(2) Reusable checkout bag. For reusable bags, public information advising customers to sanitize reusable bags to prevent food-borne illness must be displayed at point of checkout.

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§ 156-4 Exemption.

Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise are not prohibited under this bylaw.

§ 156-5 Enforcement.

A. Health agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c. 40, § 21D, and Chapter I, General Penalty, Articles I and II, of the Town Code. Violations of this bylaw are punishable by a fine of up to \$300 per violation.

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B. If noncriminal disposition is elected, fines shall be established by vote of the Board of Health.

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Deleted: then any Retail Establishment that violates any provision of this bylaw

§ 156-6 Exemptions.

The Board of Health may exempt a retail establishment from the requirements of this bylaw for a period of up to six months upon a finding by the Director that:

Deleted: subject to

A. The requirements of this bylaw would cause undue hardship; or

Deleted: following penalties:¶
(1) - First offense: written warning. ¶
(2) - Second offense: \$50 penalty. ¶
(3) - Third and subsequent offense: \$200 penalty

B. A retail establishment requires additional time in order to draw down an existing inventory of thin-film, single-use plastic checkout bags.

Deleted: Retail Establishment

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Deleted: check-out

§ 156-7 Board of Health regulations.

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

§ 156-8 Severability.

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected thereby.

Article II
Sale of Bottled Water

[Adopted 5-2-2017 by Art. 36 as Art. XXXV of the General Bylaws]

§ 156-9 Findings and purpose.

A. Plastic disposable water bottles made of polyethylene terephthalate (PET) contribute hazards to human health, societal economies, wildlife, and the environment. Examples of these problems include:

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(1) Americans discard more than 30 million tons of plastic a year. Only 8% of that gets recycled. The rest

ends up in landfills, is incinerated, or becomes the invasive species known as "litter." The amount of solid waste created by one-use plastic water bottles is staggering.

Deleted: 'litter.'

(2) Chemicals leached by plastics are in the blood and tissue of nearly all of us. Exposure to them is linked to cancers, birth defects, impaired immunity, endocrine disruption and other ailments.

(3) There are thousands of landfills in the United States. Buried beneath each one of them, plastic leachate full of toxic chemicals is seeping into groundwater and flowing downstream into lakes and rivers.

(4) Manufacturers' additives in plastics, like flame retardants, BPAs and PVCs, can leach their own toxicants. These oily poisons repel water and stick to petroleum-based objects like plastic debris.

(5) Entanglement, ingestion and habitat disruption all result from plastic ending up in the spaces where animals live. In our oceans alone, plastic debris outweighs zooplankton by a ratio of 36 to one. Plastic cannot biodegrade; it breaks down into smaller and smaller pieces over time, but is still plastic.

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(6) In the face of a growing global water crisis, water bottling corporations are turning water into a profit-driven commodity when it needs to be regarded as a human right.

B. The Town of Sudbury has high-quality tap water, and provides regular governmental reports on its quality. The recommended eight glasses of water a day, at U.S. tap rates, equals about \$0.49 per year; that same amount of bottled water is about \$1,400.

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C. The purpose of this bylaw is to protect the Town's beauty, reduce litter, protect the health of present and future generations, and save the citizens of the Town money that is needlessly spent on packaged water from distant sources in one-use bottles.

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§ 156-10 Regulated conduct.

A. It shall be unlawful to sell nonreusable polyethylene terephthalate (PET) bottles of one liter (34 ounces) or less, containing uncarbonated, unflavored drinking water in the Town of Sudbury on or after the effective date of this bylaw. Water may be provided for free in any form. Proposed effective date of this bylaw: June 30, 2018.

Deleted: non-reusable

Deleted: 1 litre

B. In the event of a declaration (by Emergency Management Director, other duly authorized Town, commonwealth, or United States official) of an emergency affecting the availability and/or quality of drinking water to Sudbury residents, citizens and officials shall be exempt from this bylaw until seven days after such declaration has ended.

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§ 156-11 Enforcement.

A. Health agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c. 40, § 21D, and Chapter 1, General Provisions, Articles I and II, of the Town Code.

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Deleted: G.L.

Deleted: non-criminal

Deleted: then any person that violates any provision of this bylaw shall

B. Violations of this bylaw are punishable by a fine of up to \$300 per violation.

Deleted: following penalties:¶

(1) - First offense: written warning. ¶

(2) - Second offense: \$25 penalty. ¶

(3) - Third and subsequent offense: \$50 penalty

C. If noncriminal disposition is elected, violators will be subject to fines as established by the Board of Health.

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§ 156-12 Hearing on cost of implementation and enforcement.

If the Town Manager determines that the cost of implementing and enforcing this bylaw has become unreasonable, then the Town Manager shall so advise the Select Board, and the Select Board shall conduct a public hearing to inform the citizens of such costs. Subsequent to the public hearing, the Select Board may continue this bylaw in force or may suspend it permanently or for such length of time as the Board may determine.

§ 156-13 **Severability.**

If any provision of this bylaw shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this bylaw, which shall remain in full force and effect.

Article III
Polystyrene Containers

[Adopted 9-12-2020 by Art. 55 as Art. XXXVI of the General Bylaws]

§ 156-14 **Findings and purpose.**

- A. Styrene, a component of polystyrene, was classified in 2018 by the World Health Organization's International Agency for Research on Cancer (IARC) as Group 2A "probable carcinogen." Multiple peer-reviewed scientific studies have found that residual styrene from manufacturing can be leached from polystyrene items during reasonable, common uses — especially contact with hot, fat-containing, or acidic food or drinks — in levels that sometimes exceed present World Health Organization and/or US Environmental Protection Agency standards for styrene in drinking water.
- B. Furthermore, polystyrene, and especially polystyrene foam, readily enters the environment, both land and sea, harming wildlife who mistake it for food, ingest it, and die. Especially in the marine environment, polystyrene persists for hundreds of years and often fragments into microplastics, adsorbs and concentrates environmental toxins, and can enter the food chain when consumed by fish, shellfish, and other organisms, risking both ecosystem health and potentially contaminating the human food supply. Polystyrene is made from fossil fuels, which are nonrenewable resources that contribute to greenhouse gas emissions and anthropogenic climate change.
- C. Polystyrene is not biodegradable nor compostable nor able to be economically recycled by our Town.
- D. Less toxic, more durable, reusable, recyclable, biodegradable, and/or compostable alternatives are readily available for many food service and other applications, and are affordable and effective ways to reduce negative health and environmental impacts from the use of polystyrene items.
- E. Therefore, the purpose of this bylaw is to protect the health of Town residents and to protect the Town's unique beauty and irreplaceable natural resources by reducing the use and distribution of disposable food service ware made from polystyrene and other items made from unencapsulated foam polystyrene in the Town of Sudbury.

Deleted: 'probable carcinogen'.

Deleted: non-renewable

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§ 156-15 **Definitions.**

The following words shall have the following meanings for purpose of this bylaw:

Deleted: Bylaw

DISPOSABLE FOOD SERVICE WARE

Single-use or disposable products for heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume food or beverages, including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or lidded containers, spoons, forks and knives. This includes any containers used by food establishments to heat, cook, or store food or beverages prior to serving, regardless of whether such containers are used to serve such food or beverages. Disposable food service ware also includes any such implements sold by retail establishments to consumers for personal use.

Deleted: Food Service Ware

Deleted: Retail Establishments

FOAM POLYSTYRENE

Polystyrene in the form of a foam or expanded material, processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable-bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

FOOD ESTABLISHMENT

Any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000 et seq., and/or regulations of the Board of Health shall be considered a "food establishment" for purposes of this bylaw.

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HEALTH AGENT

The health agent for the Sudbury Board of Health or his/her designee.

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Any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000 et seq

PACKING MATERIAL

Material used to hold, cushion, or protect items packed in a container for shipping transport or storage.

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Deleted: Health Agent

POLYSTYRENE

A synthetic polymer produced by polymerization of styrene monomer. Polystyrene includes both foam polystyrene and solid polystyrene as defined in this bylaw. The International Resin Identification Code assigned to polystyrene materials is 6. Polystyrene items may be identified by a "6" or "PS," either alone or in combination with other letters. The regulations and prohibitions relating to polystyrene in this bylaw are intended to apply regardless of the presence or absence of an International Resin Identification Code or other identifying marks on the item.

Deleted: "Foam Polystyrene"

Deleted: "Solid Polystyrene"

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PREPARED FOOD

Food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively "prepared") for individual customers or consumers. Prepared food does not include raw eggs or raw, butchered meats, fish, seafood, and/or poultry.

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Deleted: Food

RETAIL ESTABLISHMENT

A store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared takeout food and beverages for consumption off-premises or the serving of an item directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers' markets and public markets; provided, however, that a retail establishment shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or movable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided, further, that a retail establishment shall include a nonprofit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar-type commercial retail businesses, whether or not for profit, when engaging in such activity.

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SOLID POLYSTYRENE

Polystyrene, including clear (oriented) polystyrene, produced in a rigid form with minimal incorporation of air or other gas. Solid polystyrene is also referred to as "rigid polystyrene."

Deleted: 'rigid polystyrene'.

§ 156-16 Regulated conduct.

A. After February 1, 2021, no food establishment in the Town of Sudbury may use, sell, offer for sale, or otherwise distribute disposable food service ware made from foam polystyrene or solid polystyrene.

Deleted: Food Establishment

B. After February 1, 2021, no retail establishment in the Town of Sudbury may sell, offer for sale, or otherwise distribute:

Deleted: Retail Establishment

(1) Disposable food service ware made from foam polystyrene or solid polystyrene.

- (2) Meat trays, fish trays, seafood trays, vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid polystyrene.
- (3) Packing materials, including packing peanuts and shipping boxes, made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.
- (4) Coolers, ice chests, or similar containers; pool or beach toys; and dock floats, mooring buoys, or anchor or navigation markers, which are made in whole or in any part with foam polystyrene that is not wholly encapsulated within a more durable material.

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C. For purposes of § 156-16B(3), distributing packing material does not include:

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- (1) Reusing packing materials for shipping, transport, or storage within the same distribution system, where the packing materials are not sent to a customer or end user.

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Deleted: Re-using

- (2) Receiving shipments within the Town of Sudbury that include polystyrene foam used as a packing material, provided that the goods were not packaged or repackaged within Sudbury.

§ 156-17 Exemption.

A. Nothing in this bylaw shall prohibit individuals from using disposable food service ware or other items made of polystyrene purchased outside the Town of Sudbury for personal use.

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B. Prepared food packaged outside the Town of Sudbury is exempt from the provisions of this bylaw, provided that it is sold or otherwise provided to the consumer in the same disposable food service ware in which it was originally packaged, and that the prepared food has not been altered or repackaged.

Deleted: Bylaw

C. The Board of Health or health agent may exempt a food establishment or retail establishment from any provision of this bylaw for a period of up to six months upon written application by the owner or operator of that establishment. No exemption will be granted unless the Board of Health or health agent finds that strict enforcement of the provision for which the exemption is sought would cause undue hardship or the food establishment or retail establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this bylaw. For purposes of this bylaw, "undue hardship" shall mean a situation unique to a food establishment or retail establishment in which there are no reasonable alternatives to the use of materials prohibited by this bylaw, and that compliance with this bylaw would create significant economic hardship for the establishment.

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§ 156-18 Enforcement.

A. Health agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c. 40, § 21D, and Chapter 1, General Penalty, Articles I and II, of the Town Code. The Town may enforce this bylaw or enjoin violations thereof through any lawful process or combination of processes, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

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B. Violations of this bylaw are punishable by a fine of up to \$300 per violation. Each successive day of noncompliance will count as a separate violation.

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C. If noncriminal disposition is elected, violators will be subject to fines as established by the Board of Health.

Deleted: non-criminal

Deleted: then any Food or Retail Establishment that violates any provision of this Bylaw shall

Deleted: following penalties:¶

(1) - First offense: written warning. ¶

(2) - Second offense: \$50 penalty. ¶

(3) - Third and each subsequent offense: \$300 penalty

Deleted: Bylaw

§ 156-19 Board of Health regulations.

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

§ 156-20 **Conflict with other provisions.**

In the case of a conflict between the requirements of this bylaw and any other federal, state or local law concerning the materials regulated herein, the more stringent requirements shall apply.

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§ 156-21 **Severability.**

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected thereby;

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Article IV
Disposable Plastic Items

[Adopted 9-12-2020 as Art. XXXVII of the General Bylaws]

§ 156-22 **Findings and purpose.**

A. Numerous studies have shown that the production and use of disposable plastic items like straws, stirrers, and splash sticks can have significant adverse impacts. Disposable plastic items readily enter the environment, both land and sea, harming wildlife who mistake it for food, ingest it, and die. Especially in the marine environment, plastic persists for hundreds of years and often fragments into microplastics, adsorbs and concentrates environmental toxins, and can enter the food chain when consumed by fish, shellfish, and other organisms, risking both ecosystem health and potentially contaminating the human food supply. Many plastic items are made from fossil fuels, nonrenewable resources that contribute to greenhouse gas emissions and anthropogenic climate change.

Deleted: non-renewable

B. Plastic straws, stirrers, and splash sticks are not able to be recycled in the Town. Further, many plastics marketed as compostable and biodegradable require the specific conditions in industrial composting facilities to break down consistently and completely, and access to such industrial composting facilities is not yet universally and readily available to residents of the Town.

C. The substitution of reusable items and/or items made from recyclable, compostable, or biodegradable nonplastic materials are affordable and effective ways to reduce the negative impacts of disposable plastic food service items. Data also shows that "only-upon-request" policies significantly reduce the overall usage of disposable items, reducing both costs and environmental impacts, without preventing those who need or want a disposable item from obtaining it.

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D. Therefore, the purpose of this bylaw is to protect the Town's unique beauty, irreplaceable natural resources, and the health of its residents by reducing the use and distribution of disposable plastic straws, stirrers, and splash sticks in the Town of Sudbury, and promoting reusable and nonplastic alternatives.

Deleted: non-plastic

§ 156-23 **Definitions.**

The following words shall have the following meanings for purpose of this bylaw:

Deleted: Bylaw

DISABILITY

A physical, intellectual, or sensory impairment that substantially limits one or more major life activities.

DISPOSABLE PLASTIC STRAW, STIRRER, OR SPLASH STICK

A drinking straw, stirrer, or splash stick made predominantly from synthetic polymers and that is not a reusable straw, stirrer, or splash stick. A disposable plastic straw, stirrer, or splash stick shall also include items made in whole or in part from synthetic polymers that are otherwise classified as "compostable," "biodegradable," "oxodegradable," or "marine degradable."

Deleted: 'compostable', 'biodegradable', 'oxodegradable', or 'marine degradable'.

Moved up [7]: FOOD ESTABLISHMENT ¶
Any operation that serves, vends or otherwise provides food or other products to third-parties for consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000 et seq

FOOD ESTABLISHMENT

Any operation that serves, vends or otherwise provides food or other products to third-parties for

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consumption and/or use on or off the premises, whether or not a fee is charged, but not including the service of food within a home or other private setting. Any facility requiring a food permit in accordance with the Massachusetts State Food Code, 105 CMR 590.000 et seq., and/or regulations of the Board of Health shall be considered a "food establishment" for purposes of this bylaw.

HEALTH AGENT

The health agent for the Sudbury Board of Health or his/her designee.

Deleted: Health Agent

MEDICAL CONDITION

Any illness, disease, or injury that requires medical treatment.

RETAIL ESTABLISHMENT

A store or premises engaged in the retail business of selling or providing merchandise, goods, groceries, prepared takeout food and beverages for consumption off-premises or the serving of an item, directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, clothing stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers' markets and public markets; provided, however, that a retail establishment shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or movable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided, further, that a retail establishment shall include a nonprofit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar-type commercial retail businesses, whether or not for profit, when engaging in such activity.

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REUSABLE STRAW, STIRRER, OR SPLASH STICK

A drinking straw, stirrer, or splash stick that is manufactured from durable materials and is designed to be adequately and repeatedly cleaned and sanitized for reuse.

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§ 156-24 Regulated conduct.

- A. After February 1, 2021, no food establishment in the Town of Sudbury may provide a disposable plastic straw, stirrer, or splash stick, as such term is defined in this bylaw, to a customer.
- B. After February 1, 2021, no food establishment in the Town of Sudbury may provide a disposable straw, stirrer, or splash stick that is not a reusable straw, stirrer, or splash stick to a customer, except upon that customer's specific request for such items or if the item is selected by a customer from a self-service dispenser.
- C. After February 1, 2021, retail establishments in the Town of Sudbury are prohibited from selling or distributing disposable plastic straws, stirrers, or splash sticks to customers unless equivalent nonplastic or reusable straws, stirrers, or splash sticks are available for sale and are clearly labeled such that any customer can easily distinguish among the disposable plastic, disposable nonplastic, and reusable items.

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§ 156-25 Exemptions.

- A. Nothing in this bylaw shall prohibit individuals from bringing and using their own personal straws, stirrers, or splash sticks of any type for personal use in a food establishment.
- B. Food establishments may provide a disposable plastic straw, stirrer, or splash stick, upon request, to a person in need due to a disability or medical condition.
- C. The Board of Health or health agent may exempt a food establishment or retail establishment from any provision of this bylaw for a period of up to six months upon written application by the owner or

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operator of that establishment. No exemption will be granted unless the Board of Health or health agent finds that the establishment requires additional time in order to draw down an existing inventory of a specific item regulated by this bylaw.

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§ 156-26 **Enforcement**

A. Health agents shall have the authority to enforce this bylaw. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c. 40, § 21D, and Chapter I, General Penalty, Articles I and II, of the Town Code. The Town may enforce this bylaw or enjoin violations thereof through any lawful process or combination of processes, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

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B. Violations of this bylaw are punishable by a fine of up to \$300 per violation. Each successive day of noncompliance will count as a separate violation.

C. If noncriminal disposition is elected, violators will be subject to finest as established by the Board of Health.

Deleted: non-criminal

Deleted: then any Food Establishment or Retail Establishment that violates any provision of this bylaw shall

Deleted: following penalties:¶
(1) - First Offense: Written Warning. ¶
(2) - Second Offense: \$50 penalty. ¶
(3) - Third and each subsequent offense: \$300 penalty

§ 156-27 **Board of Health regulations.**

The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

§ 156-28 **Conflict with other provisions.**

In the case of a conflict between the requirements of this bylaw and any other federal, state or local law concerning the materials regulated herein, the more stringent requirements shall apply.

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§ 156-29 **Severability.**

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected thereby;

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Chapter 160 Excavations

[**HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V, §§ 17, 18, and 33, of the General Bylaws. Amendments noted where applicable.**]

§ 160-1 **Earth permeability and water measurement excavation barriers required.**

All excavation for determining water table elevation, permeability of earth material, water percolation or similar matters left unattended, shall be filled in, covered or protected by fencing material to prevent persons from becoming injured or endangered thereby. Violation of this section shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

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§ 160-2 **Notification of hazard; placement of barriers.**

A. Any person excavating land or any person in charge of such excavation and the owner of land which has been excavated shall, within two days after such person has been notified in writing by the Select Board or the Inspector of Buildings that, in the opinion of the Select Board or the Inspector of Buildings, such excavation constitutes a hazard to public safety, erect barriers or take other suitable measures to eliminate such hazard.

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B. Violation of this section shall be subject to a penalty of \$50 per day for every day such person is in violation of such notice, commencing with the fourth day after receipt of such notice.

§ 160-3 Trench excavating permit.
[Amended 4-8-2008 ATM]

The Town Manager shall appoint, in accordance with MGL c. 82A, § 2, the individual officer to issue permits, and establish the fees therefor for the excavation of trenches within the Town of Sudbury, as set forth in MGL c. 82A.

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Chapter 166 Farming

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury 4-8-2008 by Art. 24 as Art. XXXI of the General Bylaws. Amendments noted where applicable.]

§ 166-1 Legislative purpose and intent.

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

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§ 166-2 Word usage.

- A. The word "farm" shall include any parcel or contiguous parcels of land or water bodies used for the primary purpose of commercial/recreational agriculture, or accessory thereto.
- B. The word "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following:
- (1) Farming in all its branches and the cultivation and tillage of the soil;
 - (2) Dairying;
 - (3) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
 - (4) Growing and harvesting of forest products upon forestland, and any other forestry or lumbering operations;
 - (5) Raising of livestock;
 - (6) Keeping, raising, and training of horses as a commercial or recreational enterprise; for pleasure, therapy, and 4-H projects; and
 - (7) 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, dairying, 4-H projects or other agricultural purposes, including bees and fur-bearing animals.

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Deleted: aqua-cultural

Deleted: viticulture

Deleted: forest land

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) Application of manure, fertilizers and pesticides;
- (4) Conducting agriculture-related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
- (6) 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
- (7) On-farm relocation of earth and the clearing of ground for farming operations.

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Deleted: agri-tourism

§ 166-3 **Right-to-farm declaration.**

The right to farm is hereby recognized to exist within the Town of Sudbury. 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 protections of this bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this 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.

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§ 166-4 **Disclosure notification.**

Within 30 days after this bylaw becomes effective, the Select Board shall prominently post in the Town Clerk's office and make available for distribution the following disclosure:

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"It is the policy of this community 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 buyers or occupants that the property they are about to acquire or occupy 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. 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."

§ 166-5 **Dispute resolution.**

A. Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board shall forward a copy of the grievance to the Agricultural Commission, which shall review and facilitate the resolution of the grievance and report its recommendations to the referring Town authority within an agreed-upon time frame.

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B. The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of

the grievance to the Agricultural Commission, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed-upon time frame.

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§ 166-6 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 Sudbury hereby declares the provisions of this bylaw to be severable.

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Chapter 170 Fees and Charges

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

Article I Gasoline Tank Removal

[Adopted as Art. V, § 26, of the General Bylaws]

§ 170-1 Gasoline tank removal fee.

Applications for underground gasoline tank removal or relocation permits under MGL c. 210, § 1, shall be accompanied by a per-tank application fee as determined by vote of the Select Board.

Deleted: Massachusetts General Laws Chapter 148, § 38A

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Article II Weights and Measures

[Adopted 4-4-2005 by Art. 19 as Art. XVII, § 1, of the General Bylaws]

§ 170-2 Sealing weights and measures.

Fees to be paid for the sealing of weighing or measuring devices shall be as follows:

Deleted: A. - Tank size:¶
(1) - One to 500 gallons: \$10. ¶
(2) - 501 to 1,000 gallons: \$50. ¶
(3) - Over 1,000 gallons: \$100. ¶

Device	Fee
Scales and Balances	
Over 10,000 lbs.	\$100
5,000 lbs. to 10,000 lbs.	\$60
1,000 lbs. to 5,000 lbs.	\$40
100 lbs. to 1000 lbs.	\$30
10 lbs. to 100 lbs.	\$20
Under 10 lbs.	\$15
Weights (all types)	\$2
Measuring Devices	

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Device	Fee
Gasoline <u>pumps/meters</u>	\$20
Vehicle <u>tank</u>	\$50
Bulk <u>storage</u>	\$75
Taxi <u>meters</u>	\$25
Fabric <u>measures</u>	\$20
Cordage <u>measures</u>	\$20
Linear <u>measures (yardsticks, etc.)</u>	\$10
Automated Retail Checkout Systems	
<u>Fewer</u> than 4 units	\$75
4 units and not more than 11 units	\$150
More than 11 units	\$250
Other Devices	
Bottle/ <u>can redeemers</u>	\$15

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Article III Wiring Permits

[Adopted 4-4-2006 by Art. 29 as Art. XVII, § 2, of the General Bylaws]

§ 170-3 Fees.

The fee to be paid for the issuance of an electrical wiring permit and inspections thereunder shall be as determined by vote of the Select Board.

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§ 170-4 Exception.

No fee shall be charged for the issuance of any electrical wiring permit to the Town or for work upon any building owned by the Town.

Deleted: A. . All Units, Residential, Commercial (or Industrial): \$3 per \$100 value of work.

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B. .

Deleted: Minimum fee: \$30. ¶
C. . Reinspection fee: \$30

Moved down [10]: . ¶
D. .

Deleted: Industrial maintenance: \$200. ¶

Article IV Town Clerk Fees

[Adopted as Art. XVII, § 3, of the General Bylaws]

§ 170-5 Schedule of fees.

The fees to be charged by the Town Clerk in accordance with the authority of MGL c. 262, § 34, shall be those established by the Town Clerk pursuant to MGL c. 40, § 22F.

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§ 170-6 Approval of fees.

The fees adopted under this article shall be subject to approval by the Select Board after a public hearing. A

copy of the Schedule of Fees so adopted shall be available in the office of the Town Clerk and shall be posted on the Town bulletin board.

Chapter 175 Fire Prevention

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

Article I Fire Lanes

[Adopted as Art. V, §§ 22, 23, and 24, of the General Bylaws]

§ 175-1 Fire lanes.

The Chief of the Fire Department may designate, as defined below, fire lanes in any area or way or portion thereof. Upon notice of such designation, the owner or person in lawful control thereof shall at their expense post and/or mark such area or way as directed by the Chief of the Fire Department. Fire lanes shall be a distance of 12 feet from the curbing of a sidewalk adjacent to buildings in a shopping center, bowling establishment, theater, restaurant or similar location, or, where no sidewalk with curbing exists, 18 feet from the building; provided that the fire lanes shall not be so designated in such locations in existence at the time of adoption of this bylaw except upon request of the owner thereof.

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§ 175-2 Blocking fire apparatus; violations and penalties.

It shall be unlawful to obstruct or block a fire lane, a private way, fire hydrant, Fire Department sprinkler connection or standpipe connection with a vehicle or other means so as to prevent access by Fire Department apparatus or other Fire Department equipment. Violation of this section shall be subject of a penalty of \$50.

§ 175-3 Removal of obstructions.

Any object or vehicle obstructing or blocking a fire lane, private way, fire hydrant, Fire Department sprinkler connection or standpipe connection may be removed or towed by the Town at the expense of the owner and without liability to the Town of Sudbury.

Article II Storage of Inflammable Fluids

[Adopted as Art. V, § 25, of the General Bylaws]

§ 175-4 Application for license; fees.

Applications for a license under MGL c. 148, § 13, for the storage of petroleum products or any articles named in § 9 of said chapter shall be accompanied by an application fee determined from time to time by the Select Board, to cover the cost of the publication and mailing of notice for the public hearing on the application. In addition, the following fees shall apply to such license:

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A. License: as determined by vote of the Select Board.

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B. Annual registration: \$50 as determined by vote of the Select Board.

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§ 175-5 Issuance of permits by Fire Chief.

The Fire Chief shall issue permits for such storage in accordance with the regulations and requirements of the Board of Fire Prevention Regulations.

Chapter 179

Firearms and Weapons

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V, §§ 8 and 9, of the General Bylaws. Amendments noted where applicable.]

§ 179-1 Discharge of firearms on private property.

No person shall fire or discharge any machine gun, cannon, pistol or revolver, rifle, air rifle or BB gun, ~~shotgun~~ or explosives of any kind on private property except with the written consent of the owner or legal occupant thereof or within the limits of any Town-owned public property except that, in accordance with recommended wildlife management practices, the Conservation Commission, subject to any conditions it may impose, may grant permission to hunt on specific public property over which said Conservation Commission has jurisdiction. Nothing in this bylaw shall be construed in such a way as to prohibit the lawful use of any of the above-named guns in the defense of life or property or on any range as defined in § 179-2 or in any other manner in accordance with the General Laws of the ~~commonwealth~~. Violation of this section shall be subject to a penalty of \$50.

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§ 179-2 License required for rifle use by persons under 18 years.

No person under 18 years of age shall fire a rifle within the limits of the Town without first obtaining a license to do so from the Chief of Police. This shall not apply to the use of rifles by members of the militia acting under orders from the officers thereof, or to any person shooting on any range within the limits of the Town approved by the ~~Select Board~~, or to the use of firearms in the lawful defense of life or property, nor to any discharge of firearms in accordance with the law. Violation of this section shall be subject to a penalty of \$50.

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Chapter 186

Housing Trust

[Adopted by the Town Meeting of the Town of Sudbury 5-2-2023 ATM by Art. 39. Amendments noted where applicable.]

§ 186-1 Purpose of Trust.

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Sudbury for the benefit of low- and moderate-income households.

§ 186-2 Powers of Trust.

A. The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of MGL c. 44, § 55C (Municipal Affordable Housing Trust Fund) as outlined below except that the Trustees shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property without prior approval of the Select Board:

(1) To accept and receive real property, personal property, or money, by gift, grant, contributions, devise, or transfer from any person, firm, corporation or other public entity or organization or tendered to the Trust in connection with provisions of any ordinance or bylaw or any General Law or Special Act of the Commonwealth or any other source, including money from MGL c. 44B (Community Preservation Act);

(2) With Select Board approval from Trustee recommendation, to sell, lease, exchange, transfer or convey

- any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Trustees deem advisable, notwithstanding the length of any such lease or contract;
- (3) To execute, acknowledge, and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments, sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
 - (4) With Select Board approval from Trustee recommendation, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral to the extent of the Trust's assets, and subject to two-thirds vote at any Annual or Special Town Meeting for greater than the extent of the Trust's assets;
 - (5) To construct, manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
 - (6) With Select Board approval from Trustee recommendation, to purchase and retain real or personal property, including, without restriction, investments that yield a high rate of income or no income;
 - (7) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate;
 - (8) To become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Fund;
 - (9) To monitor the expiring use of any affordable housing in Sudbury;
 - (10) To compensate Town employees for services provided as authorized by the Town Manager, including but not limited to dedicated staff to Trustees, engineering support for project-specific activities, and other Town services, as requested by the Trustees to the Town Manager;
 - (11) To employ advisors and agents, including but not limited to accountants, appraisers and lawyers as the Trustees deem necessary;
 - (12) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
 - (13) To participate or join or form a partnership, corporation or any other legally organized entity to accomplish the purposes of this Trust and to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney, with or without power of substitution, to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property by or between any corporation and any other corporation, person or entity;
 - (14) To apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation, depletion or otherwise;
 - (15) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
 - (16) To carry property for accounting purposes other than acquisition date values;

(17) To make distributions or divisions of principal in kind;

(18) To extend the time for payment of any obligation to the Trust;

(19) To establish criteria and/or qualifications for recipients and expenditures in accordance with the Trust's stated purposes;

(20) To compromise, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes; and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation and, subject to the provisions of this act, to continue to hold the same for such period of time as the Trustees may deem appropriate.

B. Notwithstanding anything to the contrary herein, Select Board approval shall be required for any of the following actions:

(1) To purchase real or personal property;

(2) To sell, lease, exchange, transfer or convey any personal, mixed, or real property; and

(3) To borrow money, or to mortgage or pledge Trust assets as collateral to the extent of the Trust's assets.

Moved (insertion) [3]

C. Notwithstanding anything to the contrary herein, the Trustees may not borrow, mortgage or pledge greater than the current Trust assets unless approved by the Select Board and by a two-thirds vote at any Annual or Special Town Meeting.

Moved (insertion) [4]

D. The Trustees shall have full power and authority, at any time and from time to time and without the necessity of applying to any court for leave to do so, to expend the 100% of the Trust funds, both principal and interest, to the extent that all funds hereunder may be expended if the Trustees deem such expenditure appropriate. All expenditures shall be made in conformance with the terms of this Trust and MGL c. 44, § 55C.

§ 186-3 Acts of Trustees.

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

§ 186-4 Treasurer-Collector as custodian.

A. The Town of Sudbury Treasurer-Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds.

Moved (insertion) [2]

B. The Town Treasurer-Collector shall invest the funds in the manner authorized by MGL c. 44, § 55 (Public funds on deposit; limitations; investments.) § 55A. (Liability of depositor for losses due to bankruptcy), and § 55B (Investment of public funds).

C. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

Moved (insertion) [10]

D. Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of MGL c. 44, § 55C. The yearly approved budget, and any approved budget revisions, will be recorded by the Town Treasurer-Collector.

Moved (insertion) [5]

E. As custodian, the Treasurer-Collector shall issue checks as directed by the Trustees.

Moved (insertion) [6]

F. In accordance with MGL c. 44, § 55C (Municipal Affordable Housing Trust Fund), the books and

records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. The Trust shall be audited as part of the Town audit.

§ 186-5 Duration of Trust.

This Trust shall continue so long as authorized under the Laws of the Commonwealth of Massachusetts. Notwithstanding the foregoing, The Trust may be terminated by a majority vote of the Town Meeting in accordance with MGL c. 4, § 4B, provided that an instrument of termination, together with a certified copy of the Town Meeting vote, are duly recorded with the Middlesex South District Registry of Deeds and the Land Court. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof, or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

§ 186-6 Recording of Trust.

A declaration of trust and any amendments thereto shall be recorded with the Middlesex South District Registry of Deeds and the Land Court.

§ 186-7 Amendments.

The declaration of trust may be amended from time to time except as to those provisions specifically required under MGL c. 44, § 55C, by an instrument in writing signed by all of the Trustees and approved at a meeting called for that purpose, and approved by the Select Board, provided that, in each case, a certificate of amendment has been recorded with the Middlesex South District Registry of Deeds and the Land Court.

§ 186-8 Record to be conclusive; certificate as to facts.

Every contract, deed, mortgage, lease and other instrument executed by a majority of the Trustees as appears from instruments or certificates recorded with the Registry of Deeds and Land Registration Office to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming thereunder that, at the time of the delivery thereof, this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees except that instruments of amendment pursuant to § 186-7 and an instrument of termination pursuant to § 186-5 hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all of the Trustees. Any person dealing with the Trust property or the Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be a Trustee hereunder as to the identity of the then-current Trustees or as to the existence or nonexistence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

Chapter 199

Licenses and Permits

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

Article I

Denial or Revocation for Failure to Pay Taxes or Fees

[Adopted as Art. XVIII of the General Bylaws]

§ 199-1 Tax Collector list.
[Amended 5-2-2017 ATM]

The Town Treasurer-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," 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.

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§ 199-2 Authority to deny, revoke or suspend license or permit.
[Amended 5-5-2015 ATM by Art. 1]

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 evidence for denial, revocation or suspension of said license or permit to any party. 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.

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§ 199-3 Payment agreement.

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.

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Deleted: Open Burning, section thirteen

Deleted: Chapter 48; Bicycle Permits, section 11 A. of Chapter 85; Sales of Articles

Deleted: Charitable Purposes, section 33 of Chapter

Deleted: ; Children Work Permits, section 69 of Chapter

Deleted: ; Clubs, Associations

Deleted: section 21 E of Chapter

Deleted: ; Dog Licenses, section 137 of Chapter

Deleted: ; Fishing, Hunting, Trapping Licenses, section 12 of Chapter

Deleted: ; Marriage Licenses, section 28 of Chapter

Deleted: ; Theatrical Events, Public Exhibition Permits, section 181 of Chapter

Deleted: Special Permits

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§ 199-4 Waiver.

The Select Board 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 stockholders, if any, or members of their immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

§ 199-5 Exceptions.

This article 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 licenses, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; theatrical events, public exhibition permits, MGL c. 140, § 181; and special permits granted by the Zoning Board of Appeals, MGL c. 40A.

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Deleted: ; Marriage Licenses, section 28 of Chapter

Deleted: ; Theatrical Events, Public Exhibition Permits, section 181 of Chapter

Deleted: Special Permits

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Chapter 204

Loitering

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V, § 14, of the General Bylaws. Amendments noted where applicable.]

§ 204-1 Loitering, accosting and remaining prohibited.

No person shall, within the Town of Sudbury, upon any publicly owned property or upon any privately owned property dedicated to a public use or to which the public has usual access:

- A. Loiter in such a manner as to obstruct the free passage of any other person either within or without a building; or
- B. Accost or address another person with indecent, profane or obscene language; or
- C. Remain thereon, except with the permission of the owner or other person in charge thereof, in the case of privately owned property, after being ordered to depart therefrom by any constable or police officer because of being present where a violation of this bylaw occurs.

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§ 204-2 Violations and penalties.

Violation of this bylaw shall be subject to a penalty of \$50.

§ 204-3 Enforcement.

Any police officer may arrest without a warrant any person who commits willful violation of this bylaw, and keep such person in custody until they can be taken before a court having jurisdiction of the offense.

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Chapter 216

Park and Recreation Areas

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

Article I

Upper Hop Brook

[Adopted as Art. XXIV of the General Bylaws]

§ 216-1 Purpose.

The purpose of this Hop Brook Protection (HBP) Bylaw is to provide for the safe recreational enjoyment of the Upper Hop Brook Ponds while at the same time prohibiting those motorized activities which conflict with and create safety hazards for other less intrusive and benign recreational uses such as walking, canoeing, fishing, ice skating, and cross-country skiing by adults and children, or activities which are incompatible with efforts to restore and maintain a healthy ecological balance in the ponds.

§ 216-2 Location.

The "Upper Hop Brook Ponds" are hereby defined as those ponds on Hop Brook upstream of the Peakham Road bridge which is adjacent to the Haynes Meadow Conservation Area.

§ 216-3 **Exemptions.**

Activities, equipment, and vehicles which are required for maintenance, research, or other official projects approved by the Town of Sudbury are exempted from the provisions of this bylaw.

Deleted: Bylaw

§ 216-4 **Watercraft.**

Manually powered watercraft such as canoes, kayaks, car-top boats, and float tubes are allowed on the ponds. All motor-powered watercraft such as powerboats, outboard motorboats with motors, Jet Skis®, and similar powered craft are not allowed.

Deleted: power boats

Deleted: motor boats

Deleted: jet skis,

§ 216-5 **Prohibited vehicles.**

Trailers and motorized vehicles, such as snowmobiles, motorcycles, all-terrain vehicles, cars, trucks, or similar vehicles are not allowed either on the ponds (for example, when frozen in winter) or on their banks.

Deleted: All Terrain Vehicles

§ 216-6 **Violations and penalties.**

The fine shall be \$50 per violation. Separate days or repeated violations after warnings are separate violations.

§ 216-7 **Severability.**

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

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Chapter 221 Peddling and Soliciting

[**HISTORY:** Adopted by the Town Meeting of the Town of Sudbury 4-14-2004 by Art. 52 as Art. V, § 29, of the General Bylaws. Amendments noted where applicable.]

§ 221-1 **Purpose.**

This bylaw, adopted pursuant to MGL c. 43B, § 13, and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements for all persons intending to engage in door-to-door canvassing or solicitation in the Town of Sudbury in order to:

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- A. Protect its citizens from disruption of peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and
- B. Allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or noncommercial messages.

Deleted: non-commercial

§ 221-2 **Definitions.**

The following terms shall have the meanings set forth in MGL c. 101, § 1 et seq., and are summarized for the purposes of these regulations as follows:

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DOOR-TO-DOOR SOLICITATION

Any person who travels from door to door within the Town soliciting something for any corporate or noncorporate charitable, political, or religious organization that enjoys federal or state constitutional protections. This definition of door-to-door solicitation does not require the actual selling of a product.

Deleted: non-corporate

HAWKERS AND PEDDLERS

Any person who goes from place to place within the Town selling goods for profit, whether on foot or in a vehicle, is a hawker or peddler.

PERSON

For purposes of these regulations, the persons being regulated herein are those persons over the age of 16 who are engaging in the activities regulated herein for or on behalf of for-profit organizations.

TRANSIENT VENDOR, TRANSIENT BUSINESS

A "transient vendor" is a person who conducts a transient business for profit. A transient business (temporary business) is any exhibition and sale of goods, wares or merchandise which is carried on in any structure (such as a building, tent, or booth) unless such place is open for business during usual business hours for a period of at least 12 consecutive months.

§ 221-3 Applicability.

These regulations shall apply to all persons conducting the foregoing activities within the Town.

§ 221-4 Compliance requirements.

Each person engaging in the foregoing activities shall be subject to, responsible for and fully in compliance at all times with the following requirements:

A. Registration requirements.

- (1) Persons not registered (licensed) by the state shall make application for a Town of Sudbury registration card to the Chief of Police, on a form containing the following information: the applicant's name, signature, home address; at least one form of photo identification issued by a state or federal agency; the name, address, and phone number of the owner or parties in whose interest the business is to be conducted, and their business address; a brief description of the business to be conducted within the Town; identification of vehicles that will be utilized for this purpose; the applicant's social security number; whether the applicant has ever been convicted of a felony or any of the following misdemeanors: assault or assault and battery, breaking and entering a building or ship with the intent to commit a misdemeanor, any form of larceny or fraud, buying, receiving or concealing stolen goods, deceptive advertising or violation of consumer protection laws, making or publishing false statements, trespassing on property after prohibition; and, if so convicted, the disposition; and whether there are any outstanding criminal proceedings. The application shall be made under oath and will be rejected unless complete. The applicant shall be photographed and their fingerprints taken for the purpose of identification. The Chief of Police shall approve the application within five days of its filing unless they determine that the application is incomplete, the applicant is a convicted felon, has been convicted of any of the above-listed misdemeanors, or is a fugitive from justice. If the application is approved, the Chief shall cause a registration card to be issued within three business days. The registration card shall be in the form of an identification card containing the name, signature and photograph of the licensee. Such card shall be nontransferable and valid only for the person identified therein and only for the purpose as shown on the license. The card shall be valid for a period of 30 days from the date of issuance (or, if the expiration date is not a business day, the expiration date will be on the next business day following). Any such registration card shall be void upon its surrender or revocation, or upon the filing of a report of loss or theft with the Police Department. If the application is denied, the applicant may within 10 days appeal to the Select Board.
- (2) Persons registered (licensed) by the state shall not be subject to the foregoing subsection, but shall report to the Chief prior to conducting their business within the Town and shall provide the Chief of Police with a copy of their state registration or license.
- (3) Registration card or license to be carried on the person of licensee. Such state or local registration card or license shall be carried on the person of licensee while the business activity is being conducted, and shall be provided to any police officer upon request or command. In the case of a transient business, the license shall be displayed visibly within the structure where such business is being conducted. Such registration card or license, if issued locally, shall be the property of the Town of Sudbury and shall be

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surrendered to the Chief of Police upon its expiration.

(4) Registration card (license) fee. The filing of a state license as required shall not be subject to a fee; the fee for a local registration card (license) shall be \$25.

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B. Restrictions on activity. No activity governed by these regulations shall be conducted upon public or private premises which have been duly posted "no solicitation" or words of similar meaning, or when the owners of said property have registered with the Police Department and requested to be placed on a "No Soliciting" list. The residents on this list have contacted the Sudbury Police Department to record the fact that there is to be no soliciting on their property. It is the responsibility of each solicitation group to provide a current copy of this list to each member to their group to be carried on their person while the business activity is being conducted. Violation of the "No Soliciting" list is cause for penalty to solicitors up to and including arrest for trespassing after notice.

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C. Duties of solicitors. Immediately upon entering any premises, the solicitor or canvasser must present their registration card for inspection by the occupant, request that they read the registration card and inform the occupant in clear language the nature and purposes of their business and, if they are representing an organization, the name and nature of that organization. Any solicitor or canvasser who has entered any premises shall immediately and peacefully depart from the premises when requested to do so by the occupant. It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to the area(s) of Town in which they will be operating.

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§ 221-5 **Violations and penalties.**

Any person or organization who violates any provision of this bylaw shall be subject to a fine of \$50 for the first offense and \$100 for each subsequent offense within any one twelve-month period, each subsequent offense constituting a separate offense. Any person or organization who knowingly provides false information on the registration application shall have their registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

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§ 221-6 **Appeals.**

Any person or organization who is denied registration, or whose registration has been revoked, may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within 10 days after receipt of the notice of denial or revocation. The Select Board shall hear and determine the appeal within 30 days after the filing of the written notice of appeal.

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§ 221-7 **Exemptions.**

These regulations shall not apply to any person(s) conducting a temporary sale of items upon their property, commonly known as a "garage sale" or "yard sale," or to organizations engaged in the foregoing activities for or on behalf of any corporate or noncorporate charitable, political, or religious organization that enjoys federal or state constitutional protections.

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§ 221-8 **Severability.**

Invalidity of any individual provisions of this bylaw shall not affect the validity of the bylaw as a whole.

Chapter 232 Scenic Roads

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury 4-6-2005 by Art. 37 as Art. VIII(B) of the General Bylaws. Amendments noted where applicable.]

§ 232-1 Administration.

A. Purpose.

The purpose of this Bylaw is to protect the scenic quality and character of Town roads designated as scenic roads by establishing rules and regulations governing local administration of the Scenic Road Act, MGL c. 40, § 15C. The local authority and jurisdiction of the Planning Board, herein, shall be consistent with the Scenic Road Act. The Scenic Road Act governs the cutting or removal of trees, or the tearing down or destruction of stone walls during the repair, maintenance, reconstruction, paving, or other alteration of roads that have been designated as a scenic road by the Town. The Town has adopted these regulations with the following objectives:

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- (1) To maintain the natural beauty and scenic qualities along scenic roads in the Town of Sudbury.
- (2) To enhance the rural character of scenic roads of the Town and encourage compatibility with existing roadside features.
- (3) To implement more fully the provisions of the Scenic Road Act, MGL c. 40, § 15C.

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B. Procedure to designate a road as a scenic road.

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- (1) The Planning Board, the Conservation Commission, the Historical Commission, or the citizens of the Town of Sudbury by petition (consistent with petition requirements to place an article on the warrant) may propose "scenic road" status for any road in the Town of Sudbury, other than a numbered route or state highway.
- (2) The Planning Board shall hold a public hearing on the proposal or petition, notifying the Select Board, the Tree Warden, Director of Public Works, the Conservation Commission, the Historical Commission and the Historic District Commission and shall advertise the hearing twice in a newspaper of general circulation; the first advertisement at least 14 days prior to the date of the public hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of the proposed road as a scenic road. No road shall be designated a scenic road by Town Meeting unless such designation is favorably recommended by the Planning Board, Conservation Commission, or Historical Commission.
- (3) A majority vote of Town Meeting is required for designation of a road as a scenic road. Such designation shall be effective as of the date of Town Meeting action. Any work on any portion of the right-of-way of a scenic road which was not physically commenced at the time the road was designated by Town Meeting as a scenic road shall conform to these regulations.

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C. Roads subject to the provisions of the Scenic Road Act.

- (1) The following roads were designated at Scenic Roads at the 2003 Annual Town Meeting:

- Brimstone Lane
- Bowditch Road
- Candy Hill Road
- Clark Road
- Concord Road
- Dakin Road

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Dudley Road
Dutton Road
French Road
Goodman's Hill Road
Goodnow Road
Haynes Road
King Philip Road
Lincoln Road
Marlboro Road
Morse Road
Mossman Road
Newbridge Road
Old County Road
Old Framingham Road
Old Garrison Road
Old Lancaster Road
Pantry Road
Peakham Road
Plympton Road
Powers Road
Rice Road
Water Row
Wayside Inn Road
Weir Hill Road
Willis Road
Woodside Road

(2) In determining which roads or portions of roads should be recommended to Town Meeting for designation as scenic roads, the following criteria should be considered:

- (a) The road appears on the 1830 or 1875 maps of the Town of Sudbury;
- (b) Overall scenic beauty and view from the roadside;
- (c) Contribution of stone walls to scenic beauty;
- (d) Age and historical significance of roads, trees and stone walls;
- (e) Built features such as historic buildings, structures and sites, historic monuments, historic burial grounds, agricultural buildings and fencing;
- (f) Location in an historic district, or use restrictions on properties in the area; and
- (g) Road features such as historic layout, surface, carriage width, and nonhistoric bridges.

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§ 232-2 Definitions.

In the absence of contrary meaning established through legislative or judicial action pursuant to MGL c. 40, § 15C, these terms contained in that statute and herein shall be construed as follows:

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CUTTING OR REMOVAL OF TREES

The destruction of one or more trees having a trunk diameter of four inches or more measured one foot from the ground, trimming of major branches or trimming of roots sufficient in the Tree Warden's opinion to cause eventual destruction of a tree. Not included in this definition is the routine or emergency maintenance which removes only permanently diseased or damaged limbs, trunks, or roots, and dead whole trees.

REPAIR, MAINTENANCE, RECONSTRUCTION, OR PAVING WORK

Any work done within the right-of-way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is included to the extent such work takes place within the right-of-way. Roadside clearing of trees to provide for vehicle clearance or for improvement to line-of-sight shall also be included in this definition. Construction or alteration of water, sewer, electric, telephone, cable TV or other utilities within the right-of-way is also included.

ROAD

The entire right-of-way of a vehicular traveled way plus its necessary appurtenances, including bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. The right-of-way includes the area on and within the boundaries of the public way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the public right-of-way until shown otherwise.

TEARING DOWN OR DESTRUCTION OF STONE WALLS

The temporary or permanent destruction of more than 10 linear feet of stone wall involving more than one cubic foot of wall material per linear foot. Temporary removal of stone walls, to be followed by replacement of the disturbed portion of the wall within a reasonable period of time, not to exceed 90 days, at the same location with the same materials and according to the original character, shall be subject to informal filing and review procedures, set forth under § 232-3F.

§ 232-3 Procedures for altering a scenic road.

- A. Filing. Any person or organization seeking the consent of the Planning Board under MGL c. 40, § 15C (The Scenic Roads Act), regarding road repair, maintenance, construction, reconstruction, paving or other alteration that will involve the cutting or removal of trees or the tearing down of stone walls, or

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portions thereof on a scenic road, shall file a request with the Planning Board, together with the following:

- (1) A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls (six copies). At a minimum, such plan shall be to scale (preferred scale is one inch equals 40 feet) and shall clearly show existing trees and those to be removed, noting the species and diameter (measured one foot above ground). The plan shall indicate the width, height, character and dimensions of any stone wall, as well as the proposed methods for the repair or reconstruction of any portion of the stone wall;
- (2) A statement of the purpose(s) for the changes;
- (3) Photographs of the existing site, showing the area to be affected by work and the surrounding area for a distance of at least 100 feet to either side on the scenic road in question. All photographs must be signed and dated by the applicant;
- (4) Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing, or as required by the Planning Board;
- (5) Except in the case of Town agencies, a deposit sufficient for the cost of advertising and notification; and
- (6) A certified list of abutting property owners within 100 feet of the affected property.

B. Notice. Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area. The Board shall also send copies of that notice to the Select Board, Conservation Commission, Historical Commission, Town Engineer, Tree Warden, Department of Public Works, and owners as of the preceding January first of property located in whole or in part within 100 feet of the proposed action.

C. Timing. The Planning Board shall hold a public hearing within 45 days of receipt of a properly filed request and shall make a decision within 60 days of that receipt, unless a longer time is agreed to by the applicant. The date and time of the public hearing shall be set outside of normal weekday work hours (8:00 a.m. to 5:00 p.m., Monday through Friday) so as to encourage maximum citizen participation.

D. Tree Warden. Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting under MGL c. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden, or vice versa.

E. Emergency repair. The procedures of this bylaw shall not be required when the Tree Warden or their deputy act in an emergency in accordance with MGL c. 87 to remove fallen trees or limbs which cause an obstruction to public travel or a dangerous situation with respect to utility lines.

F. Informal filing and review procedures.

- (1) Temporary removal of limited portions of a stone wall, to be followed by replacement of the disturbed portion within a reasonable period of time, not to exceed 90 days, at the same location with the same materials and according to the original character, shall be subject to these informal filing and review procedures. Other temporary removal shall not be entitled to these informal filing and review procedures.
- (2) The applicant shall submit a cover letter, sketch plan of the work to be done, photographs of the area for a distance of 50 feet on either side of the work site and a statement of the purpose for the temporary removal. Such purposes may include temporary removal for the purposes of utility connections or gaining temporary access, among others.

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- (3) Based upon the information submitted, the Planning Board shall determine if the proposed work is of a limited and temporary nature and may vote to approve the work to be completed without further public process. The Planning Board may require sufficient bond to be posted to ensure restoration of the stone walls.
- (4) Following completion of the work and replacement of the stone wall in accordance with the Planning Board approval, the applicant shall submit a cover letter to the Planning Board confirming completion, together with dated photographs of the restored wall.

§ 232-4 **Design standards.**

A. Curb cuts. Each lot fronting on a scenic road shall generally have one driveway curb cut. The paved width of a driveway for a single-family home shall not exceed 12 feet, or 18 feet for any multifamily dwelling. Subdivision roads and new roads for commercial properties shall be governed by the applicable Town regulations for these types of developments. The use of common driveways is encouraged to preserve and to enhance the visual appearance and rural character of scenic roads in the Town of Sudbury.

B. Stone wall removal limitations.

- (1) The maximum amount of stone wall to be removed shall be the width of the pavement of the driveway or new road at the location of the stone wall, plus three feet on either side.
- (2) Unless otherwise waived, removed stone shall be used to repair other sections of the wall within the scenic road, in accordance with the Planning Board approval.
- (3) No wall shall be cut without construction of an appropriate terminus.
- (4) In no case shall stones be disposed of or used for purposes other than to repair the remaining stone wall within the scenic road without the prior consent of the Planning Board.
- (5) Any construction of a terminus or repair of a stone wall shall match the method of the existing construction.

C. Tree removal limitations.

- (1) No tree with a trunk exceeding eight inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.
- (2) No cluster of trees located within six feet of each other, with individual trunks exceeding six inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.
- (3) For each tree with a trunk exceeding six inches in diameter, one foot above ground level, that is removed, a tree in a species, size and location, with advice from the Tree Warden and suitable to the Planning Board, shall be planted, or an equivalent payment into the Town-wide Tree Replacement Fund shall be made. This subsection shall not apply to projects undertaken by the Town of Sudbury.

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D. Waivers. The Planning Board may waive the design standards, as set forth under this § 232-4 herein, if it finds that the waiver is consistent with the considerations and intent of § 232-5. The Planning Board shall consider public safety, sight lines, lot configuration, character of the stone wall and existing vegetation in its deliberation for the granting of a waiver.

§ 232-5 **Considerations.**

In acting on applications for alterations to scenic roads, the Planning Board may take into consideration the

following:

- A. Preservation of natural resources;
- B. Environmental and historical values;
- C. Scenic and aesthetic characteristics;
- D. Public safety;
- E. The characteristics of local residential traffic and resident expectations;
- F. Relationship of road design to the standards of the Planning Board's subdivisions regulations and of the Massachusetts Department of Transportation;
- G. Compensatory actions proposed, such as replacement trees or walls;
- H. Functional urgency of the repair, maintenance, reconstruction, or paving;
- I. Additional evidence contributed by abutters, Town agencies, and other interested parties;
- J. Other sound planning consideration.

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§ 232-6 Decision and reporting.

The Planning Board shall within 60 days of receipt of a properly filed request submit a written determination of consent or denial to the applicant and a copy to the Select Board, Historical Commission, Conservation Commission and the Town Clerk. A report of denial shall include an indication of what modifications, if any, would lead to consent. The Planning Board may require sufficient bond to be posted to ensure restoration of the site.

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§ 232-7 Enforcement; violations and penalties.

- A. Filing and restoration requirement. Cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a designated scenic road, without prior approval from the Planning Board and in violation of this bylaw will necessitate an immediate filing with the Planning Board, as detailed above, and the area affected shall be subject to restoration of the features, as specified by the Planning Board. This restoration shall consist of replacing/repairing the stone wall as necessary and replacing the trees cut on a square-inch-per-square-inch basis at locations specified by the Planning Board. A "square-inch-per-square-inch" replacement means that the combined area of the replacement trees measured one foot above ground level must equal the total area of the original tree trunk as measured one foot above ground level.
- B. Compliance. Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary.
- C. Penalty. Cutting or removal of trees or the tearing down or destruction of stone walls within the layout of the scenic road in violation of this bylaw may be subject to a fine of not more than \$300, as set forth under the Scenic Road Act, MGL c. 40, § 15C. Each day that a violation continues shall constitute a separate offense, until an application is made to the Planning Board, with continued progression toward a good-faith effort for restoration. In addition, the Planning Board and Building Inspector may withhold or revoke any current or pending permit on the property associated with said violation.
- D. Enforcement authority. The Planning Board, the Building Inspector and the Tree Warden shall have the authority to enforce the provisions of this bylaw, as applicable.

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Chapter 237

Solid Waste

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V, §§ 10, 11, and 12, of the General Bylaws. Amendments noted where applicable.]

§ 237-1 Unauthorized deposit of waste in Town-owned disposal areas prohibited.

No person, unless authorized by law or by appropriate authority as evidenced by a sticker or permit, shall deposit garbage, waste, vegetable matter or any trash, refuse, rubbish or other permitted waste material in any disposal area or sanitary landfill maintained by the Town. Violation of this section shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

§ 237-2 Issuance of identification cards.

The Select Board may issue identification cards or slips to residents of Sudbury, which shall be displayed on all vehicles used to transport material to a legally designated Town disposal area or sanitary landfill.

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§ 237-3 Nonresident collectors exempt.

Any nonresident person collecting waste material as described in § 237-1 within the Town shall be exempt from the provisions thereof, provided that the Select Board shall grant them a permit to deposit such material in any public disposal area or sanitary landfill maintained by the Town.

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Chapter 243

Storage Tanks, Underground

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. V(E) of the General Bylaws. Amendments noted where applicable.]

§ 243-1 Authority and purpose.

- A. This bylaw is adopted by the Town of Sudbury under its Home Rule powers, its police powers to protect the public health and welfare, its authorization under MGL c. 40, § 21, and MGL c. 148, § 9, and other provisions of law.
- B. The purpose of this bylaw is to control the use and maintenance of underground tanks for the storage of hazardous substances that are generally exempt from state and federal regulation, to protect groundwater and surface water from contamination because of leakage, and to prevent damage to persons or property because of fire. The purpose of the bylaw is also to protect the owners of these tanks and the Town of Sudbury from the potentially devastating financial and environmental consequences of contamination of wells or groundwater due to leakage arising from tank corrosion, improper installation or other causes.

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§ 243-2 Definitions.

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

ABANDONED

In the case of underground storage tanks shall mean out of service for a continuous period in excess of six months where a license from the local licensing authority is required under the provisions of MGL c. 148, § 13, and for a period in excess of 24 months in the case of any other underground storage facility or an aboveground tank of 10,000 gallons' capacity or less; and in the case of aboveground storage of any fluid other than water, where a permit is required from the State Fire Marshal or their designee under provisions of MGL c. 148, § 37, it shall mean out of service for a continuous period in excess of

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60 months and it has been deemed to be unsafe and a threat to the public safety by the head of the Fire Department and by the Office of Public Safety and Inspections.

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CODE

The Board of Fire Prevention Regulations Governing Tanks and Containers as set forth at 527 CMR 1.00 and following.

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DOUBLED-WALLED TANK

A container with two complete shells which provide both primary and secondary containment. The container shall have a continuous 360° interstitial space between the primary and secondary shell. The interstitial space shall be designed so that an approved interstitial space monitor is able to continuously monitor this space. All double-walled tanks shall be UL-listed.

FIRE CHIEF

The Fire Chief of the Town of Sudbury.

FUEL OIL

Oil of grades 1, 2, 4, 5 and 6, established in accordance with MGL c. 94, § 249H.

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HAZARDOUS SUBSTANCE

Any liquid hydrocarbon product, including but not limited to gasoline, heating oil and diesel oil, and any other substance controlled as being toxic or hazardous under MGL c. 21E.

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OWNER

With respect to a tank means the owner of the land on which an underground tank is located.

PETROLEUM PRODUCTS

Fuel oil, waste oil and gasoline.

UNDERGROUND TANKS

Any containment system (including associated piping) used to contain a hazardous substance 10% or more of the volume of which is beneath the surface of the ground, but excluding:

- A. A tank of over 1,100 gallons' capacity for storing motor fuel.
- B. A tank for storing motor fuel for commercial and governmental purposes.
- C. A tank for storing heating oil other than for consumptive use on the premises where stored.
- D. A septic tank used to contain sewage.
- E. A pipeline facility regulated under state or federal law.
- F. A tank situated upon or above the surface of the floor in an underground area, such as the basement of a home.

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§ 243-3 Registration of existing tanks.

- A. On or before December 1, 1992, the owner of each underground tank shall file with the Fire Chief a form setting forth the size, type, age (with proof of age), contents and location of the underground tank. This form shall be made available to the public by the Fire Chief. The age of a tank is to be determined from the date when it was first installed. If the owner cannot document the age of the tank to the satisfaction of the Fire Chief, the installation date will be presumed to be January 1971. The registration tag issued by the Fire Chief shall be visibly affixed to the fill pipe by the owner on or before January 1,

1993.

- B. On or after January 2, 1993, each distributor of fuel oil or other hazardous substance that is requested to fill an underground tank without a registration tag shall notify the Fire Chief within 48 hours of such request of the existence and location of the tank. It shall not be considered a violation of any provision of this bylaw for a fuel oil distributor to fill an underground tank without a registration tag, provided that the distributor duly notifies the Fire Chief in accordance with the provisions of the previous sentence.

§ 243-4 **Installation of new tanks prohibited; exceptions.**

Following the effective date of this regulation, installation of underground petroleum products storage tanks is prohibited with the following exceptions:

- A. Underground storage of a flammable petroleum product with a flash point of 100° F. or less is permitted in a double-walled steel or double-walled fiberglass tank.
- B. The storage of fuel oil for consumptive use on the premises is permitted in double-walled steel or double-walled fiberglass tanks limited to a maximum of 1,000 gallons for residential properties up to five units and to a maximum of 5,000 gallons for residential properties over five units.
- C. The storage of fuel oil for consumptive use is permitted in double-walled steel or double-walled fiberglass tanks to a maximum of 10,000 gallons for other than residential use.
- D. The storage of fuel oil for resale is permitted in double-walled steel or double-walled fiberglass tanks limited to that amount which the property is licensed for on the effective date of this regulation.
- E. All other tanks are to be indoors or outside aboveground.

§ 243-5 **Removal of underground tanks.**

- A. On or before December 31, 1996, the owner shall empty and remove any underground tank that was installed before December 31, 1971.
- B. Any tank which is not required to be removed under Subsection A of this section shall be emptied and removed in accordance with the schedule set forth in Appendix 1 of the bylaw.
- C. As required by the provisions of the code, the owner must empty and remove any underground tank that is abandoned.
- D. Removal of an underground tank shall be performed under the supervision of the Fire Chief in compliance with the removal provisions of the code. The Fire Chief may approve decommissioning of a tank instead of removal where permitted by the code, provided that, immediately prior to decommissioning, the tank shall be tested for leakage of a hazardous substance using a method acceptable to the Fire Chief and that no leakage shall be detected by such testing.
- E. Notwithstanding § 243-5A and B, any underground tank that meets the requirement of 527 CMR 1.00 shall be emptied and removed no later than 30 years following the date of installation.

§ 243-6 **Procedure in case of spill or leak.**

- A. In the event of a spill or leak, the owner, operator, or person in control shall comply with the provisions of the Board of Fire Prevention Regulations Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00, entitled "Response to Leaks," in its entirety.
- B. If a leak from an underground tank is confirmed, the owner must empty and remove or decommission the tank in accordance with the code.

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§ 243-7 **Variances.**

- A. The Select Board may, after receiving comment from the Fire Chief and after a public hearing, vary the application of this bylaw in accordance with the provisions of this section, when the applicant has demonstrated financial hardship. Notice of the hearing shall be given by the Select Board, at the applicant's expense, at least 10 days prior thereto, by certified mail to all abutters to the property on which the tank is located. The notice shall include a statement of the variance sought and the reasons therefor. Any grant or denial of variance shall be in writing and shall contain a brief statement of the reasons for the grant or denial.
- B. In considering the variance request, the Select Board shall take into consideration factors such as the direction of the groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, and proximity of existing and potential water supplies. No variance shall be granted unless the Select Board finds that the variance, as granted, would result in the same degree of environmental protection as required by the bylaw.
- C. Any variance granted under this section shall be limited in effect to extending the period of compliance with the removal provisions of this bylaw, as set forth in § 243-5. In no event shall any variance extend the period of compliance 36 months or more beyond the time otherwise required under the bylaw.

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§ 243-8 **Administration; violations and penalties.**

- A. This bylaw shall be administered by the Fire Chief.
- B. Any owner or fuel oil distributor who violates any provision of this bylaw shall be subject to a fine of \$100 for each offense. Each day during which such violation continues shall constitute a separate offense.

§ 243-9 **Compliance costs.**

All costs incurred in complying with the provisions of this bylaw and in obtaining compliance shall be paid by the owner and operator of the affected underground tank.

§ 243-10 **Severability.**

Each part of this bylaw shall be construed as separate to the end that if any part or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that part and all other parts of the bylaw shall continue in full force.

Attachments:

[Attachment 1 - Appendix 1, Underground Storage Tank Removal Schedule](#)

Chapter 248 Storm Sewers

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

Article I Illicit Discharges and Connections

[Adopted 4-6-2010 as Art. XXXII of the General Bylaws]

§ 248-1 Purpose and objectives.

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Sudbury's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

C. The objectives of this bylaw are:

- (1) To prevent pollutants from entering Sudbury's 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.

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§ 248-2 Definitions.

For the purposes of this bylaw, the following shall mean:

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AUTHORIZED ENFORCEMENT AGENCY

The Department of Public Works, (hereafter "the DPW Director"), its employees or agents designated to enforce this bylaw.

Deleted: Bylaw

CLEAN WATER ACT

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

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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.

Deleted: Commonwealth

GROUNDWATER

Water beneath the surface of the ground.

ILLICIT CONNECTION

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

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ILLICIT DISCHARGE

Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 248-8. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or a surface water discharge permit, or resulting from firefighting activities and other exempt activities pursuant to § 248-8 of this bylaw.

Deleted: Stormwater Discharge Permit

Deleted: Surface Water Discharge Permit

Deleted: fire fighting

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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, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Sudbury.

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.

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NONSTORMWATER DISCHARGE

Discharge to the municipal storm drain system not composed entirely of stormwater.

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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.

Deleted: Commonwealth

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 sewage treatment works or waters of the commonwealth. Pollutants shall include, without limitation:

Deleted: Commonwealth

A. Paints, varnishes, and solvents;

B. Oil and other automotive fluids;

C. Nonhazardous liquid and solid wastes and yard wastes;

Deleted: Non-hazardous

D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects; ordnances; accumulations and floatables;

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E. Pesticides, herbicides, and fertilizers;

F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;

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.

STORMWATER

Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

Deleted: snow melt

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.

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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.

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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.

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§ 248-3 Applicability.

This bylaw shall apply to flows entering the municipally owned storm drainage system.

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§ 248-4 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 pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

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§ 248-5 Administration.

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

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§ 248-6 Regulations.

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

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§ 248-7 Prohibited activities.

A. Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or nonstormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the commonwealth.

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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 DPW Director.

§ 248-8 Exemptions.

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

Deleted: non-stormwater

- A. Water line flushing;
- B. Discharge or flow resulting from firefighting activities;
- C. Flow from potable water sources;
- D. Springs;
- E. Natural flow from riparian habitats and wetlands;
- F. Diverted stream flow;
- G. Rising groundwater;
- H. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(b)(20), or uncontaminated pumped groundwater;
- I. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- J. Discharge from landscape irrigation or lawn watering;
- K. Water from individual residential car washing;
- L. 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;
- M. Discharge from street sweeping;
- N. Dye testing, provided written notification is given to the DPW Director prior to the time of the test;
- O. Nonstormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- P. Discharge for which advanced written approval is received from the DPW Director as necessary to protect public health, safety, welfare or the environment.

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Deleted: fire fighting

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Deleted: Non-stormwater

Deleted: Surface Water Discharge Permit

§ 248-9 Emergency suspension of storm drainage system access.

The DPW Director 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 DPW Director may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

§ 248-10 Notification of spills.

Notwithstanding other requirements of local law, as soon as a person responsible for a facility or operation,

or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police Departments, and the DPW Director, Board of Health and Conservation Commission. In the event of a release of nonhazardous material, the reporting person shall notify the DPW Director no later than the next business day. The reporting person shall provide to the DPW Director 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.

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§ 248-11 Enforcement; violations and penalties.

- A. The DPW Director or an authorized agent of the DPW Director shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the DPW Director 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.
- C. Orders. The DPW Director or an authorized agent of the DPW Director may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
- (1) Elimination of illicit connections or discharges to the MS4;
 - (2) Performance of monitoring, analyses, and reporting;
 - (3) That unlawful discharges, practices, or operations shall cease and desist; and
 - (4) Remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Sudbury may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. 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 of Sudbury, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Director 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 DPW Director 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.
- F. 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 \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

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G. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Sudbury may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D. The penalty for the first violation shall be \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

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H. 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 DPW Director, 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 DPW Director deems reasonably necessary.

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I. Appeals. The decisions or orders of the DPW Director shall be final. Further relief shall be to a court of competent jurisdiction.

J. 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.

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§ 248-12 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.

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§ 248-13 Transitional provisions.

Residential property owners shall have 180 days from the effective date of the bylaw to comply with its provisions. An extension may be granted, provided good cause is shown for the failure to comply with the bylaw during that period.

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Chapter 252 Stormwater Management

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury 4-6-2009 by Art. 19 as Art. V(F) of the General Bylaws. Amendments noted where applicable.]

§ 252-1 Purpose; compliance with other provisions.

A. The purpose of this bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface water and groundwater drinking supplies. This bylaw seeks to meet that purpose through the following objectives:

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(1) Establish a mechanism by which the municipality can monitor and ensure compliance with requirements of its National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from small municipal separate storm sewer systems and other applicable state and federal mandates.

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Deleted: Stormwater Discharges

Deleted: Small Municipal Separate Storm Sewer Systems

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(2) Establish decisionmaking processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.

(3) Require that new development, redevelopment and other land alteration activities maintain the after-development runoff characteristics as equal to or less than the predevelopment runoff characteristics where appropriate in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.

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(4) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to alterations in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff; establish minimum design criteria for measures to eliminate or minimize to the extent feasible nonpoint source pollution from stormwater runoff which would otherwise degrade water quality.

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(5) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet or exceed the minimum post-development stormwater management standards.

(6) Encourage the use of nonstructural stormwater management, better site design practices or low-impact development practices, such as reducing impervious cover, increasing site-wide infiltration, and preserving open space and other natural areas, to the maximum extent practicable.

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(7) Promote water conservation through the reuse of stormwater for irrigation.

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(8) Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.

(9) Establish provisions to ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

(10) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment.

(11) Establish provisions to ensure there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this bylaw.

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(12) Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, erosion and sediment controls, and for the inspection of approved active projects, and long-term follow up; establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, inspection of construction sites, and the inspection of approved projects.

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B. Nothing in this bylaw is intended to replace the requirements of the Town of Sudbury Zoning Bylaw, the Town of Sudbury Wetlands Administration Bylaw, the Town of Sudbury General Bylaws, any other bylaw that may be adopted by the Town of Sudbury, or any rules and regulations adopted thereunder. Any activity subject to the provisions of the above-cited bylaws or rules and regulations must comply with the specifications of each. In case of conflict, this bylaw and any promulgated rules and regulations shall supersede.

§ 252-2 Definitions.

The following definitions shall apply in the interpretation and implementation of this bylaw. Additional definitions may be adopted by separate regulation:

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ALTER

Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site.

BEST MANAGEMENT PRACTICE (BMP)

Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural BMPs" are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural BMPs" use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

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BETTER SITE DESIGN

Site design approaches and techniques, including low-impact development (LID) that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, using natural features for stormwater management, and providing site-wide infiltration.

DEVELOPMENT

Any construction that disturbs or alters a parcel of land.

DISTURBANCE OF LAND

Any action, including removal of vegetation, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

EXEMPT USE

Any use subject to the provisions of MGL c. 40A, § 3.3.

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GENERAL STORMWATER MANAGEMENT PERMIT (GSMP)

A permit issued for an application that meets a set of predetermined standards outlined in the regulations adopted by the Planning Board under § 252-4 of this bylaw. By meeting these predetermined standards, the proposed project will be presumed to meet the requirements and intent of this bylaw.

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IMPERVIOUS SURFACE

Any material or structure on, above or below the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved surfaces (parking lots, sidewalks, driveways); rooftops; swimming pools; patios; and gravel, pervious concrete, pervious pavement, pervious pavers, and compacted dirt surfaces.

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[Amended 5-2-2022 ATM by Art. 31]

INFILTRATION

The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LOW-IMPACT DEVELOPMENT (LID)

An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site.

MASSACHUSETTS SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) GENERAL PERMIT

The latest version, as may be amended from time to time, of the United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) general permits for stormwater discharges from small municipal separate storm sewer systems (MS4) in Massachusetts (as modified), authorization to discharge under the NPDES in compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. § 1251 et seq.), and the Massachusetts Clean Waters Act, as amended (MGL c. 21, §§ 26 to 53).

[Added 5-2-2022 ATM by Art. 31]

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS

The latest version as may be amended from time to time of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 26 to 53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k); and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

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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, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Sudbury.

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NONPOINT SOURCE POLLUTION

Pollution from many diffuse sources caused by rainfall, snowmelt, or other method of pollutant transport moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

POST-DEVELOPMENT

The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. "Post-development" refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

PREDEVELOPMENT

The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish predevelopment conditions.

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RECHARGE

The replenishment of underground water reserves.

REDEVELOPMENT

Any construction, alteration, improvement, repaving, or resurfacing on a previously developed site.

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RUNOFF

Rainfall or snowmelt water flowing over the ground surface or other source which may result in transport of pollutants.

SITE

The entire parcel of land being developed.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater management includes the use of low-impact development (LID) management practices.

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Deleted: Management

Deleted: Low-Impact Development

STORMWATER MANAGEMENT PERMIT (SMP)

A permit issued by the Planning Board, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

§ 252-3 Statutory and Town Meeting authority.

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Sudbury at the 2009 Annual Town Meeting.

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§ 252-4 Administration.

A. The Planning Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated, in writing, by the Planning Board to any Town employee, board or agent, hereby known as the "reviewing agent." [Amended 5-8-2012 ATM by Art. 23]

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B. Stormwater regulations. The Planning Board may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Failure by the Planning Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this bylaw.

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C. Stormwater management standards and handbook and the Massachusetts small municipal separate storm sewer systems general permit. The Planning Board will utilize the policy, criteria and information, including specifications and standards, of the most recent edition of the Massachusetts Stormwater Management Standards and Handbook and the Massachusetts small municipal separate storm sewer systems general permit for execution of the provisions of this bylaw. Unless otherwise specified in the Town of Sudbury Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards. [Amended 5-2-2022 ATM by Art. 31]

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D. General stormwater management permit. The Planning Board shall have the authority to develop a general stormwater management permit (GSMP) for specific types of projects and thresholds as defined in § 252-5B of this bylaw. Requirements of the GSMP shall be defined and included as part of any stormwater regulations promulgated as a result of this bylaw. By meeting these predetermined standards, the proposed project will be presumed to meet the requirements and intent of this bylaw. If the proposed project does not meet the criteria set forth in the GSMP, the applicant must apply for a stormwater management permit (SMP).

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Deleted: Stormwater Management Permit

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E. Actions by the Planning Board or its reviewing agent. The Planning Board or its reviewing agent shall take any of the following actions as a result of an application for a stormwater management permit as more specifically defined as part of stormwater regulations promulgated as a result of this bylaw: approval, approval with conditions, or disapproval. [Amended 5-8-2012 ATM by Art. 23]

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F. Appeals of action by the Planning Board or its reviewing agent. A decision of the Planning Board or its reviewing agent shall be reviewable by the Zoning Board of Appeals; said appeal shall be made, in

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writing, no later than 20 days from any written decision of the Planning Board or its reviewing agent. [Amended 5-8-2012 ATM by Art. 23; 5-2-2022 ATM by Art. 31]

- G. Alternate stormwater mitigation. Under certain circumstances where on-site options for stormwater mitigation are limited, or where off-site options provide better protection, the Planning Board or its reviewing agent may allow the applicant to contribute to the implementation of off-site stormwater mitigation. This may be allowed at the discretion of the Planning Board or its reviewing agent only where a net public benefit is clearly demonstrated and documented by meeting or exceeding the purpose and intent of this bylaw. [Amended 5-8-2012 ATM by Art. 23]

§ 252-5 **Applicability.**

- A. This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, building permit applications, site plan applications, subdivision applications, wetland permit applications, grading applications, septic permits, earth removal permits, any activity that will result in a change in rate, volume, timing, or quality of stormwater runoff flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to § 252-5D of this bylaw, and no such activity shall commence until a permit under this bylaw has been issued.

- B. General stormwater management permit (GSMP) thresholds. A general stormwater management permit (GSMP) shall be required from the Planning Board for the following:

- (1) Any residential development or associated activity and accessory structures that will disturb or alter from 5,000 square feet to 40,000 square feet of land or which is part of a common plan for development that will disturb or alter from 5,000 square feet to 40,000 square feet of land.
- (2) Disturbance or alteration, including paving or resurfacing of any pervious surface, of from 500 square feet to 5,000 square feet of land in a commercial, industrial, institutional or exempt use, provided there is no net increase in impervious surface; unless such use is an existing nonconforming use prohibited under Subsection 4242 of the Town of Sudbury Zoning Bylaw (Water Resource Protection District). [Amended 5-8-2012 ATM by Art. 23]

- (3) Construction or maintenance and repair of utility lines (gas, water, sewer or septic, electric, telephone, etc.) other than drainage lines or systems, which will alter terrain, ground cover, or drainage patterns. [Amended 5-8-2012 ATM by Art. 23]

- (4) Septic system construction or modification which will alter the existing grade by two or more feet over an area of 500 or more contiguous square feet.

- (5) Increased discharge of groundwater or surface water directly or indirectly into the Town of Sudbury's municipal separate storm sewer system (MS4), including but not limited to discharge of sump pumps or perimeter drains.

- C. Stormwater management permit (SMP) thresholds. A stormwater management permit (SMP) shall be required from the Planning Board, or its designee, for the following:

- (1) Any activity, including clearing or removal of vegetation, that will disturb or alter greater than 40,000 square feet of land, or which is part of a common plan for development that will disturb or alter greater than 40,000 square feet of land.
- (2) Any activity, including clearing or removal of vegetation, that will disturb or alter 5,000 square feet or more of land in areas with 10% or greater slopes.
- (3) Any activity, including clearing or removal of vegetation, that will disturb or alter 2,500 square feet or more of land in areas with 15% or greater slopes.

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(4) Any activity, including clearing or removal of vegetation, that will disturb or alter 1,000 square feet or more of land in areas with 20% or greater slopes. [Amended 5-8-2012 ATM by Art. 23]

(5) Any activity, including paving or resurfacing of any pervious surface, on any parcel of land in a commercial, industrial, institutional or exempt use that will disturb or alter greater than 5,000 square feet of land. [Amended 5-8-2012 ATM by Art. 23]

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(6) Any development or redevelopment on a parcel of land in a commercial, industrial, institutional or exempt use that will result in a net increase in impervious surface of more than 500 square feet.

(7) Any disturbance or alteration, including paving, repaving or resurfacing, on a parcel of land in a commercial or industrial use which is an existing nonconforming use prohibited under Subsection 4242 of the Town of Sudbury Zoning Bylaw (Water Resource Protection District).

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D. Exemptions. No person shall disturb or alter land within the Town of Sudbury without having obtained a stormwater management permit (SMP) or general stormwater management permit (GSMP) for the property with the following exceptions:

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(1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL c. 40A, § 3.3.

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(2) Maintenance of existing landscaping, gardens or lawn areas.

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(3) Construction or maintenance and repair of utility lines (gas, water, electric, telephone, etc.), other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns.

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(4) Normal maintenance of Town roads, walkways and other infrastructure. [Added 5-8-2012 ATM by Art. 23]

(5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by the Planning Board, Board of Health, Conservation Commission, or Department of Public Works.

(6) Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this bylaw.

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(7) Any activity which will disturb or alter land areas below the thresholds stipulated in Subsections B and C above.

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§ 252-6 Procedures.

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated under § 252-4 of this bylaw.

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§ 252-7 Performance standards.

Criteria for stormwater management standards shall be defined and included as part of any rules and regulations promulgated under § 252-4 of this bylaw.

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§ 252-8 Enforcement.

The Planning Board, or an authorized agent of the Planning Board, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any rules and regulations promulgated under § 252-4 of this bylaw.

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§ 252-9 **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 256 Streets and Sidewalks

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

Article I

Sale of Goods in Highways

[Adopted 4-7-1999 by Art. 29 as Art. V, § 2, of the General Bylaws]

§ 256-1 **Display or sale in highways prohibited; exception.**

No person shall erect or maintain a stand or otherwise display or sell any articles within the limits of any highway except that the vehicles may be used in any district for the sale of ice cream products between the hours of 12:30 p.m. and 4:30 p.m., and 6:30 p.m. to dark.

§ 256-2 **Violations and penalties.**

Violation of this article shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

Article II

Snow and Ice Removal

[Adopted as Art. V, § 19, of the General Bylaws]

§ 256-3 **Permit required for removal from private to public property.**

No person shall move or remove snow or ice from private lands upon any public street, walkway, or common land of the Town in such manner as to obstruct or impede the free passage of vehicular or pedestrian traffic upon the street, walkway, or common land of the Town unless he has first obtained a permit therefor issued by the Town of Sudbury Director of Public Works.

§ 256-4 **Violations and penalties.**

Violation of this article shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed a separate violation.

Article III

Driveways

[Adopted 4-4-1990 by Art. 36 as Art. V, § 30, of the General Bylaws]

§ 256-5 **Driveway location.**

No new driveway or other new access to a way shall be constructed at the point of intersection with such way, unless a written permit is first obtained from the Town Engineer. No building permit shall be issued for the construction of a new building or structure unless such access permit has been first approved. The Town Engineer shall use the standards contained within the "Highway Design Manual" by the Commonwealth of Massachusetts Department of Transportation and "A Policy on Geometric Design of Rural Highways" by the

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American Association of State Highway and Transportation Officials, when issuing said access permit. The Select Board shall adopt, and from time to time amend, rules and regulations not inconsistent with the provisions of this bylaw or the General Laws, and shall file a copy of said rules and regulations with the Town Clerk; said rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and the procedure for submissions and approval of the access permit.

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§ 256-6 Violations and penalties.

Violations of this article shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

Article IV

Temporary Repairs on Private Ways

[Adopted as Art. VII(B) of the General Bylaws]

§ 256-7 Private ways open to public use for six years or more.

The Town may make temporary repairs on private ways which have been opened to public use for six years or more, subject to the requirement of this bylaw. Said repairs shall not include construction, reconstruction or resurfacing of such ways.

§ 256-8 Cost of temporary repairs; petition.

The cost of such repairs shall be paid by the abutters. Such repairs shall be made only if petitioned for by the abutters who own 50% of the linear footage of such way.

§ 256-9 Cash deposit required.

No such repairs shall be commenced unless and until a cash deposit equal in amount to the estimated cost of such repairs, as determined by the Town department or contractor duly authorized by the Town to do the work, is paid over to the Town.

§ 256-10 Limitations on temporary repairs.

Said temporary repairs shall only include the filling in of holes and depressions with sand, gravel, cinders or other suitable materials and/or the resurfacing of such holes and depressions.

§ 256-11 Town not liable for damage.

The Town shall not be liable for any damages whatever caused by such repairs.

Article V

Public Way Access Permits

[Adopted as Art. XXVI of the General Bylaws]

§ 256-12 Purpose.

It is the purpose of this bylaw to establish requirements for the review of applications for projects which alter public ways in the Town of Sudbury, and to establish procedures for the predictable, timely, and uniform review of such applications so as to ensure public safety. These procedures apply to projects which propose physical modification to existing access to a public way and to projects which propose the construction of new or modification of existing access which serves a building or expansion of a facility or use that generates a substantial increase in or impacts traffic on a public way. Such procedures shall not be construed to apply to state-numbered ways according to MGL c. 81, § 211, except those State numbered ways that are maintained by the Town of Sudbury.

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§ 256-13 Applicability.

Projects subject to this bylaw shall include the following:

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A. "Modification to existing access to a public way" shall mean any alteration of the physical or traffic operational features of the access.

B. "Substantial increase or impact on traffic" shall mean that generated by a facility which meets or exceeds any of the following thresholds:

(1) Residential, other than single-family, including hotels, motels, lodging houses and older adult housing facilities: any increase to the existing certificate of occupancy of more than 25 persons;

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(2) Subdivisions: five lots or greater;

(3) Nonresidential: 250 trips per day as defined in the ITE Trip Generation Manual, current edition;

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(4) Nonresidential: 25 new parking places;

(5) Nonresidential: new construction of 5,000 square feet or more.

§ 256-14 Submittal of permit application.

The Planning Board shall be responsible for the issuance and/or denial of public way access permits for residential uses. The Select Board shall be responsible for the issuance and/or denial of public way access permits for all other uses. A permit applicant shall request issuance of a permit on a standard form, supplied by the Planning Board or the Town Clerk. A permit application shall be deemed complete only after the following items have been submitted:

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A. Standard application form;

B. Evidence of compliance with the Massachusetts Environmental Policy Act by the Executive Office of Energy and Environmental Affairs of the Commonwealth, if determined to be necessary;

C. Engineering plans acceptable to the permitting board, where required.

§ 256-15 Procedures.

A. Any application for a public way access permit required under this bylaw shall be transmitted by the permitting Board within five working days to the DPW Director for review and comment. The DPW Director shall, within 35 days of receipt of the application, report to the Board, in writing, its findings as to the safety of the proposed activity and, in the event of a finding that the proposed activity would be unsafe, its recommendations, if possible, for the adjustment thereof. Failure by the DPW Director to respond within 35 days of the receipt of the application shall be deemed lack of opposition thereto.

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B. Where an application is deemed complete, the Board shall render a decision within 60 days of filing of the application. Such decision shall be filed with the Town Clerk. Where the Board denies said application, it shall state specific findings for the denial of the permit.

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§ 256-16 Powers of Select Board and Planning Board.

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A. The Board may deny the issuance of a public way access permit due to the failure of the applicant to provide sufficient roadway improvements to facilitate safe and efficient roadway operations, or when the construction and use of the access applied for would create a condition that is unsafe or endangers the public safety and welfare.

B. The Board may, in the alternative, impose conditions upon an access permit to facilitate safe and efficient pedestrian and traffic operations within the access and on adjacent public ways, to mitigate traffic impacts, to maintain level of service of an adjacent public way after projected increases in traffic from the proposed project, and to avoid, or minimize environmental damage during the construction period and throughout the term of the permit. Such conditions may include, but not be limited to: (a)

necessary limitations on turning movements; (b) restrictions on the number of access points to serve the parcel; (c) vehicle trip reduction techniques; (d) necessary and reasonable efforts to maintain existing levels of service; (e) design and construction of necessary public way and pedestrian improvements by the permittee; (f) reimbursement by the permittee of costs to the Town for inspection of the public way improvement work.

- C. Variance. Where site or access conditions do not allow the proposed access to meet recognized design standards (hereinafter governed by the Rules and Regulations of the Planning Board Governing the Subdivision of Land, and other standards utilized by the Massachusetts Department of Transportation), the Board may vary application of the design standards on a case-by-case basis, upon the finding that there are no reasonable available alternatives which would allow access in compliance with these standards. In this case, the applicant must commit to provide measures to mitigate impacts to traffic and operational safety which the Board determines are necessary.

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§ 256-17 **Permit provisions.**

- A. Construction under the terms of a public way access permit shall be completed within one year of the date of issue, unless otherwise stated in the permit. The Board may extend the permit for an additional year, at the written request of the permittee, filed prior to the expiration of the original construction period.
- B. When the Board determines that a permit condition has not been complied with, it may suspend or revoke a public way access permit if, after notice to the permittee of the alleged noncompliance, 24 hours have elapsed without compliance.
- C. The Board may require a performance bond to be posted by the permittee in an amount not to exceed the estimated cost of the work, as determined by the Director of Public Works. The performance bond shall be posted prior to the issuance of the permit.
- D. The Board may issue written orders or regulations to carry out or enforce the provisions of this bylaw.

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Chapter 265 Utility Lines and Poles

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

Article I Underground Installation

[Adopted as Art. XX of the General Bylaws]

§ 265-1 **Definitions and applicability.**

This bylaw is enacted pursuant to MGL c. 166, §§ 21, 22, 22C and 24, and shall be construed in a manner consistent with the provisions therein and the definitions in MGL c. 166, § 22A. This bylaw does not apply to transmission lines carrying electric power in excess of 20,000 volts, phase-to-phase.

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§ 265-2 **Rules and regulations.**

- A. The Select Board shall adopt, and may from time to time amend, rules and regulations to effectuate the purposes of the bylaw, which shall be consistent with this bylaw and applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules shall prescribe, at a minimum, safety, environmental and aesthetic standards for the placement and numbers

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of poles, wires and associated overhead structures.

- B. The Select Board may grant a waiver from its rules and regulations, on a case-by-case basis, only if such waiver would enhance the public safety, health, convenience or welfare.

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§ 265-3 Regulation of existing and new construction; violations and penalties; exceptions.

- A. No utility shall install or construct, except by way of replacement or upgrading of existing facilities, any poles and overhead wires and associated overhead structures upon, along or across any public way within the Town.

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- B. Any utility replacing or upgrading existing poles, overhead wires and associated overhead structures upon, along or across any public way within the Town shall comply with the Select Board's rules and regulations.

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- C. Any utility or person who installs or constructs any poles, overhead wires, or associated overhead structures in violation of this bylaw shall be punished by a fine of not less than \$1,000 and not more than \$5,000.

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- D. This bylaw shall not prohibit the installation of new streetlight poles or traffic signal poles supplied by underground electricity.

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- E. The Select Board may grant special permission, in cases of emergency or unusual circumstances, to a utility or person to erect, construct, install, maintain, use or operate poles and overhead wires and associated structures, notwithstanding the provisions of this bylaw.

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§ 265-4 Severability.

The provisions of this bylaw are severable from each other, and if any of said provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect; if any provision of this bylaw is held by such court to be invalidly applied to any particular case, all other applications of such provision to other cases shall not be affected thereby.

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Article II Removal of Double Poles

[Adopted 4-2-2002 by Art 34 as Art. XXX of the General Bylaws]

§ 265-5 Utility poles.

Utility poles shall consist of a single, straight, one-piece device.

§ 265-6 Multiple utility poles restricted.

Multiple utility poles shall not be allowed in Town except as provided in §§ 256-8 and 265-9 of this article. For purposes of this bylaw, "multiple poles" shall mean two or more sections of pole devices at the same location previously occupied or intended to be occupied by one pole.

§ 265-7 Removal of multiple poles and transfer of attachments to single poles required.

The owners of all utility poles shall remove all multiple poles from their present location and transfer wires and attachments to single replacement poles prior to September 1, 2002.

§ 265-8 Exception for emergencies.

In the event of an emergency caused by weather conditions, accidents or acts of God, temporary repairs may be made to damaged poles resulting in a multiple pole, so long as the multiple pole is removed and replaced by a single pole within a reasonable period of time not to exceed 90 days; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, such pole shall be removed within six months of the date of installation of the new pole.

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§ 265-9 **Future replacement pole installation.**

All future replacement utility pole installations shall be coordinated between all occupants to provide for the transfer of all wires to a new replacement pole so that all old poles or temporary devices are removed within a reasonable period of time not to exceed 90 days; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, such pole shall be removed within six months of the date of installation of the new pole.

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§ 265-10 **Violations and penalties.**

Failure to comply with the provisions of this bylaw will result in the imposition of a penalty or fine chargeable to the owners of the pole in the amount of \$50 per day for each day a violation exists.

Chapter 270 Vehicles

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

Article I Parking Restrictions

[Adopted as Art. V, § 15, of the General Bylaws]

§ 270-1 **Parking that interferes with snow removal prohibited.**

No person shall park any vehicle in the Town of Sudbury so that it interferes with the work of removing or plowing snow or removing ice from any way within the Town. The Town of Sudbury Director of Public Works is authorized to remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work. The owner of such vehicle shall be liable for the cost of such removal and the storage charges, if any, resulting therefrom.

§ 270-2 **Violations and penalties.**

Violation of this article shall be subject to a penalty of \$50. Each day during which a violation exists shall be deemed to be a separate violation.

Article II Motor-Driven Recreation Vehicles

[Adopted as Art. V, § 16, of the General Bylaws]

§ 270-3 **Permission to operate on private land required; time limitation.**

No person shall operate for recreational purposes a snowmobile, motorcycle, minibike, all terrain vehicle (ATV), or any other motor-driven vehicle, on or through the land of another or within 75 feet of the land of another, without first obtaining written permission from the property owner or owners affected, except that any such vehicle registered for highway use may be driven on the driveway of another and on any public way. All such vehicles must be equipped with an operating exhaust muffler that meets or exceeds the current industry standards for sound suppression. The off-highway use of such vehicles shall be limited to the hours from 9:00 in the morning to 5:00 in the evening, unless a special permit is obtained from the Select Board. The operation of such vehicles on Town-owned property is only permitted on those areas designated for the purpose by the cognizant authority.

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§ 270-4 **Violations and penalties.**

Violation of this article shall be subject of a penalty of \$50. Each day during which a violation exists shall be

deemed to be a separate violation.

Article III Handicapped Parking

[Adopted as Art. V, § 27, of the General Bylaws; amended in its entirety 4-2-2002 ATM by Art. 33]

§ 270-5 Reservation of handicapped parking spaces required.

Any person or body who has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, apartment or housing complexes, or of any other place where the public has a right of access as invitees or licensees shall reserve and locate parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2, in accordance with the Rules and Regulations of the Architectural Access Board set forth in 521 CMR 1.00 et seq.

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§ 270-6 Identification and location of parking spaces.

Parking spaces designated as reserved under the provisions of § 270-5 shall be sized, located, identified, and otherwise conform to the requirements set forth in the Rules and Regulations of the Architectural Access Board, 521 CMR 1.00 et seq.

§ 270-7 Parking in or obstructing handicapped spaces unlawful.

It shall be unlawful to park any unauthorized vehicle within parking spaces designated and identified by sign as reserved for vehicles owned and operated by disabled veterans or handicapped persons, or to leave any vehicle parked in such a manner as to obstruct a curb ramp designed for use by handicapped persons unless such vehicle is stopped for the temporary purpose of picking up or dropping off a handicapped person.

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§ 270-8 Violations and penalties.

Section 270-7 of this article shall be enforced by the Police Department of the Town of Sudbury in accordance with MGL c. 90, § 20A 1/2, and subsequent amendments thereof. The penalty for violation of § 270-7 of this article shall be \$100 for each offense.

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Chapter 279 Water Protection

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

Article I Water Emergencies

[Adopted as Art. V, § 31, of the General Bylaws]

§ 279-1 Pollution or obstruction of water system prohibited.

No person shall pollute, corrupt, injure or obstruct the water source or water supply serving the Town through the water distribution system of the Sudbury Water District.

§ 279-2 Declaration of water emergency.

Provided that the Board of Water Commissioners of the Sudbury Water District has declared a water emergency, the Select Board shall then be authorized to declare water emergencies from time to time as authorized by MGL c. 21G, §§ 15, 16 and 17, or through a determination pursuant to Chapter 100 of the Acts

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of the General Court of Massachusetts of 1934 that a threat of pollution, corruption, injury or obstruction to the water supply exists. The purpose of such a declaration is to conserve and minimize use of water. Following declaration or determination and during such emergency, all outside external use of water from the public water system as supplied by the Sudbury Water District shall be prohibited. Watering lawns, gardens and shrubbery and other landscape watering shall be prohibited. Washing of vehicles shall be prohibited.

§ 279-3 Violations and penalties.

Violators of this bylaw shall be subject to the following fines:

- A. \$50 for first offense;
- B. \$100 for second offense;
- C. \$150 for each additional offense.

§ 279-4 Applicability.

This bylaw only pertains to residences, commercial property and industry served by the distribution system to the Town through the Sudbury Water District.

Article II In-Ground Irrigation Systems

[Adopted as Art. XXVII of the General Bylaws]

§ 279-5 Purpose.

It is the purpose of this bylaw to establish requirements for the installation of in-ground irrigation systems on residential properties for the protection of the quality and quantity of water supplied by the Sudbury Water District.

§ 279-6 Applicability.

All in-ground irrigation systems serving residential uses installed after the effective date of this bylaw will be required to comply with the following:

- A. Installation of new in-ground irrigation systems and expansion of existing systems will be permitted only when the source of water supply is a private well owned and under the control of the property owner or a legally created organization of the owners of property using the well.
- B. All wells installed for the purposes of this bylaw shall be subject to the regulations of the Sudbury Board of Health. All wells shall be tested for coliform bacteria and shall require treatment if such tests indicate the presence of coliform.
- C. Installation and continued operation of such systems will be in accordance with the requirements herein:
 - (1) Private wells for irrigation purposes shall not be located within 100 feet of a sewage disposal system, within 100 feet of an existing potable water supply well and within 100 feet of a wetland or vernal pool. ~~Lesser setbacks to sewage disposal systems may be approved by the Board of Health. [Amended 4-4-2006 ATM by Art. 31]~~
 - (2) All wells shall be dug or drilled to a minimum depth of 100 feet, unless it is demonstrated through hydrogeological analysis that the cone of influence of the well at its maximum pumping capacity does not intercept any surface water resource.
 - (3) There will be no connection between the private water supply and the municipal water service. Separation using valves or removable sections of pipe is prohibited.

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- (4) Discharge of water from the private water supply will be through subsurface sprinkler heads that rise when activated by water pressure. Water from this source will not be available through sill cocks, garden hoses or any other points.
- (5) The purpose of the private water supply is limited to irrigation of lawn and plants, and is not to be used for washing automobiles, filling swimming pools or as a potable water supply.
- D. Irrigation systems sourced by private water supplies and operated as described herein shall not be limited to specific hours of operation nor odd/even days of use if the Town declares a water emergency.
- E. All irrigation systems shall utilize moisture sensors.
- F. An integrated pest management plan shall be compiled and submitted with an application to install an in-ground irrigation system. The plan shall encourage minimal use of fertilizers and pesticides by use of nonchemical methods to control pests, such as by the use of indigenous species of plants.
- G. Sellers of property covered by these regulations are responsible to inform the purchaser of these requirements in any purchase and sale agreement.
- H. A permit to install a new in-ground irrigation system shall be required from the Board of Health and fees for review and inspection shall be established. All other state, federal or local approvals shall be required where necessary.

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§ 279-7 Exceptions.

In-ground irrigation systems installed on land used primarily and directly for the raising of fruits, vegetables, berries, nuts and other foods for human consumption; feed for animals; flowers; trees; nursery or greenhouse products; and ornamental plants and shrubs; or on land to be used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products.

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Chapter 283 Wetlands

[HISTORY: Adopted by the Town Meeting of the Town of Sudbury as Art. XXII of the General Bylaws. Amendments noted where applicable.]

§ 283-1 Purpose.

- A. The purpose of this bylaw is to maintain the quality of surface water, the quality and level of the groundwater table and water recharge areas for existing or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of floodwater inundation; to protect the community against the costs which may be incurred when unsuitable development occurs in wetland resource areas; and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of the Town of Sudbury.
- B. Accordingly, this bylaw protects the wetlands, related water resources, and certain adjoining land areas in the Town by providing for prior review and control of activities deemed to have a significant or cumulative adverse effect upon wetlands values, including but not limited to the following: protection of public and private water supply; protection of groundwater; flood control; erosion and sedimentation control; storm damage prevention; avoidance of water and soil pollution; protection of fisheries, wildlife habitat, rare species habitat, including rare plant species; agriculture; aquaculture; and recreation values, deemed important to the community (collectively, the "wetlands values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource

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areas, for additional values, with additional standards and procedures to augment those of the Wetlands Protection Act, MGL c. 131, § 40, and Regulations thereunder, 310 CMR 10.00.

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§ 283-2 Jurisdiction.

In accordance with this purpose, no person shall remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas: any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; lands under water bodies; lands subject to flooding by groundwater, surface water, or storm flow (collectively the "wetland resource areas protected by this bylaw"); and certain adjacent upland areas (collectively "the adjacent upland resource areas protected by this bylaw") as described in § 283-9, Definitions, without a permit from the Conservation Commission, or as provided by this bylaw.

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§ 283-3 Conditional exceptions.

- A. The application and permit required by this bylaw shall not be required for maintaining, repairing, replacing or enlarging an existing and lawfully located single-family residential structure or appurtenance thereto unless such filing is otherwise required by state or federal law.
- B. The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- C. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- D. The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- E. Other than stated in this section, the exceptions provided in the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00, shall not apply under this bylaw.

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§ 283-4 Applications for permits; requests for determination; fees.
[Amended 4-7-1999 ATM by Art. 49]

- A. Written application shall be filed with the Commission to perform activities affecting all wetland and adjacent upland resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission as specified in the bylaw regulations to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

B. Where this bylaw and the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00, have concurrent jurisdiction, the Commission shall accept the notice of intent and plans filed under the Wetlands Protection Act as the permit application and plans under this bylaw for those parts of the project where precise overlap exists, provided all pertinent areas and activities subject to the jurisdiction of this bylaw and all information required by bylaw regulations are addressed.

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C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may, in writing, request a determination from the Commission. Such a request for determination (RFD) shall include information and plans as are deemed necessary by the Commission.

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D. Fees.

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(a) - Single minor project — i.e., house addition, tennis court, swimming pool, or other accessory residential activity: \$25 per project. ¶

(b) - New single-family dwelling: \$250. ¶

(c) - Subdivision-road

(1) At the time of the permit application, the applicant shall pay a filing fee specified in the regulations of the Commission. These fees shall be made available to and used by the Commission only for the administration and enforcement of the Sudbury Wetlands Administration Bylaw.

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(2) This fee is not refundable. The fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00. Town, county, state, and federal projects are exempt from the filing fee.

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(d) - Drainage, detention/retention basins: \$500 plus \$2 per 100 cubic feet of basin within a resource area. ¶

(e) - Multiple dwelling structure: \$500 plus \$100/unit, all or part of which is within a resource area. ¶

(f) - Commercial

E. Upon receipt of a permit application or RFD, or at any point in its deliberations, the Commission may deem it necessary to obtain expert engineering or other outside consultant services in order to reach a final decision on the application. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

~~Deleted:~~ Industrial Projects: \$500 plus \$0.50 per square foot of disturbance in an undeveloped resource area. ¶

(g) - Application filed after Enforcement Order: double the above fee. ¶

(h) - Determination of Applicability: no charge. ¶

(i) - Remediation of a Contaminated Site or Enhancement of a Degraded Resource (excluding violations): \$25 per project

F. In such instances, the Commission shall notify the applicant of this need and the estimated costs and provide the opportunity for the application to be amended or withdrawn. Should an applicant choose to proceed, the Commission shall require the applicant to pay the reasonable costs and expenses borne by the Commission for these consulting services. This fee is called the "consultant fee." The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

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~~Deleted:~~ The fee for an application for a modification of a permit will be the excess of the fee for the modified project as calculated above over the fee paid for the original permit but in no instance will it be less than \$25.

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G. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to be put into a consultant services account of the Commission, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings.

~~Deleted:~~ I. . Consultant fees:¶

(1) - The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:¶

Project Cost

H. The Commission shall return any unused portion of the consultant fee to the applicant.

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I. All fees collected pursuant to this bylaw shall be deposited in the Conservation Commission Revolving Fund, established pursuant to MGL c. 44, § 53E 1/2.

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§ 283-5 Notice and hearings.

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A. Any person filing a permit application or an RFD with the Commission, shall within seven days prior to the scheduled hearing give written notice, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the certified abutters' list obtained from the Assessor's office, including owners of land directly opposite on any public or private street or way, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, along with proof of mailing, shall be filed with the Commission. When a person requesting a determination is other than the owner, the notice of the hearing and the determination itself shall be sent

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by the Commission to the owner as well as to the person making the request.

- B. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.
- C. The Commission shall commence the public hearing within 21 days of receipt of a completed permit application or RFD unless an extension is authorized, in writing, by the applicant.
- D. The Commission shall issue its determination, in writing, within seven days of the close of the public hearing thereon unless an extension is authorized, in writing, by the applicant.
- E. The Commission shall issue its permit, in writing, within 21 days of the close of the public hearing thereon unless an extension is authorized, in writing, by the applicant.
- F. The Commission shall combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00, in instances of concurrent jurisdiction.
- G. With the consent of the applicant, the Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the Boards and officials listed in § 283-6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

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§ 283-6 Coordination with other boards.

As appropriate, the Conservation Commission may choose to solicit the advice and opinions of other Town boards and officials in the course of its deliberations. Town boards and officials shall be entitled to file written comments and recommendations with the Commission at or before the public hearing. The Commission shall take any such comments and recommendations into account but shall not be bound by them. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

§ 283-7 Permits and conditions.

- A. The Commission, after a public hearing, shall issue or deny a permit for the activities requested within 21 days of the close of the hearing. If it issues a permit, the Commission shall impose such conditions as it deems necessary or desirable to protect the wetlands values protected by this bylaw, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values.
- C. Lands within 100 feet of wetlands resource areas and within 200 feet of perennial streams and rivers are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include,

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without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and harm to wildlife habitat. For this reason, these adjacent upland areas are a valuable resource under this bylaw. The Commission, therefore, may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the adjacent upland resource area and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the Commission that the area or part of it may be disturbed without harm to the values protected by the law.

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D. A permit shall expire three years from the date of issuance. Any permit shall be renewed for additional one-year periods if a request for renewal is received, in writing, by the Commission at least 30 days prior to expiration of the permit, and providing the Commission finds that (1) good cause has been shown for such extension and (2) such extension will not have significant adverse effects, immediate or cumulative, upon any of the wetland values protected by this bylaw. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

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E. The Commission shall, after receiving a written request for a certificate of compliance, inspect the resource area where any activity governed by a permit issued under this bylaw was carried out. If such activity has been completed in accordance with said permit, the Commission shall within 21 days after such a request issue a certificate of compliance evidencing such determination, which may in an appropriate case be combined with a certificate of compliance issued under the Wetlands Protection Act. A certificate of compliance may specify conditions in the permit which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land.

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F. Violations of this bylaw, submission of false or erroneous information, or new information that substantially alters the likely impact of the project on wetlands resources or values may cause the Commission to revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and Town boards, pursuant to §§ 283-5 and 283-6, and a public hearing.

G. The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the order of conditions or determination of applicability issued under the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00.

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H. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies, in writing, to the Commission that the permit has been recorded. Such certification shall include the book and page or instrument number and date.

§ 283-8 Rules and regulations.

A. After the public notice and public hearing, the Commission shall promulgate reasonable rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

B. At a minimum, these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

§ 283-9 Definitions.

A. The following definitions shall apply in the interpretation and implementation of this bylaw.

ADJACENT UPLAND RESOURCE AREA

Includes all lands within 100 feet of wetland resource areas as enumerated in § 283-2, except for perennial streams and rivers for which the adjacent upland resource area extends for 200 feet from the

top of bank, and except for vernal pools, ponds under 10,000 square feet in area, and isolated land subject to flooding for which special adjacent upland resource area definitions are described below.

ALTER

Includes, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- (1) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (2) Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- (3) Drainage, or lowering of water level or water table;
- (4) Dumping, discharging, or filling with any material which may degrade water quality;
- (5) Placing of fill, or removal of material, which would alter elevation;
- (6) Driving of piles, erection, or repair of buildings, or structures of any kind;
- (7) Placing of obstructions or objects in water;
- (8) Destruction of plant life, including cutting of trees;
- (9) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- (10) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- (11) Application of pesticides or herbicides;
- (12) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

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BANK

Includes the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

EXISTING

In the determination of adjacent upland resource area, shall mean existing as of the date this bylaw becomes effective.

ISOLATED LAND SUBJECT TO FLOODING

Includes an area, depression, or basin that holds at minimum one-eighth acre-foot of water and at least six inches of standing water once a year. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The adjacent upland resource area for isolated land subject to flooding shall be 25 feet.

PERSON

Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and

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any other legal entity, its legal representatives, agents, or assigns.

POND

Includes any open body of fresh water with a surface area observed or recorded within the last 10 years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The adjacent upland resource area for ponds under 10,000 square feet shall extend 100 feet from mean annual high water or one-half the distance from existing house foundation, whichever is smaller, but in no case shall the adjacent upland resource area include existing lawns, gardens, landscaped or developed areas.

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RARE SPECIES

Includes, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

VERNAL POOL

Includes, in addition to that already defined under the Wetlands Protection Act, MGL c. 131, § 40, and Regulations thereunder, 310 CMR 10.00, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The presumption of essential habitat value may be overcome by the presentation of credible evidence which in the judgment of the Commission demonstrates that the basin or depression does not provide the habitat functions as specified in the bylaw regulations. The adjacent upland resource area for vernal pools shall extend 100 feet from the mean annual high-water line defining the depression, or one-half of the distance between the vernal pool and any existing house foundation, whichever is smaller. In either case, the adjacent upland resource area for vernal pools shall not extend over existing lawns, gardens, landscaped or developed areas.

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B. Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00.

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§ 283-10 Security.

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit.

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§ 283-11 Enforcement; violations and penalties.

A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

B. Where the Commission deems it necessary to carry out its duties under this bylaw by entering privately owned land, it shall do so with the authority of the property owner and shall be subject to the limitations imposed by the applicable federal and state laws. With the authority of the property owner or their

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designee, the Commission may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.

- C. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- E. Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be served with a notice of violation enumerating the alleged violations. If after 10 business days the Commission has not received what it deems to be either (a) sufficient evidence demonstrating that no violations have occurred, or (b) a filing that will remove the violations along with evidence that sufficient progress is being made to correct the violations then the violator shall be punished by a fine of \$100 per offense. Beginning 10 business days after the date of the notice of violation, each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense; and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.
- F. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D.

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§ 283-12 Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have significant or cumulative negative effect upon the resource area values protected by this bylaw. Failure to provide evidence that in the judgment of the Commission is adequate to support this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 283-13 Appeals.

A decision of the Commission shall be reviewable in the Superior Court in accordance with MGL c. 249, § 4.4.

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§ 283-14 Statutory authority.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, MGL c. 131, § 40, and Regulations, 310 CMR 10.00, thereunder.

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§ 283-15 Severability.

The invalidity of any section or provision or phrase of this bylaw shall not invalidate any other section or provision or phrase thereof, nor shall it invalidate any permit or determination which previously has been issued.

Chapter 287 Wireless Facilities in Public Ways

[Adopted by the Town Meeting of the Town of Sudbury 5-2-2023 ATM by Art. 40. Amendments noted where applicable.]

§ 287-1 Purpose.

The purpose and intent of this chapter of the General Bylaws of the Town of Sudbury (the "chapter") is to provide a uniform and comprehensive set of requirements and standards for the permitting, development, siting, installation, design, operation and maintenance of small wireless facilities ("SWF") as defined in 47 CFR 1.6002 in public ways of the Town of Sudbury. The Town's authority for this chapter, includes, among others, 47 U.S.C. § 332 et seq. ("Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.") In addition, and importantly, because of the cumulative impact of incremental decisions regarding SWFs, this section instructs the permit applicant as to the Town's minimally acceptable standards for SWFs and directs the applicant to the Town's preferences for the design and installation of these facilities.

§ 287-2 General provisions.

SWFs (including antennas, transceivers, mounting structures and enclosures, if any) may be installed in the public ways of the Town of Sudbury, subject to the limitations established herein.

§ 287-3 Definitions.

NEW POLE

A substitution pole or any pole or other structure that is installed without the removal of an existing pole.

REPLACEMENT POLE

To enable the installation of an SWF, a utility pole that takes the place of an existing utility pole, provided the resulting pole with attachments is no more than five feet higher than the existing pole with attachments.

SMALL WIRELESS FACILITIES (SWFs)

Are facilities that meet each of the following conditions as established by the FCC:

A. The facilities:

- (1) Are mounted on structures 50 feet or less in height, including their antennas as defined in 47 CFR 1.1320(d); or
- (2) Are mounted on structures no more than 10% taller than other adjacent structures; or
- (3) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10%, whichever is greater;

B. Each antenna associated with the deployment, excluding associated antenna equipment [as defined in the definition of antenna in 47 CFR 1.1320(d)], is no more than three cubic feet in volume;

C. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than 28 cubic feet in volume;

D. The facilities do not require antenna structure registration under Part 17 of 47 CFR;

E. The facilities are not located on tribal lands, as defined under 36 CFR 800.16(x); and

F. The facilities do not result in human exposure to radio-frequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

Moved (insertion) [9]

SUBSTITUTION POLE

To enable the installation of an SWF, a utility pole that takes the place of an existing utility pole wherein the resulting pole with attachments is more than five feet higher than the existing pole with attachments.

§ 287-4 Goals.

The goals of this section are to:

A. Preserve and promote harmonious land uses within the Town, including its public rights-of-way;

Moved (insertion) [11]

B. Promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the Town;

Moved (insertion) [12]

C. Provide for the orderly, managed, and efficient development of SWFs in accordance with federal and state laws, rules, and regulations and within defined locations within the Town; and

Moved (insertion) [13]

D. Encourage new and more efficient technology in the provision of SWFs.

§ 287-5 Intent.

This article is not intended to apply to, nor shall it be interpreted to apply to:

A. Prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;

Moved (insertion) [14]

B. Prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;

Moved (insertion) [15]

C. Unreasonably discriminate among providers of functionally equivalent services;

Moved (insertion) [16]

D. Deny any request for authorization to place, construct or modify personal wireless service facilities based on environmental effects of radio-frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions;

Moved (insertion) [17]

E. Otherwise authorize the Town to preempt any applicable federal or state law; or

Moved (insertion) [18]

F. To conflict with 47 U.S.C. § 332 et seq.

§ 287-6 Application procedures.

A. Fees. The dollar amounts of all fees that are established pursuant to this article shall be recorded in the Town of Sudbury Select Board Fee Schedule.

Moved (insertion) [19]

B. Filing. Applications shall be submitted to the Select Board by filing with the Town Clerk's office in accordance with this article, accompanied by an SWF application fee. The SWF application fee will cover up to five locations per application. Each application for more than five installations is subject to an SWF supplemental application fee per additional installation. Each new pole (including substitution poles as established herein) is subject to an SWF new pole application fee per new pole applied for.

Moved (insertion) [20]

C. Public hearing notices. Pursuant to MGL c. 166, § 22, the Select Board shall hold a public hearing on all applications for SWFs pursuant to MGL c. 166, § 22 and the costs of the legal notices shall be paid by the applicant, including the costs of mailing notice of the public hearing to property owners within a radius of 500 feet from the location where the pole for the proposed SWF is or is proposed to be.

Moved (insertion) [21]

D. Application completeness verification by the Department of Public Works ("DPW"). No application will

be deemed complete unless and until the DPW shall have first verified that the applicant has assembled all the application contents listed in Subsection F below; the same shall constitute a complete application. To protect the Town's rights under the federal SWF shot clock, the DPW should make a determination of completeness in such time that the Town can inform the applicant of an incomplete application within 10 days of original filing.

Moved (insertion) [22]

E. Payment of application filing fees and number of application copies. The applicant shall pay all application filing fees to the Town Clerk's office and shall file the following number of sets of application materials at the offices set forth below:

<u>Number of Sets</u>	<u>Office</u>
<u>1</u>	<u>Town Clerk's office</u>
<u>5</u>	<u>Select Board office</u>

(1) One electronic original copy shall be submitted to the Select Board office. It shall be a PDF document of the original material, with text-copy capability, no scanned pages and in color.

Moved (insertion) [23]

E. Contents of a complete application. Applications shall include the following information:

(1) Applicant's name, address, telephone number and email address.

(2) Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the applicant with respect to the application.

(3) Detailed drawings and descriptions of the equipment to be mounted on the pole(s), including:

(a) Type of equipment;

(b) Specifications of equipment (including but not limited to dimensions and weight);

(c) Equipment mount type and material;

(d) Power source or sources for equipment, including necessary wires, cables, and conduit;

(e) Expected life of equipment;

(f) Configuration of the antenna equipment, including:

[1] Number of antennas.

[2] Antenna model.

[3] Antenna length.

[4] Antenna height.

[5] Antenna mounting scheme.

(g) Hardening, including:

[1] If there is a battery backup;

[2] If there is a generator backup;

- (3) Proposed measures to prevent vandalism and accidental damage.
- (4) Renderings/photo simulations and elevation drawing of the equipment installation.
- (5) A detailed explanation comparing the characteristics of each proposed SWF with the criteria in the FCC definition of an SWF demonstrating the application is for bona fide SWFs, including, without limitation, totals of equipment volumes, antenna volumes, and antenna heights, based on the information above.
- (6) A radio-frequency emissions analysis consistent with FCC OET Bulletin 65 procedures, demonstrating compliance of each proposed SWF with FCC requirements limiting human exposure to radio-frequency energy.
- (7) A noise assessment by a competent party, demonstrating compliance with Massachusetts Department of Environmental Protection guidelines for noise pollution and with any Sudbury noise regulations. If the proposed SWF has no noise-generating apparatus, the applicant shall certify the same with supporting evidence in the application materials and may provide such certification in lieu of a noise assessment.
- (8) Detailed map with locations of the poles on which equipment is to be located, including specific pole identification number, if applicable, and the geographic areas the equipment will service.
- (9) Detailed map showing existing and proposed small-cell installations within 500 feet of the application site.
- (10) Certification by a registered professional engineer that the pole will safely support the proposed equipment.
- (11) Written consent by the pole owner to the proposed installation. If the proposal is for a new pole that will be owned by a utility, the SWF application shall be accompanied by an application for construction approval per the Select Board regulation contained in its policies and procedures.
- (12) Affidavit from a radio-frequency engineer, outlining the network/network service requirements in Sudbury and how each installation addresses that need in Sudbury. Such affidavit should characterize, through or with coverage maps, the current level of coverage and how the desired installation(s) will change the current level of coverage, including current and proposed coverage, and include any information the applicant considers relevant to the need, such as evidence supporting any capacity claims regarding the need for the SWF.
- (13) Liability insurance certificate, naming the Town of Sudbury as an additional insured.
- (14) Description as to why the desired location is superior to other similar locations, from a community perspective, including but not limited to:
 - (a) Visual aspects.
 - (b) Proximity to single-family residences.
 - (c) Impact on public safety, including without limitation, pedestrian or vehicular traffic during operation and during construction/maintenance activity.
- (15) Description of efforts to locate the equipment on existing poles which currently exist or are under construction. A good-faith effort to locate on such poles is required and evidence of such efforts must be included within the application.
- (16) An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards and will remove any installation not in such good repair, or not in use.

within 60 days of being no longer in good repair or no longer in use.

G. Public hearing. Placement of application on agenda. Once a complete application has been submitted and all filing fees required herein or elsewhere have been paid, the Select Board will schedule and hold a public hearing and, thereafter, render a decision on the application.

§ 287-7 Time for rendering a decision ("shot clock").

Pursuant to federal regulation, the Select Board shall have 60 days from the filing of a complete application for collocation of an SWF using an existing pole, and 90 days for attachment of a SWF proposing a new pole (see definitions). The "shot clock" may be extended by mutual written agreement of the Select Board and the applicant.

§ 287-8 Select Board decision.

The Select Board may grant, grant with conditions, or deny the application based on inadequate capacity of the pole or mounting structure, safety concerns, reliability concerns, failure to meet applicable engineering standards, and/or failure to meet applicable design and aesthetic requirements all as set forth in this article.

§ 287-9 Annual recertification and affidavit.

A. Each year on July 1, the SWF owner shall submit an affidavit which shall list, by location, all SWF installations it owns within the Town of Sudbury and shall certify:

- (1) Each such installation that remains in use;
- (2) That such in-use installations remain covered by liability insurance naming the Town as an additional insured; and
- (3) The dates of disuse and removal of any disused equipment.

Moved (insertion) [24]

B. The equipment owner shall pay to the Town of Sudbury an SWF annual recertification fee per installation which remains in place, whether in use or not.

§ 287-10 Disuse.

Any SWF which is no longer in use shall be removed by the owner, at the owner's expense, within 60 days of disuse.

A. Nonremoval of SWF no longer in use. Any SWF installation which is not removed by the owner, at the owner's expense, within 60 days of disuse shall be subject to an SWF abandonment fee (fine) for each day after being listed in the annual recertification affidavit as no longer in use until such installation is removed by the owner.

Moved (insertion) [25]

B. Prohibition on new applications. Where such annual recertification has not been timely submitted, or equipment no longer in use has not been removed within the sixty-day period, no further applications for small cell wireless installations will be accepted by the Town Clerk's office until such time as the annual recertification has been submitted and all fees and fines have been paid.

§ 287-11 Design guidelines and aesthetic requirements.

A. No SWF equipment shall be installed at locations with double poles, provided that the doubling of poles is permitted for replacement and substitution poles only for the reasonable time necessary to move utilities to the replacement or substitution pole, which time shall not exceed 120 days. If a double-pole condition remains more than 120 days after such an installation, the SWF must cease operation until the double pole is removed.

Moved (insertion) [26]

B. Within the public right-of-way, only pole-mounted antennas shall be permitted, provided that at its sole discretion the Select Board may consider other street furniture, such as decorative lampposts, to provide

an appearance that may be more compatible with the location. The Select Board may require new structures in the public way to be of a concealed design that is compatible with the locus of the proposed installation (e.g., a concealed SWF lamppost).

Moved (insertion) [27]

C. Absent Select Board permission and compliance with this chapter, no new poles are permitted within the public right-of-way that are not substitution poles. If an applicant proposes to replace a pole in order to accommodate the SWF, the pole shall match the appearance of the original pole to the extent feasible, including size, height, color, materials and style, unless another design better accomplishes the objectives of this chapter as determined by the Select Board.

Moved (insertion) [28]

D. If a new pole is permitted by the Select Board to be placed within the public right-of-way, including a substitution pole, the new pole shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, unless another design better accomplishes the objectives of this section as determined by the Select Board. Such new poles that are not replacement poles or substitution poles shall be located no closer than 90 feet to an existing pole on the same side of the street. A substitution pole shall be placed within three feet of the pole that it is substituting for.

Moved (insertion) [29]

E. SWF installation equipment (meters, enclosures, etc.) shall be mounted on the pole in a manner that preserves pedestrian and vehicular traffic safety and flow.

Moved (insertion) [30]

F. No SWF installation equipment shall be replaced or altered on a pole without a reapplication, hearing and approval from the Select Board, unless the equipment is being replaced with the same or substantially similar equipment and there is no increase in total equipment volume or antenna volume from that which was previously approved.

G. Not more than one SWF shall be mounted per pole unless it is a neutral-host installation with shared antennas and all equipment meets the standard volume for a single SWF.

Moved (insertion) [31]

H. The owner of an SWF shall remove all graffiti and repair any other damage on any portion of the SWF and any related equipment no later than 10 days from the date the owner receives notice from the Select Board or the Select Board's agent(s).

I. Each component part of an SWF shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.

J. An SWF shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety infrastructure.

K. Unless collocated to the satisfaction of the Select Board, each pole-mounted SWF must be separated from other SWFs in the public way in such a manner as to prevent blight or other undesirable conditions resulting from closely spaced SWFs.

L. All wires and cables needed to service the SWF must be installed in a neat and workmanlike manner and to prevent substantially increasing the visual mass and clutter of the pole. Any existing attachments that will remain or be restored after construction of the SWF shall be improved in appearance to the extent practicable, in consideration of the additional cables and equipment required for the new SWF.

M. Americans with Disabilities Act compliance. All SWF installations shall be built and maintained in compliance with the Americans with Disabilities Act (ADA).

N. The SWF shall be color-coordinated to best minimize the visual impact of the facility. To the extent practicable, cabling shall be enclosed in conduit or covers, and exposed cabling shall be neat and

workmanlike.

O. New poles: screening. New poles shall be located so as to be well-screened and hidden to the maximum extent practicable from public and residential view such as depicted below:

[Image]

P. New poles: intersections. New poles shall be located to comply with the minimum sight line requirements pursuant to state highway regulations such as in the manner depicted below (see MassDOT Highway Division development and design guidelines, referring to AASHTO policy on geometric design):

[Image]

Q. SWF orientation with residential buildings. SWFs, whether on new poles or not, shall be located to prevent cluttering residential views, including but not limited to views up driveways and walkways and views to/from residence windows, doors, porches, etc.

R. If an applicant seeks to place an SWF in a residentially zoned neighborhood, a neighborhood that contains residential structures or otherwise adjacent to an area of Sudbury that contains residential structures, the applicant:

(1) Shall avoid attaching to poles that are within 20 feet of an existing driveway to enable the property owner to take advantage of trees or other screening that could shield the wireless equipment from view; and

(2) Shall avoid attaching to poles where the installation and/or ongoing maintenance will require:

(a) Significant tree trimming that could expose the SWF to view; or

(b) Obstructing access to driveways or walkways

S. In the following locations, SWFs are subject to additional criteria:

(1) SWFs located on public ways within or abutting an historic district must be reviewed and approved by the Historic District Commission, and such SWFs shall conform to any federal, state and local requirements regarding the impacts of the SWF on such districts.

(2) At locations where utilities are required to be underground in the public way, no poles or other structures may be added for mounting an SWF unless the applicant has demonstrated to the Select Board that the service objective cannot be provided by any other means. Such demonstration may include coverage maps, drive/walk tests of potential coverage from the proposed and alternative locations and other technical information as necessary to support the claim of need for the SWF as proposed.

(3) SWFs proposed for designated scenic roads must, singly and in the aggregate, be of limited visibility to people using the scenic road, using such techniques as streamlining equipment to the maximum extent practicable, painting all equipment a single color, and selecting existing pole locations that limit such visibility such as in a manner consistent with the requirements for new poles as described in Subsection O above. To be approved for installation on a scenic road, the applicant shall demonstrate to the Select Board that the service objective cannot be provided by any other means. Such demonstration may include coverage maps, drive/walk tests of potential coverage from the proposed and alternative

locations and other technical information as necessary to support the claim of need for the SWF as proposed.

§ 287-12 Public health, safety and welfare.

The SWF shall be of such material and construction, and all installation and maintenance work shall be done in such manner, as to be satisfactory to the Select Board. No SWF shall be approved if the Select Board determines that such material, construction and/or work is or will:

- A. Pose an actual risk to the public health, safety, and welfare;
- B. Interfere with pedestrian and/or vehicular traffic;
- C. Be difficult to maintain a neat and workmanlike appearance for the life of the facility, and/or cause damage to the public right-of-way or any property adjacent to the location of the pole.

Moved (insertion) [32]

Moved (insertion) [33]

§ 287-13 Indemnification.

The applicant shall indemnify and hold harmless the Town against all damages, injuries, costs, expenses, and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, allegedly caused by the acts or neglect of the applicant, its employees, agents and servants, in any manner arising out of the rights and privileges granted herein to the applicant for its SWF. Such indemnification shall not be limited by the amount of the applicant's liability insurance naming the Town as an additional insured.

§ 287-14 Restrictions on opening Town streets and/or sidewalks.

The Board may determine on a case-by-case basis whether any new horizontal cable runs or other installations shall be overhead or underground, taking into account aesthetics, reliability and safety. All cutting of and/or digging into Town ways, including pavement and sidewalks, by or on behalf of an applicant in conjunction with its SWF shall be limited to that which is necessary and approved, provided:

- A. The installation minimizes the area of disturbance; and
- B. The applicant restores any paved and unpaved surfaces to the satisfaction of the DPW.

Moved (insertion) [34]

§ 287-15 Repair of damage.

The applicant shall repair, at its sole cost and expense, any damage, including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to Town streets, sidewalks, walks, curbs, gutters, trees, parkways, streetlights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of an SWF in the public right-of-way. The applicant shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs.

§ 287-16 Configuration of equipment on poles.

The SWF's equipment, including cabinets, electrical and telecommunication panels, meter and the like, shall be mounted on the side of the pole facing away from the roadway, unless a result more appealing to the Select Board is obtained by a different configuration.

§ 287-17 Relocation for road work.

Any future road reconstruction or repair project by the Town and/or the commonwealth requiring the relocation of the pole shall result in the applicant's moving its SWF to another pole in a timely fashion after any necessary electric and telecommunications wiring/infrastructure has been moved to the new location; provided, however, that any such relocation shall require further Select Board approval.

§ 287-18 Construction and/or installation schedule.

Prior to the commencement of construction and/or installation of the SWF, the applicant shall provide the Select Board with a written construction and/or installation schedule satisfactory to Select Board. The applicant shall provide all notice and obtain all necessary permissions for working in the public way.

§ 287-19 Removal bond.

Prior to the commencement of construction and/or installation of its SWF or an SWF on a new pole, the applicant shall provide the Select Board with a bond from a surety authorized to do business in Massachusetts and satisfactory to the Select Board in an amount equal to the cost of removal of the SWF from the pole in question, and/or new pole, and for the repair and/or restoration of the public way, in the vicinity of the pole in question, to the condition the public way was in as of the date when the relevant application was submitted to the Town Clerk's office. Said amount of the bond shall be determined by the Select Board. The amount of the bond shall be the total of the estimate by DPW, plus an annual increase of 3% for the operating life of the SWF. The applicant shall notify the DPW of any cancellation of, or change in the terms or conditions in, the bond.

§ 287-20 Failure to comply with conditions.

An applicant's failure to comply with any of the conditions imposed as a condition of approving an application filed pursuant to this chapter shall at the Select Board's discretion, require the removal of the facility and appurtenances within the time period set forth by the Select Board.

§ 287-21 Fees.

The schedule of fees to be charged under this section shall be those established by the Select Board after a public hearing. A copy of the schedule of fees so adopted shall be available in the office of the Select Board and in the office of the Town Clerk.

§ 287-22 Conflict with other provisions.

Notwithstanding any conflicting provisions between this bylaw and any other section of the General Bylaws or the Zoning Bylaw, the provisions of this bylaw shall apply.

Chapter 295 Zoning

[**HISTORY:** Adopted by the Town Meeting of the Town of Sudbury, as amended through 5-22-2021. **Subsequent amendments** noted where applicable.]

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ARTICLE 1000 Purpose and Administration

1100 Purpose

1110 Purpose.

These regulations are enacted to promote the general welfare of the Town of Sudbury, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the Town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the Town, and to reduce the hazard from fire by regulating the location and use of buildings and structures and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, 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.

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1200
Applicability

1210 Basic requirements.

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

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1220 Conflict with other provisions.

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

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1230 Conformance with amendments.

[Amended 5-2-2017 ATM by Art. 20]

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

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1300
Administration

1310 Permits.

[Amended 4-2-2002 ATM by Art. 37]

This bylaw shall be administered and enforced by the Inspector of Buildings. The Inspector of Buildings may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the commonwealth. Buildings, structures or signs may not be erected, structurally altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless such action is in compliance with then-applicable zoning and all necessary permits have been received under federal, state, or local law. All building permits shall be posted conspicuously on the premises to which they apply during the time of construction. A certificate of occupancy shall not be issued for any dwelling until the street number, readable from the street, has been attached to said dwelling. In cases where the dwelling setback from the street makes this requirement impractical, the street number shall be placed at or near the driveway entrance.

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1320 Enforcement.

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

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1330 Appeals.

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

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1340 Violations and 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 Zoning Board of Appeals shall be \$300 for each offense. Each day that each violation continues shall constitute a separate offense.

Deleted: Bylaw

ARTICLE 2000 Use, Dimensional and Timing Regulations

2100 Districts

2110 Establishment.

[Amended 5-22-2021 ATM by Art. 26]

2111. For the purposes of this bylaw, the Town of Sudbury is hereby divided into the following districts:

Deleted: Bylaw

Single Residence "A" (A-Res)

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Single Residence "C" (C-Res)

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Wayside Inn Historic Preservation (WI)

Business (BD)

Limited Business (LBD)

Village Business (VBD)

Industrial (ID)

Limited Industrial (LID)

Research (RD)

Industrial Park (IP)

Open Space (OS)

2112. Except as otherwise provided herein, the boundaries of these districts are defined and set forth on the map entitled "Zoning Map, Town of Sudbury, last amended April, 1994," as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this bylaw.

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2113. The location of districts is further described in narrative form with accompanying maps in Appendix C.

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2114. "Overlay" districts are also hereby created: Floodplain Overlay District (reference Section 4100); Water Resource Protection Overlay Districts (reference Section 4200); Wireless Services Overlay District (reference Section 4300); Mixed-Use Overlay District (reference Section 4700); North Road Residential Overlay District (reference Section 4700A); Melone Smart Growth Overlay District (reference Section 4700B); and historic districts (Old Sudbury and Hudson Road Historic District,

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Deleted: Historic Districts

Wayside Inn Historic Districts 1 and 2, King Philip Historic District, and George Pitts Tavern Historic District) (reference Appendix C).

2120 Boundary definition.

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

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2130 Exempt uses.

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

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Deleted: Section

2131. All buildings and structures constructed on the subject property shall be subject to the dimensional requirements of Section 2600 of this bylaw for the district in which the exempt use is located.

Deleted: Dimensional Requirements

2132. Exempt uses shall be regulated as set forth in Section 2200, Principal Use Regulations.

2133. Parking for any exempt use shall comply with Section 3100 of this bylaw.

2134. The performance standards in Section 3400 shall apply to all new construction of any exempt use.

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2135. The screening and landscaping standards of Section 3500 shall apply to all new construction of any exempt use.

Deleted: Screening

Deleted: Landscaping

2136. The proposal shall be subject to the site plan review process set forth in Section 6300 of this bylaw in order to provide information to Town boards and departments as to how the project complies with the requirements of the Zoning Bylaw with respect to bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

Deleted: Site Plan Review

2140 Certain nonexempt educational and child-care uses.

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

Deleted: non-exempt

Deleted: Site Plan

2200

Principal Use Regulations

2210 General.

2211. No structure shall be erected or used or land used except as set forth herein, unless exempted by this bylaw or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a residential lot, except in accordance with Sections 2300 (Accessory Uses and Structures), 5300 (SRC) and 5400 (ISD). Except as provided in Sections 5300 and 5400, no lot within a subdivision or within the Town shall have more than one building to be used for dwelling purposes. [Amended 4-6-2010 ATM by Art. 20]

2220 Applicability.

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

Deleted: 2212. . Symbols employed below shall mean the following:
Y - A permitted use.

2230 Table of Principal Use Regulations.

See Appendix A.

2240 Enclosure of uses.

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

- 2241. The growing of plants in the soil.
- 2242. Open-air dining areas where patrons are seated at tables.
- 2243. Parking areas for customer and employee automobiles.
- 2244. Exterior signs as permitted herein.
- 2245. Open-air displays of sample merchandise on the same premises as a completely enclosed building in which such merchandise is regularly sold, provided that the portion of the lot used for such displays has a ground area of less than 10% of the area covered by said building.
- 2246. The dispensing of fuels, lubricants or fluids at filling stations, and the dispensing of merchandise from a completely enclosed building to persons outside at drive-in establishments.
- 2247. In Industrial Districts, Limited Industrial Districts, and Industrial Park Districts, auxiliary outside storage or use shall be permitted provided that such outside storage or use shall not exceed in ground area a space equal to the number of square feet occupied by the building. Outside parking areas may be allowed at the sides of a building, provided they are adequately screened and set back from the front of the building (see Section 3530, Landscaping requirements for property lines).
- 2248. In Limited Industrial Districts and Industrial Park Districts, the regular parking of commercial motor vehicles within 1,000 feet of a residential district except wholly within a completely enclosed building is prohibited.
- 2249. In Research Districts only, such nonnuisance research, development or engineering work as must necessarily, or may more conveniently, be conducted outside.

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2300

Accessory Uses and Structures

2310 Accessory uses.

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

- 2311. Family day care and adult day care. Family day care is a permitted accessory use. Adult day care may be permitted as a principal or an accessory use upon the issuance of a special permit by the Zoning

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Board of Appeals. Providers shall comply with all applicable federal, state, and local laws.

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

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

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

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

2320 Accessory structures.

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

2322. Trailers. Trailers, commonly known as "mobile homes" or "house trailers," shall not be used for dwelling purposes in any part of the Town except in a trailer camp or park for which a permit has been granted by the Zoning Board of Appeals, as required by this bylaw, and a license granted by the Board of Health under the provisions of MGL c. 140; nor shall such trailers be stored or parked on any premises in a residence district except that the Select Board may upon written application grant, to an owner of premises in any residence district, a special permit for the storing or parking of automobile trailers of the nonresident guests of such owner on such premises upon such conditions as the said Board may prescribe and for a period not to exceed 30 days in any one calendar year, and except the Select Board may upon written application grant, to an owner of a residence lot or site, a special permit for dwelling purpose use of an automobile trailer, provided such owner has secured a building permit for the construction of a dwelling on such a lot or site, upon such conditions as the Select Board may prescribe and for a period not to exceed one year.

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

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2324. The temporary use (six months or less) of trailers, containers, or other transportable components for storage or office purposes is allowed if permitted as of right in Section 2230, Table of Principal Use Regulations (Appendix A) or with the review and approval of the Building Inspector. The use of trailers, containers, or other transportable components for storage or office purposes for longer than six months is only permitted if allowed as of right in Section 2230, Table of Principal Use Regulations (Appendix A), or by special permit from the Zoning Board of Appeals. In all cases trailers, containers, or other

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transportable components for storage or office purposes shall not be stacked on top of one another.
[Amended 4-6-2010 ATM by Art. 20; 5-22-2021 ATM by Art. 27]

2325. In residential zoning districts, private or public swimming pools shall be permitted, provided that a building permit therefor be granted by the Building Inspector under the provision of the Commonwealth of Massachusetts State Building Code. Requirements for setback, side yard, front and rear yard clear distances shall be the same as for a principal building. Pools built for public or semipublic use (including private clubs or organizations) require site plan approval per Section 6300 of this bylaw and a special permit from the Zoning Board of Appeals. Enclosures for swimming pools shall meet the Massachusetts State Building Code requirements. [Amended 4-11-2005 ATM by Art. 39]

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2326. In residential zoning districts, a one-story, noncommercial accessory building which is detached and not part of the main building and 16 feet in length on any side, or with a maximum gross floor area of 200 square feet, whichever is less, may be built in the rear yard area. Such accessory building shall not be located nearer than five feet to the rear or side lot line, nor nearer to the front street line than the prescribed minimum setback distance of the respective districts. See Appendix B, Table of Dimensional Requirements. [Amended 4-2-2002 ATM by Art. 37]

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

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2330 Home business as of right.

A registered home business may be allowed as of right in all residential zoning districts, provided that it:

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

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

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

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

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

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

2337. Is registered with the Zoning Enforcement Officer.

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2340 Home business by special permit.

A registered home business may be allowed in all residential zoning districts by special permit issued by the Zoning Board of Appeals, provided that it:

2341. Fully complies with Subsections 2332, 2333 and 2334 above.

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

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

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

2400

Nonconforming Uses and Structures

2410 **Applicability.**

This Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by MGL c. 40A, § 5, at which this Zoning 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.

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2420 **Extension and enlargement.**

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

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

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

2430 **Variance required.**

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 Zoning Board of Appeals; provided, however, that this provision shall not apply to nonconforming single- and two-family residential structures, which shall be governed by Section 2440, below.

2440 **Nonconforming single- and two-family residential structures.**

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

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

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

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

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2444. Alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing

structure; The provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

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2445. Alteration to a nonconforming structure which will not increase the footprint of the existing structure, provided that existing height restrictions shall not be exceeded.

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

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2450 Abandonment or nonuse.

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

2460A Reconstruction after catastrophe.
[Amended 4-2-2002 ATM by Art. 37]

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

2460B Construction after demolition.
[Amended 4-2-2002 ATM by Art. 37]

A nonconforming structure, or a structure on a nonconforming lot, may be reconstructed in its current location, or constructed in a different location, after demolition, provided that it is no greater in total floor area as the original structure, and further provided that the owner shall apply for a building permit and start operations for construction on said premises within two years after such demolition. In the event that the proposed construction would result in the structure exceeding the total floor area of the original nonconforming structure, a special permit shall be required from the Zoning Board of Appeals.

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2470 Reversion to nonconformity.

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

2500
(Reserved)

2600
Dimensional Requirements

[Amended 4-2-2002 ATM by Art. 37]

2610 Applicability.

Except as hereinafter provided, no dwelling house, no principal building or structure, nor any accessory

building shall be erected on a lot in any district unless the lot and building or structure shall conform to the requirements in the Table of Dimensional Requirements, Appendix B.

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

2620 **Table of Dimensional Requirements.**

See Appendix B.

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2630 **Exceptions.**

2631. Nothing herein shall prevent the projection of cornices or eaves not exceeding 18 inches in width or of steps, unroofed porches or windowsills into any required yard or other open space.

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

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

2640 **Other requirements.**

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

2641B. Minimum front yard. In all residential districts, any conforming front yard setback in existence at the time of the adoption of this bylaw amendment shall continue to be considered a conforming setback for the purpose of this Zoning Bylaw. For the purposes of zoning, a corner lot shall be considered to have two front yard setbacks. [Amended 4-9-2003 ATM by Art. 52]

2642. In Business Districts, Village Business Districts and Limited Business Districts, buildings and structures may not cover more than 75% of any corner lot.

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

2644. In Industrial Districts, the required front yard along the "Post Road," so-called, shall be 50 feet. In Limited Industrial Districts, the required front yard along the "Post Road," so-called, shall be 100 feet.

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

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

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

2648. In all nonresidential districts, the setback required from a Single Residence District boundary line need not apply whenever said boundary line is also a street line.

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

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2650. In Limited Business Districts, Business Districts, Limited Industrial Districts and Industrial Districts, no open display, no gasoline pump, and no structure having a height in excess of three feet, except a utility or light pole, shall be nearer to the center or exterior line of any street or way than 75% of the required setback and front yard distance, respectively, specified herein for a building in the district in which located.

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2651. Location of automobile services. No driveway opening serving a garage for motor vehicle repairs, an automobile filling station, a drive-in business establishment, or an automobile parking area with more than 10 spaces, shall be located in any district on either side of the same street between two intersecting streets as, and within 300 feet from, any entrance to or exit from a public or private school, public library, church, public park or playground, or public or private institution for the sick or dependent, or for children under 16 years of age.

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ARTICLE 3000 General Regulations

3100 Parking Standards

3110 General.

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

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

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

3113. Reserve parking spaces. Upon the issuance of a special permit, the Planning Board may authorize a reduction in the number of parking spaces required hereunder, in accordance with the following:
[Amended 5-6-2015 ATM by Art. 43]

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

located within area counted as buffer, parking setback or open space.

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

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f. If, at any time after the certificate of occupancy is issued for the building or use, the Building Inspector determines that additional parking spaces are needed, the Inspector shall notify the Planning Board, in writing, of such finding and the Planning Board may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed within a reasonable period. [Amended 5-6-2015 ATM by Art. 43]

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

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3120 Number of parking spaces.

Uses listed in the following table shall have parking as set forth therein.

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

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

Table of Parking Requirements

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Use	Required Parking
Dwelling	2 spaces for each dwelling unit
Registered <u>home business</u>	2 spaces
Hotel, <u>motel, inn, boardinghouse, bed-and-breakfast</u>	1 space for each bedroom, plus 1 space for each employee on the largest shift; except in VBD, 1 space per bedroom
Educational <u>purposes</u> , exempt or nonexempt	1 space for each staff position, plus 1 space for each 5 persons of rated capacity of the largest auditorium, plus 1 space for each student vehicle which can be expected at maximum use time on the premises; except in VBD, 1 space for each 2 persons of student and staff population
Nursing <u>home</u>	1 space for each 2 beds, plus 1 space for each employee on the largest shift
Retail <u>store; personal service establishment; bank or financial agency; building trade; or restaurant</u> with no	1 space for each 180 square feet of gross floor area; except in VBD, 1 space for each 300 square

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Deleted: Store; Personal Service Establishment; Bank

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Table of Parking Requirements

Use	Required Parking
seating	feet of gross floor area
Business or professional office	1 space for each 200 square feet of gross floor area; except in the Research District, 1 space for each 300 square feet of gross floor area; and in VBD, 1 space for each 350 square feet of gross floor area
Restaurant; religious use; funeral home; private club or lodge; or other place of assembly as defined in the State Building Code	1 space for each 3 seats, plus 1 space for each employee on the shift, except in VBD: 1 space for each 3 seats
Motor vehicle light service, general and body repair	3 spaces for each service bay, plus 1 space for each employee on the largest shift
Industrial uses at set forth in Section D of Appendix A.	1 space for each 2,000 square feet of gross floor area for the first 20,000 square feet, plus 1 space for each additional 10,000 square feet of gross floor area and 1 space per employee on the largest shift

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3130 Standard parking dimensional regulations.

Off-street parking facilities shall be laid out and striped in compliance with the following minimum provisions:

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

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

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

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

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3140 Design requirements for parking facilities.

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

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

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

3144. Nonresidential uses. All parking shall be located to the side or the rear of buildings, except in the Research District where parking may be located elsewhere so long as appropriate reasonable landscaping is placed around those parking areas not located behind a building and which can be seen from public ways, all as shown on a site plan accepted by the Planning Board submitted pursuant to Section 6300. **[Amended 5-6-2015 ATM by Art. 43]**

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

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

3147. In the Village Business District, the requirement of off-street parking may, at the applicant's option, be satisfied through payment of an annual access fee in lieu of providing up to 50% of the required spaces. The access fee per space shall be determined by vote of the Planning Board. Access fees shall be held in an enterprise fund, or other account, restricting the use of those monies to the provision of off-street parking and nonautomotive means of access serving the Village Business District.

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

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3150 Loading areas.

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

3200

Signs and Advertising Devices

[Amended 4-14-2004 ATM by Art. 45A; 4-14-2004 ATM by Art. 45B; 4-9-2007 ATM by Art. 21; 5-22-2021 ATM by Art. 28]

3210 Purpose.

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

3220 General regulations.

The following regulations shall apply in all districts:

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

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

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

3224. No sign shall be painted or posted directly on the exterior surface of any wall. All exterior attached signs shall be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior of a building, provided that such letters or devices have a minimum depth or projection of 1/4 of an inch. The construction of the sign shall comply with the State Building Code.

3225. No sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. except signs on premises open for business.

3226. Only white lights shall be used for direct illumination of a sign. The illumination of any sign shall be shaded, shielded, directed and maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways. All illumination of any signage shall be dark-sky compliant per the International Dark Sky Association.

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3227. Any sign which advertises or identifies products, businesses, services or activities which are no longer sold, located or carried on at the premises shall be removed within 60 days.

3230 Sign permits.

All signs shall require a sign permit except as provided in Section 3250 herein. No sign which requires a sign permit shall hereafter be constructed except in conformity with a sign permit from the Building Inspector.

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Applications for building or sign permits shall be obtained from the Building Department and shall contain the following information:

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

3231. The Building Inspector shall refer all applications to the Design Review Board for recommendations in conformance with Section 6540 of this bylaw. The Design Review Board shall have the authority to reject any sign permit application which is not complete when submitted.

3232. Time limitations. The Design Review Board shall approve or disapprove any application for a sign permit within 30 days of receipt of the application. If the Building Inspector should fail to act on an application for a sign permit within such thirty-day period, the application shall be deemed to be denied.

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

3240 Signs prohibited in all districts.

3241. ~~Light boxes, LED (light-emitting diode) electronic displays, and stencil-cut illuminated sign~~ boxes.

3241A. Neon signs.

3242. Billboards, except ~~noncommercial~~ third-party signs on municipally owned property.

3243. String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration; signs consisting of strings of banners, posters, pennants, ribbons, streamers, and spinners or similar devices.

3244. Flashing or oscillating signs or signs with moving lights or rotating beacons; animated signs; rotating signs; signs which move by design or have a major moving part.

3245. Signs emitting audible sound, odor or visible matter.

3246. Permanent paper, cardboard, cloth, canvas, plastic or similar non-rigid-material signs, tacked, posted, or otherwise affixed to the walls of any structure, tree, pole, hydrant, bridge, fence or any other surface. Interim (temporary) signs and all of their aspects (size, material, permitted duration, etc.) may be permitted at the discretion of the Building Inspector while a permanent sign is being permitted, created, or waiting to be installed, but for no longer than six months.

3247. Portable signs and changeable copy signs, except as permitted in Subsection **3259A**.

3248. Signs having the shape and color of a traffic control device; signs which are of a size, location,

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movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic or street sign or signal; signs which contain or are an imitation of an official traffic sign or signal or contain the words "stop," "slow," "caution," "danger," "warning" or similar words.

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3249. Signs creating a potential hazard to the safe, efficient movement of vehicular or pedestrian traffic or which contain statements, words, or pictures of an obscene, indecent, or immoral character, that will offend public morals or decency.

3249A. Integral roof signs.

3250 Signs not requiring permit.

3251. Resident identification sign. One sign, which shall not exceed two square feet in area and, if lighted, shall use direct illumination with white light only and be dark-sky compliant per the International Dark Sky Association.

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3251A. Property owner's "no trespassing" signs or the like.

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3252A. Governmental, utility or public safety signs. None of the provisions of this bylaw shall be construed as preventing or limiting any traffic, directional, informational, educational or identification sign owned and installed by a governmental agency.

3252B. Religious institution signs.

3253. Real estate signs. One real estate sign, not over six square feet in area, advertising the sale or rental of the premises on which it is located is permitted. Such signs shall be removed within 30 days of the completion of the sale, rental or lease.

3254. Construction signs. One temporary construction sign which shall not exceed 20 square feet in area, in all districts, shall be confined to the site of the construction, including subdivisions of land as defined in MGL c. 41, § 81L, shall not be erected prior to the issuance of building permit and shall be removed within seven days of completion of construction, issuance of the certificate of occupancy, or after the intended use of the project has begun, whichever comes first.

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3255. Window signs. One or multiple signs that in aggregate shall not exceed 25% of the window area. Such signs shall not be illuminated other than by standard lighting fixtures on the building and shall be dark-sky compliant per the International Dark Sky Association. However, "open" or "closed" window signs may be self-illuminated, and such signs shall be no larger than two square feet in area. Window signs promoting a public service or charitable event shall not be calculated in the allowable 25%.

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3256. Fuel pump signs.

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

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

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3259. Flags, and banners conforming to Subsection 3271 of this bylaw.

3259A. Portable signs. One portable sign is allowed per business, provided:

- a. The sign does not exceed six square feet per side and is no more than 30 inches wide.
- b. The top of any portable sign must be less than four feet above grade.
- c. All lettering shall be done in a professional workmanlike manner.
- d. Portable signs shall not be permitted on properties containing a single business which has a freestanding sign.
- e. For properties containing multiple businesses, no more than two portable signs shall be displayed at a time on any lot.
- f. Portable signs may only be displayed during the hours that the business is open or operating, but shall be removed at sunset.
- g. Portable signs shall not be illuminated, have flashing lights, emit sound or simulate motion, nor have any attachments adding to their height or width.
- h. Portable signs must not create a potential hazard to vehicular or pedestrian traffic.
- i. Signs which do not comply with any provision of this bylaw may be removed immediately and without notice by the Town.
- j. A permit for a portable sign shall be issued at the discretion of the Building Inspector for a period not to exceed one year and at an annual fee to be determined by vote of the Select Board.

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3260 Signs requiring permit in Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts.

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

3261. Exterior wall signs.

- a. First-floor businesses. Except as may otherwise be provided, one primary and two secondary exterior wall-mounted, projecting or roof signs shall be permitted for each first-floor business, not including directional signs, on the building in which the business is located. The total allowed sign face area of all exterior signs is calculated by taking 100% of the primary building frontage, plus 40% of each secondary building frontage, up to a maximum of three total building frontages. The total size of the business signage is shown in Chart A. The primary sign shall represent no more than 75% of the total allowed sign face area. Where more than one business/entity occupies the same physical space and shares the same entry/entries, the total allowed sign face area of all exterior signs shall be the same as if only one business was occupying the space. Secondary signage must be affixed to that portion of a building which is occupied by the business affixing such sign. If the sign is a series of awning valances it is considered one secondary sign. The square footage allowance is for direct-illuminated signs. Those primary or secondary signs which are self-illuminated silhouette or face-lit channel letters shall have their square footage allowance reduced by 1/3. Any lighting for signage shall be dark-sky compliant per the International Dark Sky Association.

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CHART A

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Building Frontage (linear feet)	Maximum Area of Total Sign Face (square feet)
0.1 to 19.9	30
20 to 39.9	33
40 to 59.9	36
60 to 79.9	39
80 to 99.9	42
100 to 119.9	45
120 to 139.9	48
140 to 159.9	51
160 to 179.9	54
180 to 199.9	57
200 to 219.9	60
220 to 239.9	63
240 and above	65

- b. Second-floor businesses. One primary exterior wall mounted sign shall be permitted for each second-floor business, not to exceed 10 square feet. No such sign shall obscure windows or other architectural elements on a building.
- c. Methodology for measuring sign face area.

[\[Image\]](#)

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3262. Projecting signs. A projecting sign may be erected in lieu of an exterior sign only when such exterior sign is permitted under Subsection 3261, providing it does not exceed 16 square feet per side. The projecting sign shall not extend beyond the top of the roof or ridge line of the building.

3263. Directory sign/general directory sign. One directory wall sign on which the sign face shall not exceed one square foot for each occupant identified in the directory. A similarly sized freestanding sign may be erected, provided it is substantially out of view of the public way. If there is a panel supporting a group of individual tenant names, that panel shall not exceed 110% of the aggregate area of the individual names.

3264. Directional signs. Directional signs may be erected near a street, driveway or parking area if

necessary for the safety and direction of vehicular or pedestrian traffic. The sign face of each directional sign shall not exceed two square feet and no directional sign shall be located more than six feet above ground level if mounted on a wall of a building or more than 3 1/2 feet above the ground if freestanding. Directional signs shall be placed so as to not impair vehicular sight lines.

3265. Freestanding signs. One freestanding sign (business center identification or business sign) may be erected on a lot zoned business, industrial, or research, or on a lot containing a primary commercial use that has been permitted by the Town of Sudbury, subject to Subsections 3265A, 3265B and 3266 of this bylaw.

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3265A. Freestanding business center identification sign. One freestanding business center identification sign may be erected on a lot. The size of the sign face and the setbacks shall not exceed the allowances in Charts B and C (starting with Chart B and proceeding to Chart C).

CHART B	
Street Frontage (linear feet)	Maximum Area of <u>Each Sign Face</u> (square feet)
0.1 to 74.9	12
75 to 149.9	16
150 to 249.9	20
250 to 349.9	24
350 and above	30

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CHART C		
If the Area Of the Sign Face In Chart B <u>Does Not Exceed</u> (square feet)	The Minimum Setback From the Front Property Line Shall Be (linear feet)	Minimum Setback From Side Property Line Shall Be (linear feet)
30	20	5
24	16	5
20	12	5
16	8	5
12	4	5

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3265B. Freestanding business sign. One freestanding business sign may be erected on a lot subject to the following requirements:

- a. The lot has a minimum of 250 feet of street frontage.
- b. Building setback must be 20 feet or greater.

- c. If the lot contains multiple businesses, individual businesses may be represented by separate, removable panels, which shall not exceed 18 inches in height nor be less than eight inches in height.
- d. All freestanding directory signs shall be wood carved or a synthetic material which matches the aesthetics of a wood sign, and shall not be internally illuminated.
- e. The size of the sign face and the setbacks shall not exceed the allowances in Charts B and C (starting with Chart B and proceeding to Chart C). The property address shall be included as a sign cap centered on top of the sign, but will not be counted in maximum sign size (not to exceed four square feet).
- f. Individual business panels shall have a uniform color scheme.
- g. The freestanding sign shall be incorporated into the landscaping and streetscape of the property, and its location shall be approved by the Design Review Board.
- h. Individual business panels shall be considered secondary signs for the purposes of calculating total sign allowance in Subsection 3261a.
- i. No other freestanding signs shall be permitted on the street frontage.
- j. All existing nonconforming signs must be brought into conformance with the bylaw before approval of the freestanding business sign.
- k. Any illumination of freestanding signage shall be dark-sky compliant per the International Dark Sky Association.

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3266. The overall maximum height of any freestanding sign shall not exceed 10 feet, and the distance from the ground to the bottom of the sign shall not exceed 40% of the total height of the sign.

3270 Special provisions.

3271. Banners. Any business may have a maximum of one banner mounted on the building facade. Banners may also be erected on light or utility poles on private property displaying common or season themes, up to a maximum of one banner per 50 parking spaces constructed on the premise. Banners erected on public property shall require the approval of the Select Board. Banners may pictorially represent the nature of the business and may only include verbiage to the extent that the block of verbiage does not exceed 15% of the total area of the banner. A banner shall not exceed 15 square feet.

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3280 Signs requiring permit in residential districts.

One sign, either attached or freestanding, pertaining to a multiunit development or a permitted nonresidential principal use such as farms, farm stands, nurseries, greenhouses, child-care centers and similar uses may be erected upon a lot, provided no other sign(s) permitted by this bylaw shall be on the same lot. The sign face shall not exceed 10 square feet and, if freestanding, the height shall not exceed 10 feet and the distance from the ground to the bottom of the sign shall not exceed 40% of the height of the sign. The freestanding sign shall not be located within 10 feet of any street or property line.

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3290 Special permits.

The Zoning Board of Appeals may issue special permits for signs other than as provided herein if it is determined that: (a) the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest; (b) the sign will not cause visual confusion, glare, offensive lighting in the neighborhood; (c) the sign will not be a detriment to the surrounding area; (d) the sign will not significantly alter the character of the zoning district; (e) the sign will not interfere with traffic safety in the area; and (f) the sign will be consistent with the architecture of the building on the lot upon which the sign is to be located and of the surrounding area. In granting such special permit, the Zoning Board of Appeals shall specify the size and location of the sign or

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signs and shall impose such other terms and restrictions as it may deem to be in the public interest. All applications under this provision shall provide the information required in Section 3230 above and specific information in the form of perspectives, renderings, photographs or other representations sufficient to show the nature of the proposed sign, its effect on the immediate surroundings and the reasons for allowing it.

3290A Design guidelines.

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

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3291A. Efficient communication.

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

3292A. Environmental relationship.

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

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3293A. Building relationship.

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

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3290B Nonconformance.

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

3291B. Shall have been abandoned;

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

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

3294B. Has been destroyed or damaged to the extent that the cost of repair or restoration will exceed 1/3

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of the replacement value as of the date of destruction.

3300

Common Driveways

3310 In residence districts.

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

Deleted: Residence Districts

3320 In Business, Limited Business, Village Business, Industrial, Limited Industrial, Industrial Park and Research Districts.

[Amended 5-6-2015 ATM by Art. 43]

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

3400

Performance Standards

3410 General.

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

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3420 Standards.

The following standards are hereby established:

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

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

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3423. Noise. No use shall be permitted within the Town of Sudbury which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property. The standards of the Department of Environmental Protection set forth at 310 CMR 7.10(1), which prohibit willful or negligent emissions of sound which may cause noise, are hereby adopted by this bylaw. Exempt from

the provisions of this subsection are (a) vehicles not controlled by an owner or occupant of a lot within the Town; (b) temporary construction activities occurring during the hours of 7:00 a.m. to 6:00 p.m. on weekdays; (c) occasionally used safety signals, warning devices, emergency pressure relief valves, or other such temporary activity; (d) use of power tools and equipment such as lawn mowers, snowblowers, chain saws, tractors, and similar equipment for the maintenance of property.

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

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

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

3427. Site development criteria.

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

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

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

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

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- e. Utilities. All electrical utility lines, including but not limited to telephone, power and cable TV, shall be placed underground in new developments. The placement of electrical lines and other underground utility lines such as water, sewerage and gas shall be coordinated whenever possible and desirable among responsible parties. Placement of utilities, including sanitary disposal facilities, shall be done so as to minimize disruption of topography and cutting of trees or undergrowth.
- f. Outdoor lighting. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to avoid glare and light spilling over to neighboring properties. Except for low-level pedestrian lighting with a height of less than eight feet, all outdoor lighting shall be designed and located so that 1) the luminaire has an angle of cutoff less than 76°; 2) a line drawn from the height of the luminaire, along the angle of cutoff, intersects the ground at a point within the development site and 3) the bare light bulb, lamp or light source is completely shielded from direct view at any point five feet above the ground on neighboring properties or streets. In Village Business Districts, general site lighting fixtures shall be placed no higher than 16 feet above grade.
- g. Other site features. All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities, or other service or utility facilities shall be located or visually screened so as not to create hazards or visual or other nuisances.

3430 Erosion control.

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

- 3431. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board where such use requires site plan review, or the Planning Board in all other cases, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review. [Amended 5-6-2015 ATM by Art. 43]
- 3432. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of four inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.
- 3433. No area or areas totaling two acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.
- 3434. The Building Inspector may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.
- 3435. In granting a special permit hereunder, the Select Board or the Planning Board shall require a

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performance bond to ensure compliance with the requirements of this section.

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

Average <u>Percentage Slope</u>	Minimum <u>Percentage of Land to Remain in Vegetation</u>
10.0 to 14.9	25
15.0 to 19.9	40
20.0 to 24.9	55
25.0 to 29.9	70
30.0 and above	85

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3440 Excavations abutting roads.

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

**3500
Screening and Landscaping**

3510 Purpose.

This section is designed to accomplish the following objectives:

- 3511. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;
- 3512. To define the street edge and provide visual connection between nonresidential uses of different architectural styles;
- 3513. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of unsightly buildings or parking lots;
- 3514. To provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas;
- 3515. To preserve or improve the visual and environmental character of Sudbury, as generally viewed from residential or publicly accessible locations; and
- 3516. To offer property owners protection against diminution of property values due to adjacent nonresidential use.

3520 Applicability.

The requirements of this Section 3500 shall apply to any nonresidential use.

3520A General requirements.

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

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

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

3530 Landscaping requirements for property lines.

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

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

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

3533. The requirements set forth in Subsection 3531 may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this Section 3500. [Amended 5-6-2015 ATM by Art. 43]

3540 Landscaping requirements for parking areas.

3541. Parking areas with more than 10 spaces shall contain 150 square feet of planted areas for every 1,000 square feet of parking proposed, including aisles, appropriately situated within the parking area. Such planted area shall contain an appropriate mix of trees and other plants.

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

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

Number of Spaces in Lot	Depth of Buffer Strip
Up to 10	10 feet
11 to 24	10 feet, plus 1 foot for each space in excess of 10 spaces
25 or more	25 feet

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3544. The requirements set forth in Subsection 3543 may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this Section 3500. [Amended 5-6-2015 ATM by Art. 43]

3550 Landscaping requirements for street frontage of nonresidential uses.

A landscaped buffer area, except for approved accessways and walkways, at least 20 feet in width as measured from the layout of the roadway providing frontage, shall be established. The buffer area shall be planted with grass, medium-height shrubs, and trees. Where appropriate, street trees shall be planted at least every 40 feet along the frontage.

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3560 Provisions in Village Business Districts.

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

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

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

3570 Planted area requirements.

[Amended 5-6-2015 ATM by Art. 43]

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

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

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

3573. Deciduous trees shall be at least two inches in caliper as measured six inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within 10 years after planting. Evergreens shall be a minimum of eight feet in height at the time of planting.

3580 Screening of open uses.

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

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3590 Coordination with site plan approval.

[Amended 5-6-2015 ATM by Art. 43]

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

3590A Maintenance of landscaped areas.

The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this Section 3500. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

**ARTICLE 4000
Special Regulations**

**4100
Floodplain Overlay District**

4110 Purpose.

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

4120 Overlay district.

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

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4130 Location.

[Amended 4-6-2010 ATM by Art. 20; 5-7-2014 ATM by Art. 40]

The Floodplain Overlay District shall consist of the several areas shown as floodplains on the following described maps or as otherwise described:

Floodplain Boundaries

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The Floodplain District is herein established as an overlay district. The district includes all "special flood hazard areas inundated by one-hundred-year flood" within the Town of Sudbury designated as Zones A and AE and "floodway areas in Zone AE" on the Middlesex County Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Sudbury are panel numbers 25017C0362F, 25017C0363F, 25017C0364F, 25017C0366F, 25017C0367F, 25017C0368F, 25017C0369F, 25017C0386F, 25017C0388F, 25017C0501F, 25017C0502F, 25017C0506F, 25017C0507F, 25017C0508F and 25017C0509F dated July 7, 2014. The exact boundaries of the district may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated July 7, 2014. The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, Conservation Commission and Engineering Department.

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Floodway Data

In Zones A and AE along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would

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

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

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4140 Prohibited uses or activities.

Except as otherwise provided herein, the following uses or activities are prohibited in the Floodplain Overlay District:

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

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

4143. Encroachments, including fill, new construction, substantial improvements and other development within any floodway shown on the Middlesex County Flood Insurance Rate Map for the Town of Sudbury Community No. 250217, dated July 7, 2014, prepared by the Federal Emergency Management Agency under the National Flood Insurance Program (on file with the Town Clerk and incorporated herein by reference), which would result in any increase in the 100-year flood level are prohibited, and no special permit shall be issued to allow such encroachments. [**Amended 4-6-2010 ATM by Art. 20; 5-7-2014 ATM by Art. 40**]

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4150 Permitted uses in Floodplain Overlay District.

The following uses, insofar as permitted in Single Residence Districts, are permitted as a matter of right, subject to the following provisions:

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

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

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

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

4155. Forestry;

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

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

4160 Uses available by special permit in Floodplain Overlay District.

Upon the issuance of a special permit by the Zoning Board of Appeals, and subject to the conditions

hereinafter specified and such other special conditions and safeguards as the Zoning Board of Appeals deems necessary to fulfill the purposes set forth herein, the following uses, structures and actions, as permitted in Single Residence Districts, may be permitted:

4161. Duck walks and boat landings.

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

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

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

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

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

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4170 **Special permit procedures.**

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

4180 **Other requirements.**

All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, and with the following:

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4181. Massachusetts State Building Code as to floodplain and coastal high hazard areas (currently 780 CMR); [Amended 5-7-2014 ATM by Art. 40]

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

4183. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); [Amended 5-7-2014 ATM by Art. 40]

4184. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.00, Title 5);

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4185. Chapter 283, Wetlands, of the Code of the Town of Sudbury;

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

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Water Resource Protection Overlay Districts

[Amended 4-11-2005 ATM by Art. 40]

4210 Purpose.

4211. The purposes of the Water Resource Protection Overlay Districts (WRPOD) are (a) to promote the health, safety, and general welfare of the community; (b) to protect, preserve and maintain the existing and potential water supply and groundwater recharge areas within the Town; (c) to preserve and protect present and potential sources of water supply for the public health and safety; (d) to conserve the natural resources of the Town; (e) to prevent the pollution of the environment; and (f) to provide for monitoring of groundwater and surface water quality in areas of present and potential water supply sources to accomplish detection of potential contamination at an early stage, thereby minimizing damage to such sources. Review of proposed development by the Town will be performed with the goal of satisfying these purposes and preserving or improving groundwater quality wherever possible.

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4212. Water Resource Protection Overlay Districts are delineated on the basis of the location of aquifers, aquifer contribution zones and aquifer recharge zones, as defined herein, within the Town. It is intended that this bylaw will serve as a framework whereby additional such areas may be identified for mapping and inclusion within the protection of this bylaw.

4220 Overlay district.

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

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4221 (Reserved)

4230 Location.

The Water Resource Protection Overlay Districts consist of wellhead areas (Zone I), aquifer contribution zones (Zone II) and aquifer recharge zones (Zone III) as defined in Section 7110 of this bylaw. The Water Resource Protection Overlay Districts are delineated on a map at a scale of one inch to 1,000 feet entitled: "Map of Water Resource Protection Districts, Town of Sudbury, Massachusetts, February 15, 2001," as amended by Town Meeting. This map is hereby made a part of the Sudbury Zoning Bylaw and is on file in the office of the Town Clerk.

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4231. If the location of any district boundary in relation to a particular parcel(s) is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

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a. The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the district boundary with respect to their parcel(s) of land is uncertain. The Town may hire a qualified professional to review any technical analyses or documentation provided by the applicant at the applicant's expense. The Planning Board shall provide the owner with a statement of work performed and the cost thereof when charging an owner hereunder.

b. For disputes which may arise related to a Zone II boundary, the determination of the location and extent of Zone II shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's Guidelines and Policies for Public Water Systems. In the case of disputing a Zone II boundary, the special permit granting authority shall not issue approval until DEP issues an official approval of the revised delineation.

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4240 Use regulations, Zone II.

Within the Water Resource Protection Overlay District, Zone II, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained.

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4241. The following uses are permitted within Water Resource Protection Districts, Zone II, subject to Subsection 4242:

- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c. Footpaths, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splashboards, and other water-control, supply and conservation devices;
- e. Maintenance, repair and enlargement of any existing structure, provided no more than 15% of the lot in total is rendered impervious. Exceeding this threshold for impervious cover may be allowed by special permit pursuant to Subsection 4243b;
- f. Residential development, if permitted in the underlying district, provided that no more than 15% of a building lot is rendered impervious. Exceeding this threshold for impervious cover may be allowed by special permit pursuant to Subsection 4243b;
- g. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing, provided that agricultural chemicals, including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials, are not stored or used in any manner which may adversely affect the Water Resource Protection Overlay District and provided that such applicable uses are carried out in accordance with a state-approved farm or forestry plan;
- h. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels, but excluding underground storage tanks related to such facilities which are categorically not permitted;
- i. Stockpiling of snow containing road salt or other deicing chemicals in accordance with current DEP Snow Removal Guidelines.

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

- a. Solid waste disposal facilities, including, without limitation, authorized or unauthorized landfills as defined in Section 7110 of this bylaw, or those that require a site assignment from the Board of Health under MGL c. 111, § 150A (the landfill assignment law);
- b. Storage of hazardous or toxic materials, as defined in Section 7110 of this bylaw, in quantities greater than household use except pursuant to Subsection 4243j;
- c. Stockpiling of snow containing road salt or other deicing chemicals that are brought into any particular Zone II from outside that particular aquifer district;
- d. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a special permit has been granted pursuant to Subsection 4243h;
- e. Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum

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gas;

- f. Underground storage tanks;
- g. Facilities that generate, treat, store, or dispose of hazardous waste, except where a special permit is granted pursuant to Subsection 4243k;
- h. Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1;
- i. Individual on-site sewage disposal systems (in compliance with Title V of the State Environmental Code) shall be prohibited in accordance with the following provisions:

Area	Prohibition
Zone II of Well <u>No. 5 (Route 117 well)</u>	Single- or <u>multifamily residences</u> discharging greater than 550 gpd per 40,000 square feet of lot area ^{1,2,3}
All Zone II Areas	Business, <u>industrial, research</u> or <u>institutional uses</u> discharging more than 1,000 gpd per 40,000 square feet of lot area ³

¹ On residentially zoned lots legally in existence as of the original effective date of this bylaw, which contain less than 40,000 square feet of area, the discharge rate of any individual sewage disposal system shall be permitted up to a maximum limit of 550 gallons per day.

² In cluster subdivisions, the total sewage flow allowed shall be calculated based on the number of percable lots in the entire parcel.

³ Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 mg/L will not be exceeded in any present or proposed public water supply well, in the relevant Water Resource Protection Overlay District, if the capacity of all sewage disposal systems at full build-out in the relevant district were to increase their capacities to the proposed volume.

j. Permanent removal, or regrading of the existing soil cover, except for excavations for: 1) building foundations; 2) roads or utility works; or 3) the installation of stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five feet above the historical high groundwater.

i. The high groundwater elevation may be determined by: 1) direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using the current Title V criteria; or 2) calculating the average for the preceding five years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by, the United States Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered professional engineer.

ii. Earth removal or earthmoving shall be subject to the provisions set forth in Section 4260 of this bylaw;

k. Boat or motor vehicle service or repair shops, animal feedlots, car washes, heliports, commercial or bacteriological laboratories, establishments conducting dry cleaning on the premises;

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- l. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;
 - m. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a special permit under Subsection 4243i;
 - n. Industrial and commercial uses which discharge process wastewater on-site;
 - o. The use of septic system cleaners which contain toxic or hazardous materials;
 - p. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharges to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 10.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;
 - q. Any use that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, unless a special permit pursuant to Subsection 4243b has been granted.
4243. The following uses and activities may be allowed by special permit within the Water Resource Protection Overlay Districts, Zone II, subject to the approval of the special permit granting authority under such conditions as it may require and also subject to Subsection 4242:
- a. Enlargement or alteration of preexisting uses prohibited by Subsection 4242 of this bylaw;
 - b. Uses that will render impervious more than 15% of any lot, or 2,500 square feet, whichever is greater, provided it is demonstrated that a net improvement to existing conditions is made with respect to water quality and groundwater recharge. All such uses shall be subject to the stormwater management standards in Section 4280 and the rules and regulations for special permits in the Water Resource Protection Overlay Districts;
 - c. The application of fertilizers for nondomestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
 - d. Construction of dams or other water-control devices, including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water-control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay Districts;
 - e. Ponds, pools or other changes in water bodies or watercourses created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements, upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay Districts;
 - f. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resources Conservation Service plan;
 - g. Storage of commercial fertilizers, as defined in MGL c. 128, § 64, within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;
 - h. Storage of road salt or deicing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;

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i. Printing or photo-processing operations which demonstrate that no hazardous materials or wastes shall in any way be stored or disposed of in a manner that may be dangerous to groundwater resources;

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j. Storage of hazardous or toxic materials, as defined in Section 7110 of this bylaw, in quantities greater than normal household use, where storage is for or incidental to:

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Moved up [36]: processing operations which demonstrate that no hazardous materials or wastes shall in any way be stored or disposed of in a manner that may be dangerous to groundwater resources; ¶
j. .

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i. Waste oil retention facilities required by statute, rule or regulation;

ii. Emergency generators required by statute, rule or regulation;

iii. Treatment works approved under 314 CMR 5.00 for treatment of groundwater or surface waters; or

iv. Replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded, providing there is compliance with all local, state and federal laws;

And provided that storage is:

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i. Above ground level;

ii. On an impervious surface; and

iii. Either in container(s) or aboveground tank(s) within a building or outdoors in covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;

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k. Facilities that generate and store hazardous waste for off-site disposal, by the following:

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j. Very-small-quantity generators as defined under 310 CMR 30.00;

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Moved up [37]: k. . Facilities that generate and store hazardous waste for off-site disposal, by the following:¶

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ii. Household hazardous waste collection centers and events under 310 CMR 30.390;

iii. Waste oil retention facilities required by MGL c. 21, § 52A;

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iv. Water remediation treatment works approved under 314 CMR 5.00;

l. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

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iv. . Water remediation treatment works approved under 314 CMR 5.00; ¶

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m. The following treatment works that are subject to 314 CMR 5.00:

i. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;

ii. The replacement of existing subsurface sewage disposal system(s) with wastewater works that will not result in a design capacity greater than the design capacity of the existing system(s);

iii. Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater;

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iv. Publicly owned treatment works that meet the wastewater management criteria for siting, design and water quality set forth in the latest version of the Massachusetts Department of Environmental Protection's Interim Guidelines on Reclaimed Water (Revised).

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n. Uses allowed as of right or by special permit in the underlying zoning district which are not listed in Subsection 4241 or 4242. [Added 5-2-2023 ATM by Art. 38]

4250 Use regulations, Zone III.

Within the Water Resource Protection Overlay Districts, ~~Zone III~~, these regulations shall apply, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

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4251. The following uses are permitted within Water Resource Protection Districts, Zone III, subject to Subsection 4252:

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- a. Conservation of soil, water, plants and wildlife;
- b. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
- c. Footpaths, bicycle and/or horse paths and bridges;
- d. Normal operation and maintenance of existing water bodies and dams, splashboards, and other water control, supply and conservation devices;
- e. Residential development, as permitted in the underlying district;
- f. Farming, gardening, nursery, conservation, forestry, harvesting, or grazing, provided that agricultural chemicals, including, but not limited to, fertilizers, herbicides, pesticides, manure or other leachable materials, are not stored or used in any manner which may adversely affect the Water Resource Protection Districts and provided that such applicable uses are carried out in accordance with a state approved farm or forestry plan;
- g. Construction, maintenance, repair, and enlargement of drinking water supply facilities, such as, but not limited to, wells, pipelines, aqueducts and tunnels, provided that all activity is in compliance with state and federal regulations.

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

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- a. Solid waste disposal facilities, including, without limitation, authorized or unauthorized landfills as defined in 310 CMR 19.006, or those that require a site assignment from the Board of Health under MGL c. 111, § 150A (the Landfill Assignment Law);
- b. Storage of hazardous or toxic materials, as defined in Section 7110 of this bylaw, in quantities greater than household use except pursuant to Subsection 4253h;
- c. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate and a special permit has been granted pursuant to Subsection 4253g;
- d. Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas;
- e. Manufacturing of hazardous or toxic materials;
- f. Facilities that generate, treat, store, or dispose of hazardous waste, except where a special permit is granted pursuant to Subsection 4253i;
- g. Industrial uses which discharge process liquids on-site;
- h. Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1;

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i. Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving single- or multifamily residences or serving business, industrial or institutional uses discharging not more than 1,000 gallons per day per 40,000 square feet of lot area in compliance with Title 5 of the State Environmental Code. Requests to increase the capacity of individual sewage disposal systems and those proposed for undeveloped lots above this limit may be permitted upon a written certification of the Sudbury Board of Health that a valid nitrogen-loading analysis approved by the DEP has been completed, which demonstrates that the DEP drinking water performance goal for nitrates of 5 mg/L will not be exceeded in any present or proposed public water supply well, in the relevant Water Resource Protection Overlay District, if the capacity of all sewage disposal systems at full build-out in the relevant districts were to increase their capacities to the proposed volume;

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j. Boat or motor vehicle service or repair shops, animal feed lots, car washes, heliports, commercial or bacteriological laboratories, and establishments conducting dry-cleaning activities on the premises;

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k. Commercial establishments for manufacturing electronics or those for plating, finishing, etching or polishing electronics or metals;

l. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 and has received a special permit under Subsection 4253j;

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

n. Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 10.00), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

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o. Permanent removal or regrading of the existing soil cover, except for excavations for:

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i. Building foundations;

ii. Roads or utility works; or

iii. The installation of stormwater BMPs subject to approval by any Town board or committee having jurisdiction, which result in a finished grade at a level less than five feet above the historical high groundwater.

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The high groundwater elevation may be determined by:

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i. Direct observation of subsurface conditions in test pits witnessed by a certified soils evaluator using current Title 5 criteria; or

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ii. Calculating the average for the preceding five years, as determined from monitoring wells of, and the historical water table fluctuation data compiled by, the United States Geological Survey (USGS) and the Board of Health data and monitoring wells, whichever is higher. Said average shall be adjusted in accordance with accepted monitoring and measurement principles to reflect drought. Groundwater elevations depicted on plans shall be stamped by a Massachusetts registered professional engineer.

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Earth removal or earthmoving shall be subject to the provisions set forth in Section 4260 of this bylaw.

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4253. The following uses are permitted by special permit within Water Resource Protection Overlay Districts, Zone III, subject to the approval of the special permit granting authority under such conditions as they may require and also subject to Subsection 4252.

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- a. Enlargement or alteration of preexisting uses prohibited by Subsection 4252 of this bylaw;
- b. The application of fertilizers for nondomestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
- c. Construction of dams or other water-control devices, including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water-control devices will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;
- d. Ponds, pools or other changes in water bodies or watercourses created for swimming, fishing or other recreational uses, agricultural uses, or drainage improvements upon demonstration that said changes, uses or improvements will not adversely affect the quantity or quality of water available in the Water Resource Protection Overlay District;
- e. Storage of animal manure, only when such storage is covered and contained within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate and is carried out in accordance with an approved Natural Resources Conservation Service plan;
- f. Storage of commercial fertilizers, as defined in MGL c. 128, § 64, provided such storage is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;
- g. Storage of road salt or other deicing chemicals in quantities greater than for normal individual household use, provided such storage, including loading areas, is within a structure demonstrated to prevent the generation and escape of contaminated runoff and leachate;
- h. Storage of hazardous or toxic materials, as defined in Section 7110 of this bylaw, where storage is for or incidental to:
 - i. Waste oil retention facilities required by statute, rule or regulation;
 - ii. Emergency generators required by statute, rule or regulation;
 - iii. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; or
 - iv. Replacement or upgrading of existing storage vessels without increasing the total capacity of the vessels to be replaced or upgraded, providing there is compliance with all local, state and federal laws;

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And provided that storage is:

- i. Above ground level;
- ii. On an impervious surface; and
- iii. Either in container(s) or aboveground tank(s) within a building or outdoors in covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to contain a spill of 110% of the total volume of the single largest container;
- i. Facilities that generate and store hazardous waste for off-site disposal, by the following:
 - i. Very small quantity generators as defined under 310 CMR 30.00;
 - ii. Household hazardous waste collection centers and events under 310 CMR 30.390;

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- iii. Waste oil retention facilities required by MGL c. 21, § 52A;
- iv. Water remediation treatment works approved under 314 CMR 5.00;
- j. Storage of sludge and septage, which is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

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k. Uses allowed as of right or by special permit in the underlying zoning district which are not listed in Subsection 4251 or 4252. [Added 5-2-2023 ATM by Art. 38]

4260 Earth removal or earthmoving in Water Resource Protection Overlay District: procedures and conditions.

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No special permit involving excavation shall be issued or renewed under this Section 4200 until the applicant has submitted to the special permit granting authority a plan showing existing grades in the area from which material is to be removed, together with a plan showing the grades as they will be at the conclusion of the operation. The grading plans must indicate maximum groundwater elevation throughout the entire area proposed to be excavated. Maximum groundwater elevation shall be determined by means of monitoring wells, test pits and soil borings during the months of March, April or May. Such tests shall be conducted by a Massachusetts registered professional engineer at the expense of the applicant and shall be observed by a representative of the special permit granting authority or its designee. Test results shall be submitted to the special permit granting authority. The plan showing the grades at the conclusion of the operation shall show no grades in excess of one foot of vertical rise in two feet of horizontal distance; 4:1 slopes are preferred.

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

a. That proper and reasonable surface drainage of the land shall be provided during and after construction and that all drainage provisions shall comply with the requirements of the rules and regulations for special permits in Water Resource Protection Overlay Districts;

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b. That areas that have been compacted by heavy machinery shall be scarified to a depth of at least 12 inches before topsoil is replaced;

c. That at the conclusion of the excavation operations, or of any substantial portion thereof, the whole area where excavation has taken place be covered with not less than six inches of topsoil and seeded with a suitable cover crop, except where ledge rock is exposed, and that all large stones and boulders which protrude above the finished grade are to be removed or buried, if required by the special permit granting authority;

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d. That activities ancillary to the excavation, including, but not limited to, equipment and vehicle maintenance and storage of lubricants, fuels, solvents and other chemicals associated with earth removal operations will be prohibited in Zone II;

e. That the applicant post a bond with the Treasurer-Collector of the Town in an amount determined by the special permit granting authority as sufficient to guarantee conformity with the provisions or conditions of the permit, the amount of the bond to be not less than \$5,000 per acre of land from which earth is to be removed, if required by the special permit granting authority;

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f. Any fill material used in the Water Resource Protection Overlay Districts shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to the special permit granting authority to guarantee the chemical quality of the fill. The special permit granting authority may require testing by a certified laboratory at the applicant's expense.

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4270 Special permit procedures.

The special permit granting authority under Section 4200 shall be the Planning Board. Such special permit

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

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4271. Technical assistance. To assist its review of applications for special permits, the special permit granting authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer or other such consultant experienced in groundwater evaluation or hydrogeology or wastewater or toxic and hazardous waste to review the application for completeness and accuracy and shall charge the applicant for the cost of such review.

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4272. (Reserved)

4273. Application contents. All applications shall comply in full with the requirements of MGL c. 40A, § 9, and the rules and regulations for special permits in the Water Resource Protection Overlay Districts unless the said authority exercises its right to waive any of the requirements therein.

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4274. Review by other Town boards or agencies. Upon receipt of the special permit application, the special permit granting authority shall transmit forthwith a copy of the application and plan to the Sudbury Water District, Board of Health, Conservation Commission, Town Engineer, and such other boards, departments or committees as it may deem necessary or appropriate, for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as it deems appropriate and shall send a copy thereof to the special permit granting authority and to the applicant within 35 days of receipt of the application by such board or agency. Failure of such board or agency to make a written recommendation or submit a written report with 35 days of receipt of the application shall be deemed a lack of opposition.

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

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a. Will in no way, during construction or any time thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Resource Protection Overlay Districts;

b. Will not cause the groundwater quality to fall below the standards established in 314 CMR 6.00 Massachusetts Groundwater Quality Standards or, for parameters where no standards exist, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation;

c. Is in harmony with the purpose and intent of the bylaw and will promote the purposes of the Water Resource Protection Overlay Districts;

d. Is appropriate to the natural topography, soils and other characteristics of the site to be developed, and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed;

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e. Will not, during construction or thereafter, have an adverse environmental impact on any water body or watercourse in the district; and

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f. Will not adversely affect an existing or potential water supply.

4280 Stormwater management.

4281. All runoff generated on the site shall be managed on-site in a manner demonstrated to assure full protection of the water quality in the Water Resource Protection Overlay Districts and the health, safety and welfare of residents of Sudbury. The special permit granting authority may permit off-site disposal of said runoff if it is determined that either on-site recharge is infeasible because of site conditions or is undesirable because of risks to water quality from such recharge. All runoff generated on-site shall be treated prior to recharge or discharge in accordance with the guidelines set forth in the rules and regulations for special permits in the Water Resource Protection Overlay Districts and in accordance with the NPDES Phase II general permit if the runoff is piped into a municipal system.

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4282. Applicants shall integrate stormwater management practices into landscaping plans to the greatest extent practicable to provide surface pretreatment of stormwater through swales and bioretention facilities.

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4290 Other provisions.

4291. Violations and enforcement. Written notice of any violation of this Section 4200 shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violation and preventive measures for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Planning Board, Board of Health, Conservation Commission, Town Engineer and Sudbury Water District. The cost of containment, cleanup or other action of compliance shall be borne by the owner and operator of the premises. The owner and operator of any property for which a special permit has been issued hereunder shall notify the Building Inspector and the Board of Health of any known violation of the terms and conditions of such special permit. Such notification shall be given immediately (within 48 hours) after knowledge thereof, in person or by telephone, and shall be followed within two weeks by written notice specifying the details of the violation. The owner and operator shall take all appropriate remedial action to cure such violation. Failure of the owner and operator to report a violation in a timely manner, or failure to take appropriate remedial action, or failure to otherwise comply with the terms and conditions of a special permit, or the requirements of the Board of Health or the Building Inspector, shall be sufficient grounds for revocation of the special permit.

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4292. Rules and regulations. The special permit granting authority may adopt, and from time to time amend, rules and regulations consistent with the provisions of this bylaw and MGL c. 40A and other provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk.

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4293. Severability. The invalidity of any portion or provision of this Section 4200, regarding Water Resource Protection Overlay Districts, shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

4300

Wireless Services Overlay District

[Amended 5-4-2011 ATM by Art. 21]

4310 Purpose.

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

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4320 Overlay ~~district.~~

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

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4330 Location.

The Wireless Services Overlay District shall consist of the following parcels of land:

- 4331. Sudbury Landfill property, Assessor's Map No. K12, Parcel 002.
- 4332. Former Melone property, Assessor's Map No. C12, parcel 100.
- 4333. Sudbury Water District Borrow Pit, North Road, Assessor's Map No. C12, Parcel 004.
- 4334. Raymond Road well field area, including Feeley Park and surrounding Town and Water District land, Assessor's Map Nos. L08, Parcels 001, 002, 008, 009, 010, 012 and M08, Parcel 021.
- 4335. Highway Department property, Old Lancaster Road, Assessor's Map No. H08, Parcel 049.
- 4336. All property and buildings owned by the Town of Sudbury, exclusive of school buildings, school properties and cemeteries.

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

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4340 Uses available as of right.

The following are allowed as-of-right in the overlay district, or elsewhere as specified, subject to Section 4360 and site plan review under Section 6300 of the Zoning Bylaw.

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- 4341. All interior-mounted wireless communications equipment is allowed in any zoning district in the Town. In residential districts, interior-mounted wireless communication equipment shall be permitted only in steeples, bell towers, cupolas and spires of nonresidential buildings or structures, or in agricultural buildings.
- 4342. Roof-mounted wireless communications equipment is allowed in the overlay district if it meets the following conditions:

Height of Building	Max. Height of Equipment Above the Highest Point of the Roof	Required Setback From Edge of Roof or Building
More than 36 feet	12 feet above roof	1/2 foot for every foot of equipment height, including antenna
10-36 feet	10 feet above roof	1 foot for every foot of equipment height, including antenna

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

Height of Building **Max. Height of Equipment Above the Required Setback From Edge of Highest Point of the Roof** **Roof or Building**

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part of any wall entirely above the roofline.

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

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

4345. Changes in the capacity or operation of a wireless service facility which has previously received a special permit under this bylaw, limited to an increase or decrease in the number of antennas, cells, panels, equipment buildings or cabinets or the number of service providers (co-locators), shall be permitted, subject to minor site plan review under Section 6370 of the Zoning Bylaw and authorization from the lessor of the property. [Amended 5-4-2016 ATM by Art. 21]

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4350 Uses available by special permit.

Freestanding monopoles meeting the following criteria may be authorized by special permit. Any special permit granted under this section shall expire in five years from the date of issuance. Continued operation of such facility shall be subject to application for and renewal of the special permit by the Zoning Board of Appeals.

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4351. Freestanding monopoles shall be allowed only on those parcels in the overlay district which are listed in Subsections 4331 to 4336 herein. [Amended 5-4-2011 ATM by Art. 21]

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4352. Freestanding monopoles shall be no higher than 100 feet.

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

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4354. Co-location of wireless communication equipment on existing towers and buildings is encouraged. The applicant for a monopole shall demonstrate that the communication equipment planned for the proposed structure cannot be accommodated on an existing or approved tower or structure or building within a one-half mile search radius of a proposed monopole for one or more structural, technical, economic or other reasons as documented by a qualified engineer or other qualified professional, including, but not limited to the following.

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

4355. Every new monopole or tower shall be automatically subject to the condition that the permit holder must allow co-location upon the structure by other wireless communication providers upon commercially reasonable terms and conditions and without unreasonable delay, if such co-location is technically feasible. It is expressly provided that any requirement imposed by a permit holder which

requires the payment of rent in excess of industry standards or which allows the co-location only if the requesting party provides comparable space on one of its structures to the permit holder shall be deemed commercially unreasonable.

4360 Facility and site design criteria.

4361. All wireless communication equipment shall be sited, screened and/or painted or otherwise colored or finished to blend in with the building or structure on which it is mounted, or in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached. In certain circumstances, additional architectural features or changes to the facade may be necessary to maintain the balance and integrity of the design of the building or structure with building-mounted wireless communication equipment.
4362. Equipment boxes or shelters for wireless communication equipment must either be interior to the building on which it is located, completely camouflaged, and/or completely screened from view from the public way.
4363. (Reserved)
4364. Existing on-site vegetation shall be preserved to the maximum extent practicable. Major topographical changes shall be avoided.
4365. Traffic associated with the facilities and structures shall not adversely affect abutting ways. No part of any building-mounted wireless communication equipment shall be located over a public way. There shall be a minimum of one parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.
4366. There shall be no signs, except for announcement signs, no-trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis.
4367. Night-lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
4368. Applicants proposing to erect wireless communications facilities and structures on municipal properties shall provide evidence of contractual authorization from the Town of Sudbury or the Sudbury Water District to conduct wireless communications services on said property.
4369. All unused facilities or parts thereof or accessory facilities and structures which have not been used for two years shall be dismantled and removed at the owner's expense. A bond in an amount which shall not be less than the estimated cost to dismantle and remove the wireless communication facility, plus 25%, shall be required to be furnished to the Town prior to construction of the facility.

4370 Submittal requirements.

As part of any application for a special permit under this Section 4300, applicants shall submit, at a minimum, the applicable information required for site plan approval, as set forth herein at Section 6300, as may be amended, and the following additional information:

4371. A color rendition of the proposed facility with its antenna and/or panels at the proposed location is required. One or more renditions shall also be prepared, illustrating the visual effects of the facility from prominent areas and adjacent public roadways. **[Amended 5-5-2011 ATM by Art. 21]**
4372. The following information prepared by one or more professional engineers:
- a. A description of the facility and the technical, economic and other reasons for the proposed location, height and design.

b. Confirmation that the facility complies with all applicable federal and state standards.

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c. A description of the capacity of the facility, including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.

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

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

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

4380 Exemptions.

The following types of uses are exempt from this Section 4300:

4381. Towers, satellite dishes or antennas for noncommercial use are regulated under Subsection 2632 of the Zoning Bylaw.

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

4390 Select Board authority to lease Town-owned sites.

The Select Board may lease Town-owned property to facilitate the purposes of this bylaw.

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Open Space District

4410 Purpose.

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

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4420 Permitted uses within Open Space District.

The following uses are permitted within the Open Space District:

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

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

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

4424. Forestry;

4425. Proper operation and maintenance of dams and other water-control devices, including temporary alteration of the water level for emergency or maintenance purposes. An owner of a private dam may lower the water level to a point not below what was flooded prior to the erection of the dam;

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

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4430 Uses permitted by special permit within Open Space District.

Upon the issuance of a special permit by the Zoning Board of Appeals, and subject to such other special conditions and safeguards as the Zoning Board of Appeals deems necessary to fulfill the purposes set forth herein, the following uses, structures and actions are permitted:

4431. Boa houses, duck walks, landings and small structures for noncommercial recreational uses;

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

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

4434. Dams, excavations or grading, consistent with the purposes of this Section 4400, to create ponds, pools or other changes in watercourses, for swimming, fishing or other recreational uses, agricultural uses, scenic features, or drainage improvements.

4440 Restrictions.

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

4441. No landfilling or dumping in any part of the district;

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

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4443. No permanent storage of materials or equipment;

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(Reserved)

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Medical Marijuana Treatment Centers

[Amended 5-7-2014 ATM by Art. 38]

4610 Purpose.

To provide for the placement of medical marijuana treatment centers, in accordance with the Humanitarian Medical Use of Marijuana Act, MGL c. 94C, App. § 1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of medical marijuana treatment centers on adjacent properties, residential neighborhoods, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of medical marijuana treatment centers.

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4620 General regulations.

Medical marijuana treatment centers may be permitted in the Industrial District 2 (ID-2), Industrial District 4 (ID-4), Industrial District 6 (ID-6) and Limited Industrial District 1 (LID-1) pursuant to a special permit issued by the Planning Board.

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4621. Location. Medical marijuana treatment centers may not be located within 500 feet of the following protected uses which are lawfully existing at the time of application for a special permit under this Section 4600:

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Deleted: Special Permit

- a. Schools, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
- b. Licensed child-care facilities;
- c. Public libraries;
- d. Public playgrounds and public parks;
- e. Public or private youth centers, recreational fields or recreational facilities;
- f. Public swimming pools; or
- g. Similar facilities which provide services exclusively or predominantly to minors (dance studio, tutoring establishments, etc.), but not including restaurants, retail establishments or other commercial uses which are frequented by the general public, as identified by the Planning Board.

4622. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in this section to the nearest point of the property line of the proposed medical marijuana treatment center.

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4623. Location waiver. The distance requirement may be reduced by up to 25%, but only if:

- a. The applicant demonstrates that the medical marijuana treatment center would otherwise be effectively prohibited within the municipality;
- b. The applicant demonstrates that the medical marijuana treatment center will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 935 CMR 500 et seq.

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4624. Other restrictions.

- a. No medical marijuana treatment center may remain open for business past 9:00 p.m.
- b. There shall be no use of products or sampling of products at a medical marijuana treatment center.
- c. No marijuana or marijuana-based product shall be made, sold, grown or cultivated, interior or exterior, of a residential dwelling unit. Sale, processing, growing and related cultivation activities shall occur only in districts as permitted in this bylaw, except as allowed under Massachusetts law.

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4630 Procedure.

4631. Application. In submitting an application to the Planning Board, the applicant shall include:

- a. A copy of its registration as a medical marijuana treatment center from the Massachusetts Department of Public Health (DPH);
- b. Detailed floor plan of the premises of the proposed medical marijuana treatment center that identifies the square footage available and describes the functional areas of the medical marijuana treatment center, including areas for cultivating, any preparation or processing of products and retail sales area;
- c. Detailed site plans that include the following information:

Deleted: Medical Marijuana Treatment Center

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i. Compliance with the requirements for parking and loading spaces calculated separately for each area of use identified in the floor plans;

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ii. Compliance with all dimensional requirements of Section 2600, and all other provisions of this bylaw;

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iii. Design and appearance of proposed buildings, structures, signs, screening and landscaping; and

iv. Compliance with the special permit criteria set forth in Section 6220 of the Zoning Bylaw.

Deleted: Special Permit Criteria

d. A description of the security measures, including employee security policies, approved by DPH for the medical marijuana treatment center;

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e. A copy of the emergency procedures approved by DPH for the medical marijuana treatment center;

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f. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the medical marijuana treatment center;

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g. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between medical marijuana treatment centers approved by DPH;

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h. A copy of proposed waste disposal procedures; and

i. A description of any waivers from DPH regulations issued for the medical marijuana treatment center.

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4632. The Planning Board shall refer copies of the application to the Select Board, Town Counsel, Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Town Engineer and any other boards, departments or committees as it may deem necessary or appropriate. The Boards/Departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

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4633. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other Town boards and departments, the Planning Board may act upon such a permit.

4640 Special permit conditions on medical marijuana treatment centers.

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, protect groundwater and surface water quality, air quality, and significant environmental resources, ensure public safety and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's medical marijuana treatment center, the Planning Board shall include the following conditions in any special permit granted under this bylaw:

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4641. Hours of operation, including dispatch of home deliveries;

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4642. The permit holder shall file a copy of any incident report required under 935 CMR 501.110, with the Zoning Enforcement Officer and the Sudbury Police Department within 24 hours of creation by the medical marijuana treatment center. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;

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4643. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the medical marijuana treatment center with the Zoning Enforcement Officer and Sudbury Police Department within 48 hours of receipt by the medical marijuana treatment center.

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4644. The permit holder shall provide to the Zoning Enforcement Officer and Sudbury Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

4645. The special permit shall terminate within five years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.

4646. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the medical marijuana treatment center.

Deleted: Medical Marijuana Treatment Center.

4647. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

4648. The permit holder shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of the cessation of operation of the medical marijuana treatment center or the expiration or termination of the permit holder's registration with DPH.

Deleted: Medical Marijuana Treatment Center

4650 Exemption from medical marijuana treatment center special permit requirement.

Medical marijuana treatment centers that demonstrate that they are protected pursuant to the agricultural exemption under MGL c. 40A, § 3, are not required to obtain a special permit, but shall obtain site plan approval pursuant to Section 6300 of the Zoning Bylaw.

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4660 Prohibition against nuisances.

No medical marijuana treatment center shall be permitted to create a nuisance to abutters or to the surrounding area, or create any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

Deleted: No Medical Marijuana Treatment Center

4670 Severability.

The provisions of this Section 4600 are severable. If any provision, paragraph, sentence, or clause of this Section 4600 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 Section 4600.

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4700

Mixed-Use Overlay District

[Added 6-13-2016 STM by Art. 1]

4710 Purpose.

The purpose of the Mixed-Use Overlay District (MUOD) is to (a) encourage redevelopment along the Route 20/Boston Post Road/Union Avenue commercial corridor that exhibits a blend of complementary land uses, thereby promoting an active streetscape, enhancing the vitality of businesses, and spurring the revitalization of underutilized commercial properties which build the Town's commercial tax base; (b) establish a set of development controls that allows for greater flexibility and development alternatives and promotes creative, efficient, and appropriate solutions for the redevelopment of complex sites; (c) improve the aesthetic character of the Route 20 commercial corridor and its surroundings and encourage efficient and organized layout of buildings, circulation and open spaces; (d) diversify and expand the Town's economy and local job opportunities through economic activity and private investment in commercial and residential uses; and (e) implement many of the goals for the Route 20 commercial corridor proffered by numerous planning studies, including The Sustainable Sudbury Master Plan (2001), A Community Vision for the Old Post Road (2002); The Sudbury Route 20 Zoning Project (2012), and Route 20 Corridor: Urban Design Studies and Zoning

Evaluations (2015).

4720 **Overlay ~~district~~.**

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4721. The MUOD is hereby established as an overlay district superimposed over, rather than replacing, the applicable underlying zoning district(s). Notwithstanding anything to the contrary in this Zoning Bylaw, for any land subject to Section 4700, a ~~proponent~~ may choose to have its project conform to either, but not both, ~~of the controls and processes which govern the underlying zoning district(s) or to all~~ of the controls and processes contained in Section 4700. Except as explicitly provided elsewhere in Section 4700, the provisions and requirements of other applicable zoning districts, and any rules, regulations, approval processes and/or design or performance standards contained elsewhere in this Zoning Bylaw, shall not apply to any project developed pursuant to Section 4700.

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4722. The Mixed-Use Overlay District shall consist of the following parcels of land: 526 and 528 Boston Post Road, Assessor Map K07, Parcels 0011 and 0013.

4723. The MUOD boundary shall not be extended to other parcels unless approved at Town Meeting by an amendment to this Zoning Bylaw and the Zoning Map, and only to the extent such other parcel(s) are wholly or partially located within a Business, Limited Business, Village Business, Industrial, Limited Industrial, or Industrial Park ~~Districts~~, and have frontage on either Boston Post Road, Union Avenue, or Station Road.

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4730 **Definitions.**

As used in Section 4700, the following terms shall be defined:

MASTER DEVELOPMENT PLAN

A master development plan approved at Town Meeting in accordance with Section 4700.

MUOD PROJECT

A project that is depicted on a ~~master development plan~~.

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MUOD PROJECT AREA

The geographic area for a project delineated on a ~~master development plan~~.

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PROPONENT

The applicant or developer of a proposed MUOD ~~project~~ or any phase or portion thereof.

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RULES AND REGULATIONS

The rules and regulations adopted by the Planning Board for the administration of Section 4700.

4740 **Master development plan.**

A project developed pursuant to Section 4700 must have a Master Development Plan adopted by a two-thirds vote of a Town Meeting in accordance with the procedures for adoption or change of zoning ordinances or bylaws set forth in ~~MGL c. 40A, § 5.5~~.

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4741. Master development plan requirements. At least 60 days prior to the close of the warrant for the Town Meeting at which approval of a ~~master development plan~~ is sought, the ~~proponent~~ of the MUOD ~~project~~ shall file with the Planning Board a package of ~~master development plan~~ materials that includes, at minimum, the following information:

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a. A plan of existing conditions, showing the area of land proposed to be developed under Section 4700, including topography at two-foot contour intervals and the location of existing roadways, buildings, and other site improvements;

b. A map showing the general condition and topography, at two-foot contour intervals, of the land and improvements located within 200 feet of the MUOD project area, based on available Town geographic information system (GIS) data;

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c. A scalable development plan of the MUOD project, showing:

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i. Location and areas of proposed development, including building envelopes, approximate sizes of all buildings, parking areas, areas proposed for stormwater and wastewater facilities, and other proposed site improvements;

ii. Proposed open space areas;

iii. Location and width of the proposed roads and ways (including private ways and driveways);

iv. Proposed setbacks of buildings to exterior property lines;

v. Proposed preliminary subdivision plan of land, if applicable.

d. A table showing the following information:

i. Total land area of the MUOD project area;

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ii. Total land area of each development or use area by acreage and percent of total lot area;

iii. Total unit count for residential uses;

iv. Parking schedule for each proposed use;

v. For each development or use area, the following pre- and post-development calculations shall be provided by percent of total proposed lot area and percent of the development/use area: total building square footage and building coverage; total impervious surface area; total open space area;

vi. The MUOD project's conformance with the dimensional requirements contained in Section 4780;

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vii. The underlying zoning of the MUOD project area.

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e. Elevations showing the planned architectural approach for the proposed structures;

f. Accompanying technical reports and studies, consisting of a (i) preliminary stormwater and drainage report, (ii) preliminary wastewater management system report (iii) traffic study, (iv) utilities and infrastructure report, (v) fiscal impact report, and a (vi) draft construction management/phasing plan;

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g. Certified list of abutters within 300 feet of the MUOD project area;

h. Such other materials as may be required by the rules and regulations adopted pursuant to Subsection 4764.

4742. Conformance recommendation. A master development plan for an MUOD project shall receive a conformance recommendation from the Planning Board as a prerequisite to Town Meeting consideration and approval. By super-majority vote of the Planning Board, and after a public hearing has been held with noticing requirements as required in MGL c. 40A, § 5, the Planning Board shall recommend consideration and approval of the master development plan at Town Meeting if it finds that the final plans and materials (i) materially conform to the approved master development plan standards and requirements set forth in Section 4700, and (ii) promote the purposes of the Zoning Bylaw as noted in Section 4710. No vote to approve an MUOD project shall be taken by Town Meeting until a report

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setting forth the Planning Board's conformance recommendation has been submitted to Town Meeting. Considering the preliminary nature of a master development plan, the Planning Board's conformance recommendation may include reasonable conditions, limitations, and safeguards concerning adequacy of (i) utilities, wastewater disposal, and stormwater drainage, (ii) pedestrian accommodations and traffic improvements, (iii) parking and circulation, (iv) fire and service equipment access, (v) lighting and noise protections, and (vi) general massing and architecture. Approval of the master development plan at Town Meeting shall serve to ratify the Planning Board's conformance recommendation and any conditions, limitations, and safeguards contained therein.

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4750 Modifications to approved master development plan.

Following approval at Town Meeting of a master development plan for an MUOD project, modifications to such master development plan may be made as follows:

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4751. Minor modification. The Planning Board may, in its discretion, approve minor modifications to an approved master development plan without requiring a public hearing. For purposes of this subsection, a plan modification is "minor" if the changes proposed, considered in the aggregate with any previously approved minor modifications:

- a. Do not involve the construction of an additional building not included in the approved master development plan;
- b. Do not increase by more than 5% the total gross floor area of any land use included in the approved master development plan;
- c. Do not change the square foot percentage of land uses between commercial and residential uses by more than 5%;
- d. Do not increase or decrease the proposed number of parking spaces by 5% of the total number approved; and
- e. Do not alter the proposed roadways or access points significantly, as determined by the Planning Board.

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4752. Project modification review. An MUOD project shall undergo project modification review for any proposed modification of the approved master development plan that exceeds one or more of the thresholds identified in Subsection 4751, a "project modification." No new building permit shall be issued with respect to an MUOD project prior to the issuance of a decision by the Planning Board approving such project modification.

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a. Submittal requirements. An application for project modification review shall be filed with the Planning Board in the manner and quantity specified in the rules and regulations.

b. Review procedure. An application for project modification review shall require a public hearing with noticing requirements as required in MGL c. 40A, § 11. The Planning Board's review and consideration of an application for project modification review shall be in accordance with the rules and regulations.

c. Waivers. In connection with project modification review, the Planning Board, in its discretion, may waive application of one or more of the requirements of Section 4700 if it determines that (i) the waiver will substantially improve the MUOD project; (ii) the project or applicable phase thereof advances the purposes of the MUOD as set forth in Section 4710; and (iii) the granting of a waiver will not nullify or substantially derogate from the intent or purpose of Section 4700.

d. Criteria. The Planning Board shall issue a decision approving a project modification of the MUOD project if it finds that the following criteria have been met with respect to the project or the phase or portion thereof for which a building permit is being sought: (i) the final plans materially conform to the

master development plan requirements, and are compliant with the standards and requirements set forth in Section 4700; and (ii) the project or applicable phase or portion thereof does not pose material adverse impacts to the neighborhood. The findings required under clause (ii) above may be satisfied through the Planning Board's imposition of mitigation measures and other requirements pursuant to Subsection 4761 that, if satisfied, are designed to cause the project or applicable phase thereof to conform to these criteria.

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e. Decision. The Planning Board shall issue a decision on the proposed project modification within 120 days of the application submittal, unless mutually extended. A majority vote of the Planning Board shall be required for approval or denial of a project modification.

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f. Denial. In the event that the Planning Board finds that a proposed project modification to an approved MUOD project does not satisfy the criteria set forth in Subsection 4752d, the proponent may, at its option, (i) withdraw the project modification proposal; (ii) modify its plans to make them consistent with the Planning Board's findings and submit the modified plans to the Planning Board for reconsideration in accordance with this section, or (iii) seek approval of a revised master development plan at Town Meeting.

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4753. Notwithstanding the foregoing, minor adjustments in the location and configuration of the buildings, parking areas, and other site features shown on a master development plan shall not require Planning Board approval, provided that such minor adjustments do not exceed any of the thresholds set forth in Subsection 4751 and a qualified professional certifies to the Building Inspector that such adjustments comply with the dimensional limitations and other controls contained in Section 4700.

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4760 Administration.

The following administrative regulations shall apply in the MUOD:

4761. Development agreement. An MUOD project shall mitigate the impacts of the development to the satisfaction of the Town. The proponent's mitigation and other general project commitments shall be memorialized in a development agreement entered into between the Proponent and the Select Board, which shall be submitted in recordable form binding upon the proponent. No building permit shall be issued for any phase or portion of the MUOD project requiring approval under Section 4700 until the development agreement has been executed. The development agreement shall include, at a minimum, consideration of the following:

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a. Required mitigation to address the impacts arising out of the use and occupancy of the MUOD project;

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b. Restrictions on development areas and such other development limitations as may be agreed upon;

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c. Proposed phasing of the MUOD project;

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d. Obligations with respect to pedestrian and vehicular interconnectivity within and proximate to the MUOD project area to facilitate pedestrian access and parking efficiencies;

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e. The authority of the Town to retain the necessary professionals at the proponent's expense to assist in their review of development applications.

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4762. Phased development. An approved MUOD project may be constructed in one or more phases in accordance with a construction management/phasing plan submitted pursuant to Subsection **4741**.

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4763. Application of requirements to individual lots. The requirements of Section 4700, including the dimensional requirements set forth in Section 4780, shall not be applied to the individual lots or ownership units within the MUOD, but shall be applied as if the entire MUOD were a single conforming lot, whether or not the same is in single or multiple ownership. Violations of this Zoning Bylaw shall be

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enforceable only against the owner of the specific lot on which such violation occurs within the MUOD.

4764. Rules and regulations. The Planning Board may adopt rules and regulations for the administration of Section 4700, which may include but not be limited to defining the application and submittal requirements, fees, reimbursement for consultants, performance guarantees, and procedural requirements for any approvals required pursuant to Section 4700.

4765. Issuance of building permit. Following approval of a master development plan at Town Meeting, the proponent shall submit a building permit application and such other materials and fees as may be required, along with evidence of any Planning Board approval required under Section 4750, to the Building Inspector, and a building permit may thereafter be issued for the approved project or any individual component thereof. Building permits may be sought and issued for individual components of an approved project. Except as may otherwise be required by a development agreement, nothing in Section 4700 shall obligate the proponent to construct all or any portion of the improvements shown on an approved master development plan.

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4766. Transfer of MUOD approvals. Approval of an MUOD project, or any individual portion thereof, may be freely transferred between owners, provided that the transferee complies with the provisions of Section 4700 and the Planning Board is notified of the transfer.

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4767. Lapse. An MUOD approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within five years following the date the master development plan is approved at Town Meeting. Substantial use, including, without limitation, the issuance of a building permit for construction of all or any portion of the approved master development plan, shall vest the master development plan, provided construction on that phase of the master development plan for which the building permit was issued is commenced within one year of issuance of the building permit. The Planning Board may extend such approval, for good cause, upon the written request of the proponent.

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4770 Uses.

The land and buildings shown on an approved master development plan may be used as of right for any use listed below and, to the extent not listed below, any permitted use in the underlying zoning district(s), as set forth in the Table of Principal Use Regulations (Section 2230, Appendix A) of the Zoning Bylaw.

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4771. Principal uses permitted as of right. The following principal uses shall be permitted as of right within the MUOD:

a. Commercial uses.

i. Bank, financial agency.

ii. Business or professional office.

iii. Child-care facility.

iv. Drive-in establishments regularly dispensing merchandise or money from inside a building to persons outside, but excluding the dispensing of food or drink.

v. Major commercial project, provided no single building exceeds 45,000 gross square feet.

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vi. Medical center or clinic.

vii. Nursing or convalescent homes and/or assisted care facilities, including facilities providing specialized care for residents needing memory care for dementia or other cognitive impairments.

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viii. Personal service establishment.

- ix. Restaurant.
- x. Retail stores and services not elsewhere set forth.
- b. Residential uses.
 - i. Age-qualified housing: the provision of independent living arrangements in one or more buildings constructed on a single lot of not less than five acres, containing not more than 60 dwelling units in the aggregate, whether rental or ownership, all of which are restricted to households with at least one member 55 years of age or older.
- c. Open space uses.
 - i. All areas unoccupied by buildings, including, without limitation, areas containing utilities and/or stormwater infrastructure; sidewalks and paths; ice rinks, farmers' markets, music festivals, and other seasonal outdoor uses and facilities; and green, landscaped, and open space areas.
- d. Miscellaneous uses.
 - i. Utilities and related infrastructure improvements, whether subterranean or aboveground, including, without limitation, wastewater treatment works, streets, parking, access drives, directional signage, lighting, pipes, conduits, manholes, and other appurtenances necessary for the transmission of gas, electricity, telephone, water and sewer service, and related utilities.

4772. Prohibited uses. Any use(s) not expressly allowed either under Subsection 4771 or within the underlying zoning district(s) shall be prohibited unless the Building Inspector determines that such use is substantially similar in both its characteristics and its impact on abutting properties to a use listed as permitted as of right under Subsection 4771 or within the underlying zoning district(s).

4773. Accessory uses. The following accessory uses shall be permitted as of right:

- a. Outdoor display, sales, and seating.
- b. Automated teller machines (ATMs), kiosks and similarly sized service booths and detached structures.
- c. Uses supporting approved commercial and residential uses, including, without limitation, cafeterias, dining rooms, and other places serving food or beverages; beauty salons; patio cafes and other outdoor food services areas; halls, conference rooms, auditoriums and other places of assembly or meeting function purposes; health and fitness centers and swimming pools; dry-cleaner drop-off service; retail kiosks; commercial or public parking lots and parking garages; indoor or outdoor markets, festivals or other limited-duration special events; and similar establishments and services of the same general character as the above.
- d. Accessory off-street parking, whether at grade or in a covered garage, including overnight trailer parking accessory to and reasonably proximate to a commercial use.
- e. Accessory renewable energy resources, including but not limited to wind, solar, hydroelectric, methane, and wood alcohol facilities, but not including biomass incineration, for use within the MUOD which are designed to meet the total actual yearly energy needs of the MUOD project; however, excess energy may be delivered to the energy market for sale or credit as long as the excess energy sale or credit is ancillary to the actual energy needs of the MUOD project. Such accessory renewable energy resources not identified on an approved master development plan shall be required to undergo project modification review by the Planning Board.

4774. Accessory use not located on the same lot as principal use. The MUOD project provides for a

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comprehensive site design that may include supporting parking areas, accessways, driveways, infrastructure and utilities which may extend into any lot or other area within the MUOD. In addition, an accessory use may be located on a different lot from its associated principal use within the MUOD. provided that the accessory use remains reasonably proximate to the principal use. The location of an accessory use on a different lot than the principal use, other than any accessory parking spaces provided as described in Subsection 4773, shall require the Building Inspector's determination that such accessory use is generally compatible with the surrounding development area and is reasonably proximate to the principal use it serves. For purposes of Subsection 4774, accessory uses located within 1,000 feet of their principal uses shall be presumed to be reasonably proximate to such principal uses. This presumption shall not be construed to limit the Building Inspector's ability to exercise his/her discretion to allow accessory uses at greater distances from their principal uses. Miscellaneous uses defined in Subsection 4771 are exempt from this provision; however, miscellaneous uses serving the MUOD project shall be located within the MUOD.

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4780 Dimensional standards and requirements.

No MUOD project shall be approved, and no principal or accessory building or structure shall be erected in an MUOD project unless said MUOD project and the buildings and structures proposed therein conform to the following requirements, calculated in accordance with Subsection 4763:

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Table of Dimensional Requirements

Maximum <u>building height</u>	3 stories; 45 feet (or 50 feet, in the case of pitched roofs); 4 stories, 60 feet if set back more than 500 feet from Boston Post Road
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Maximum <u>building coverage</u>	30% of the MUOD <u>project area</u> as a whole
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Minimum MUOD <u>project area</u>	100,000 square feet
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Minimum MUOD <u>project area street frontage</u>	50 feet
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Minimum <u>front yard setback</u>	20 feet
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Minimum <u>side yard setback</u>	20 feet (see Subsection 4783)
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Minimum <u>rear yard setback</u>	30 feet
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4781. Subdivision. The owner of any lot shown on an approved master development plan shall be entitled to lawfully divide such lot, including, without limitation, by virtue of plans endorsed by the Planning Board pursuant to MGL c. 41, § 81P, without modifying the approved master development plan and without the need for other approvals under Section 4700, provided that any such lot must have minimum frontage of 50 feet at the street line and a minimum lot area of 40,000 square feet.

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4782. Two or more buildings on one lot. Notwithstanding anything to the contrary in this Zoning Bylaw, more than one building or structure, including those intended solely for use as residential dwellings, shall be permitted on any lot within the MUOD.

4783. Proximity to residence districts. Notwithstanding anything to the contrary in Section 4700, within the MUOD, the setback requirement of Section 2600 of the Zoning Bylaw and the buffer and screening requirements set forth in Section 3500 of the Zoning Bylaw shall not apply. Instead, to minimize the MUOD project's visual impact on any existing adjacent residence districts, there shall be maintained a minimum building and structure setback of 50 feet wherever the MUOD abuts the boundary line of a residence district located outside the MUOD.

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4784. Screening and landscaping. Screening and landscaping, both internal and perimeter, for the MUOD project shall be substantially as shown on an approved master development plan, rather than by reference to Section 3500 of the Zoning Bylaw.

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4790 Parking and loading.

The alternative parking requirements set forth in Section 4790 shall be used for the MUOD project rather than the requirements and/or regulations set forth elsewhere in the Zoning Bylaw, including, without limitation, Section 3100.

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4790A Signs.

Except as otherwise provided in Section 4790A, the alternative signage requirements set forth below shall apply to the MUOD project, rather than the requirements and/or regulations contained in Section 3200 of the Zoning Bylaw.

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4790B Water Resource Protection Overlay District.

For a project developed pursuant to Section 4700, the requirements provided in Section 4200 of the Zoning Bylaw, Water Resource Protection Overlay District (WRPOD), shall apply as modified by Section 4790B.

4791. Parking schedule. The number of expected parking spaces for the MUOD project shall be as set forth on a parking schedule included with the master development plan. The number of spaces contained within the MUOD project may change from time to time, based upon changes in use and tenant requirements. Following adoption of a master development plan at Town Meeting, adjustments in the number of spaces required for the MUOD project may be authorized by the Planning Board through the procedures described in Section 4750.

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4791A. General regulations. All signs authorized by Section 3250 of the Zoning Bylaw shall also be permitted as of right within the MUOD. All signs prohibited by Section 3240 of the Zoning Bylaw shall also be prohibited within the MUOD. For all other signs, the standards and procedures set forth in Subsections 4792A and 4793A shall apply.

4791B. Application. In recognition of the demonstrated improvement to water quality through conformance with Chapter **252**, Stormwater Management, the Stormwater Regulations of the Town of Sudbury, natural resource conservation, and environmental protection secured through the comprehensive public reviews and mitigative measures required for any MUOD project developed pursuant to Section 4700, the requirements of Section 4790B shall supersede any of the requirements of Section 4200 of the Zoning Bylaw that are inconsistent with Section 4790B.

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4792. Location. Parking may be provided anywhere within the MUOD as shown on an approved master development plan, except that no parking stalls shall be allowed within 20 feet of a public way. On-street parking within the MUOD may be utilized in determining satisfaction of the requirements set forth in the parking schedule.

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4792A. Comprehensive signage. In recognition of the interrelated nature of signage in mixed-use projects, and the importance of clear, adequate, and effective signage to the safe and efficient operation of such projects, the Planning Board may approve a comprehensive signage program for all or any portion of (or building within) the MUOD project. Appropriate design, dimensions, lighting and materials for all signs included in a comprehensive signage program shall be determined by the Planning Board in the course of its review pursuant to Subsection **4793A**.

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4792B. Allowed uses and activities. All uses authorized by Section 4770 and all activities performed in connection with the construction and operation of the MUOD project (including, without limitation, earth removal and earthmoving activities) shall be allowed as of right in any portion of the MUOD located in the WRPOD, provided that a qualified professional certifies to the Building Inspector that (i)

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a minimum of 35% pervious area is provided within the MUOD project area as a whole; and (ii) all stormwater best management practices designed for the MUOD project meet applicable Massachusetts Department of Environmental Protection stormwater guidelines.

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4793. Shared parking. Shared parking arrangements shall be permitted and may be located on contiguous lots or on separate lots within the MUOD.

4793A. MUOD signage review procedure. A comprehensive signage program shall require Planning Board approval, in consultation with the Design Review Board and in accordance with the rules and regulations, either (i) in connection with the Planning Board's conformance recommendation issued pursuant to Subsection 4742, in the case of signs submitted for approval concurrently with the master development plan; or (ii) through project modification review pursuant to Subsection 4752, in the case of signs submitted for approval after the adoption of a master development plan. The Planning Board shall approve such sign(s) if it determines that the proposed signs adequately address the needs of the MUOD project and are generally consistent with the design guidelines contained in Section 3290A of the Zoning Bylaw. Unless otherwise provided in Section 4790A, the requirements and procedures set forth in Section 3230 of the Zoning Bylaw shall not apply to the MUOD project.

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4793B. Review procedure. The Building Inspector shall review and confirm the MUOD project's compliance with the foregoing standards and requirements prior to issuing a building permit or certificate of occupancy, as applicable, for any use or activity subject to Section 4790B.

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4794. Design. Each parking space within the MUOD shall comply with the applicable dimensional regulations set forth in Section 3130 of the Zoning Bylaw. The number of entrances and exits shall be the minimum necessary for safe and efficient traffic circulation, in accordance with the traffic study submitted pursuant to Subsection 4741.

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4795. Loading. To ensure that adequate areas are provided to accommodate all delivery vehicles expected at a given premises at any one time, an off-street loading area shall be provided for any use that (i) contains more than 10,000 square feet of net floor area and (ii) is regularly serviced by tractor-trailer trucks or other similar delivery vehicles. Where required, loading areas shall be shown on the master development plan, shall be located at either the side or rear of each building, and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

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4700A

North Road Residential Overlay District

[Added 12-11-2018 ATM by Art. 1]

4710A Purpose.

The purpose of the North Road Residential Overlay District (NRROD) is to (a) encourage redevelopment along the Route 117 corridor that exhibits a blend of complementary land uses, including multifamily residential development, thereby promoting an active streetscape, enhancing the vitality of businesses, and spurring the revitalization of underutilized properties which build the Town's tax base; (b) establish a set of development controls that allows for greater flexibility and development alternatives and promotes creative, efficient, and appropriate solutions for the redevelopment of complex sites; (c) improve the aesthetic character of the Route 117 corridor and its surroundings and encourage efficient and organized layout of buildings, circulation and open spaces; and (d) diversify and expand the Town's economy and local job opportunities through economic activity and private investment in primarily residential uses with limited commercial use.

4720A Overlay district.

The NRROD is hereby established as an overlay district superimposed over, rather than replacing, the Research District. Notwithstanding anything to the contrary in this Zoning Bylaw, for any land subject to

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Section 4700A, a proponent may choose to have its project conform to either, but not both, all of the controls and processes which govern the Research District or to all of the controls and processes contained in Section 4700A. Except as explicitly provided elsewhere in Section 4700A, the provisions and requirements of other applicable zoning districts, and any rules, regulations, approval processes and/or design or performance standards contained elsewhere in this Zoning Bylaw, shall not apply to any project developed pursuant to Section 4700A; notwithstanding the above, Section 3200 (Signs and Advertising Devices), shall apply. Any NRROD project shall comply with Section 4200 (Water Resource Protection Overlay Districts) to the maximum extent practicable.

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4730A Definitions.

As used in Section 4700A, the following terms shall be defined:

MASTER DEVELOPMENT PLAN

A master development plan approved at Town Meeting in accordance with Section 4700A.

NRROD PROJECT

A project that is depicted on a master development plan.

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NRROD PROJECT AREA

The geographic area for a project delineated on a master development plan.

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PROONENT

The applicant or developer of a proposed NRROD project or any phase or portion thereof.

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RULES AND REGULATIONS

The rules and regulations adopted by the Planning Board for the administration of Section 4700A.

4740A Master development plan.

A project developed pursuant to Section 4700A must have a master development plan adopted by a two-thirds vote of a Town Meeting.

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4741A. Master development plan requirements. The proponent of the NRROD project shall file with the Town Clerk, with a copy to the Planning Board and the Zoning Board of Appeals, a package of master development plan materials that includes, at minimum, the following information:

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a. A plan of existing conditions showing the area of land proposed to be developed under Section 4700A, including topography and the location of existing roadways, buildings, other site improvements;

b. A map showing the general condition and topography, of the land and improvements located within 200 feet of the NRROD project area;

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c. A scalable development plan of the NRROD project showing:

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i. The location and areas of proposed development, including building envelopes, approximate sizes of all buildings (including footprint dimensions, height, gross floor area of each use type, and number and mix of residential units), parking areas (including number of spaces), proposed location of areas for stormwater and wastewater facilities, and other proposed site improvements;

ii. Proposed open space areas;

iii. The location and width of the proposed roads and ways (including private ways and driveways);

iv. Proposed setbacks of buildings to exterior property lines;

- v. Proposed preliminary subdivision plan of land, if applicable;
- vi. Total unit and bedroom count for residential uses;
- vii. Total square footage and use type(s) of proposed commercial space.
- d. Elevations showing the planned architectural approach for the proposed structures.

4742A. Final plan approval. A master development plan for an NRROD project shall require approval from the Planning Board subsequent to Town Meeting approval, as set forth herein. The applicant shall provide to the Planning Board, at a minimum, all of the items required pursuant to Subsection 4741A and Section 6350, plus the following:

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- a. Total land area of the NRROD project area;
- b. For each development or use area, the following pre- and post-development calculations shall be provided by percent of total proposed lot area and percent of the development/use area: total building square footage and building coverage; total impervious surface area; total open space area;
- c. Accompanying technical reports and studies, consisting of a (i) stormwater and drainage report, (ii) wastewater management system report, (iii) traffic study, (iv) utilities and infrastructure report, (v) fiscal impact report, and a (vi) draft construction management/phasing plan;

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- d. A parking schedule for each proposed use;
- e. The NRROD project's conformance with the dimensional requirements contained in Section **4780A**;
- f. Detailed site plans and floor plans depicting the specific proposed location, height, gross square footage and layout of buildings, as well as the specific location, width and specifications of roadways and drainage infrastructure.

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- g. Certified list of abutters within 300 feet of the NRROD project parcel(s); and
- h. Such other materials as may be required by the rules and regulations adopted pursuant to Subsection 4764A or as may reasonably be requested by the Planning Board during the public hearing.

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4743A. Zoning Board of Appeals recommendation. Within 45 days after submission to the Planning Board of the master development plan package referenced in Subsection 4741A, the Zoning Board of Appeals shall convene a public hearing to review such materials within notice to interested parties as set forth in MGL c. 40A, § 11. Within 30 days after the close of such public hearing, the Zoning Board of Appeals shall make a written recommendation to the Planning Board, which recommendation shall include any conditions or plan modifications recommended by the Zoning Board of Appeals. The Planning Board shall not act on the master development plan prior to receipt of the recommendation of the Zoning Board of Appeals or the expiration of 30 days after the close of the Zoning Board of Appeals public hearing.

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4744A. Planning Board decision.

- a. After a public hearing has been held with notice to interested parties pursuant to MGL c. 40A, § 11, the Planning Board shall approve the master development plan if it finds that the final plans and materials (i) materially conform to the master development plan approved by Town Meeting and the standards and requirements set forth in Section 4700A, and (ii) promote the purposes of the Zoning Bylaw as noted in Section **4710A**. Approval of the Planning Board shall require a four-fifths supermajority.
- b. The Planning Board's approval may include reasonable conditions, limitations, and safeguards,

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including without limitation conditions to ensure adequacy of (i) utilities (including features promoting renewability and sustainability), wastewater disposal, and stormwater drainage; (ii) pedestrian accommodations and traffic improvements; (iii) parking and circulation; (iv) fire and service equipment access; (v) lighting and noise protections; and (vi) general massing and architecture.

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- c. Plans shall be deemed to materially conform to the master development plan approved by Town Meeting if, notwithstanding any changes in site layout or design, such plans do not increase the total number of units, do not increase the gross square footage of commercial space proposed or the total number of bedrooms, and do not change the unit mix as between one-, two-, and three-bedroom units, including the proposed number of age-restricted units.

4750A Modifications to approved master development plan.

Following approval at Town Meeting of a master development plan for an NRROD project, modifications to such master development plan may be made as follows.

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4751A. Minor modification. The Planning Board may, in its discretion, approve minor modifications to an approved master development plan without requiring a further public hearing. For purposes of this subsection, a plan modification is "minor" if the changes proposed, considered in the aggregate with any previously approved minor modifications:

- a. Do not involve the construction of an additional building not included in the approved master development plan, with the exception of ancillary buildings not exceeding 500 square feet at the discretion of the Planning Board;

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- b. Do not increase by more than 5% the total gross floor area of any land use included in the approved master development plan;

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- c. Do not result in an increase in the number of dwelling units in the project;

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- d. Do not increase or decrease the proposed number of parking spaces by 5% of the total number approved;

- e. Do not alter the proposed access points to the development from any public way significantly, as determined by the Planning Board;

- f. Proposes a division of the NRROD project area that does not result in any violation of any of the foregoing minor modifications; or

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- g. Proposes a change in use from one permitted use under the RDORZ to another permitted use under the NRROD without any violation of any of the foregoing minor modifications.

4752A. Project modification review. A NRROD project shall undergo project modification review for any proposed modification of the approved master development plan that exceeds one or more of the thresholds identified in Section 4751Aa through e or g, provided that in no event shall a project modification be permitted that would: (a) result in construction of additional dwelling units; or (b) result in more than a 20% increase in gross floor area used for commercial purposes, absent approval of a new master development plan by Town Meeting.

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- a. Submittal requirements. An application for project modification review shall be filed with the Planning Board in the manner and quantity specified in the rules and regulations.

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- b. Review procedure. An application for project modification review shall require a public hearing with notice to interested parties pursuant to MGL c. 40A, § 11. The Planning Board's review and consideration of an application for project modification review shall be in accordance with the rules and

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c. Criteria. The Planning Board shall issue a decision approving a project modification of the NRROD project if it finds that the following criteria have been met with respect to the project or the phase or portion thereof for which a building permit is being sought: (i) the final plans substantially conform to the master development plan requirements, and are compliant with the standards and requirements set forth in Section 4700A; and (ii) the project or applicable phase or portion thereof does not pose material adverse impacts to the neighborhood. The findings required under clause (ii) above may be satisfied through the Planning Board's imposition of mitigation measures and other requirements pursuant to Subsection 4761A that, if satisfied, are designed to cause the project or applicable phase thereof to conform to these criteria.

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d. Decision. The Planning Board shall issue a decision on the proposed project modification within 120 days of the application submittal, unless mutually extended. The Planning Board may impose additional reasonable conditions upon the approval of a proposed project modification. A majority vote of the Planning Board shall be required for approval or denial of a project modification.

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e. Denial. In the event that the Planning Board finds that a proposed project modification to an approved NRROD project does not satisfy the criteria set forth herein, the Proponent may, at its option, (i) withdraw the project modification proposal; (ii) modify its plans to make them consistent with the Planning Board's findings and submit the modified plans to the Planning Board for reconsideration in accordance with this section, or (iii) seek approval of a revised master development plan at Town Meeting.

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4753A. Notwithstanding the foregoing, minor adjustments in the location and configuration of the buildings, parking areas, and other site features shown on a master development plan shall not require Planning Board approval provided that such minor adjustments do not exceed any of the thresholds set forth in Subsection 4751A and a qualified professional certifies to the Building Inspector that such adjustments comply with the dimensional limitations and other controls contained in Section 4700A and that such adjustments are necessary owing to a site condition such as topography, soils conditions, hydrology, groundwater, or other relevant engineering or design criteria.

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4760A Administration.

The following administrative regulations shall apply in the NRROD:

4761A. Development agreement. A NRROD project shall mitigate the impacts of the development to the satisfaction of the Town. The proponent's mitigation and other general project commitments shall be memorialized in a development agreement entered into between the proponent and the Select Board, which shall be submitted in recordable form binding upon the proponent. No building permit shall be issued for any phase or portion of the NRROD project requiring approval under Section 4700A until the development agreement has been executed. The development agreement shall include, at a minimum, consideration of some or all of the following:

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a. Required mitigation to address the impacts arising out of the use and occupancy of the NRROD project;

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b. Restrictions on development areas and such other development limitations as may be agreed upon;

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c. Proposed phasing of the NRROD project, if applicable;

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d. Obligations with respect to pedestrian and vehicular interconnectivity within and proximate to the NRROD project area to facilitate pedestrian access and parking efficiencies;

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e. The authority of the Town to retain the necessary professionals at the proponent's expense to assist in its review of development applications.

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4762A. Phased development. An approved NRROD project may be constructed in one or more phases in accordance with a construction management/phasing plan submitted pursuant to Subsection 4741A.

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4763A. Application of requirements to individual lots. The requirements of Section 4700A, including the dimensional requirements set forth in Section 4780A, shall not be applied to the individual lots or ownership units within the NRROD, but shall be applied as if the entire NRROD were a single conforming lot, whether or not the same is in single or multiple ownership.

4764A. Rules and regulations. The Planning Board may adopt rules and regulations for the administration of Section 4700, which may include but not be limited to defining the application and submittal requirements, fees, reimbursement for consultants, performance guarantees, and procedural requirements for any approvals required pursuant to Section 4700A.

4765A. Issuance of building permit. Following approval of a master development plan by the Planning Board, the Proponent shall submit a building permit application and such other materials and fees as may be required to the Building Inspector and a building permit may thereafter be issued for the approved project or any individual component thereof. Building permits may be sought and issued for individual components of an approved project. Except as may otherwise be required by a Development Agreement, nothing in Section 4700A shall obligate the Proponent to construct all or any portion of the improvements shown on an approved master development plan.

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4766A. Transfer of NRROD approvals. Approval of a NRROD project, or any individual portion thereof, may be freely transferred between owners, provided that the transferee complies with the provisions of Section 4700A and any Planning Board approval rendered hereunder, and the Planning Board is notified of the transfer.

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4767A. Lapse. An NRROD approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within three years following the date the master development plan is approved by the Planning Board. Substantial use, including, without limitation, the issuance of a building permit for construction of all or any portion of the approved master development plan, shall vest the master development plan, provided construction on that phase of the master development plan for which the building permit was issued is commenced within one year of issuance of the building permit. The Planning Board may extend such approval, for good cause, upon the written request of the Proponent. Delay in obtaining building permits caused by delay in approvals of any other permit necessary to construct a NRROD project shall constitute good cause under this section, provided that the applicant has in a timely manner applied for and diligently pursued such permits and that such delay is not the result of the actions or inactions of the applicant.

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4770A Uses.

The land and buildings shown on an approved master development plan may be used as of right for any use listed below and, to the extent not listed below, any Permitted Use in the underlying zoning district(s), as set forth in the Table of Principal Use Regulations (Section 2230, Appendix A) of the Zoning Bylaw.

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4771A. Permitted principal uses. The following principal uses shall be permitted, alone or in combination, within the NRROD, subject to Town Meeting approval of a master development plan:

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a. Commercial uses.

i. Business or professional office with fewer than five employees.

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ii. Child-care facility serving only residents of the NRROD project.

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iii. Personal service establishment, under 1,000 square feet.

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- iv. Restaurant, under 1,000 square feet.
- v. Retail stores and services not elsewhere set forth, under 1,000 square feet.
- b. Residential uses.
 - i. One family, two-family and multifamily dwellings.
 - ii. Assisted living or continuing care retirement community (CCRC) residential housing, which uses may include some or all of the following accessory uses designed to serve residents and visitors of the assisted living and/or CCRC:
 - (a) Any or all of the following uses and associated services, individually or in any combination, as part of dwellings or as separate structures, including, but not limited to:
 - i) Dining rooms, coffee shops and related kitchen areas and facilities;
 - ii) Living rooms, libraries, music rooms, auditoriums, greenhouses;
 - iii) Lounges, card rooms, meeting rooms, and other social and recreational areas;
 - iv) Administrative offices, social service offices, educational uses;
 - v) Mail rooms, gift shops, convenience stores;
 - vi) Medical offices, diagnostic and treatment centers, wellness centers, exercise areas, home health care centers;
 - vii) Professional offices;
 - viii) Barbers, hairdressers, beauty salons;
 - ix) Banks and ATM banking machines;
 - x) Home health care;
 - xi) Adult and child-care services;
 - xii) Cleaning services;
 - xiii) Other uses, services and activities incidental to the operation of a CCRC.
 - (b) Skilled nursing and memory care; and
 - (c) All uses required by Massachusetts statute or regulation to receive a license or permit to operate and maintain such assisted living or continuing care residential community.
 - (d) In the event that the applicant proposes an assisted living or continuing care residential community, such uses may be approved in the discretion of the Planning Board as a modification to the master development plan. If the Planning Board approves such modification, it may impose reasonable conditions, including without limitation a corresponding reduction in the number of residential housing units and/or commercial space approved in the master development plan.
 - iii. Clubhouses, recreation facilities and other accessory amenities and infrastructure to serve residential units within the NRROD project.

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Deleted: Living or Continuing Care Retirement Community

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Deleted: Assisted Living or Continuing Care Residential Community

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4772A. Prohibited uses. Any use(s) not expressly allowed either under Subsection 4771A or within the underlying zoning district(s) shall be prohibited unless the Building Inspector determines that such use is substantially similar in both its characteristics and its impact on abutting properties to a use listed as permitted as of right under Subsection 4771A or within the underlying zoning district(s).

4780A Dimensional standards and requirements.

No NRROD project shall be approved, and no principal or accessory building or structure shall be erected, in an NRROD project unless said NRROD project and the buildings and structures proposed therein conform to the following requirements, calculated in accordance with Subsection 4763A:

- a. Maximum building height:
 - i. Three stories; 45 feet (or 50 feet, in the case of pitched roofs)
 - ii. Four stories; 60 feet if set back more than 500 feet from Route 117
- b. Maximum building coverage: 35% of the NRROD project area as a whole
- c. Minimum NRROD project area: 150,000 square feet
- d. Minimum front yard setback: 100 feet
- e. Minimum side yard setback: 20 feet (see Subsection 4783A)
- f. Minimum rear yard setback: 30 feet
- g. The NRROD shall comply with the parking standards of Section 3100, provided that the Planning Board shall have the discretion to vary such standards if it determines that alternative conditions, including an enforceable transportation management plan, warrant such variance. Where the Planning Board approves a reduction in parking requirements, it may condition such reduction upon the designation and preparation of a reserve parking area(s) in the event additional parking is needed in the future.

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4781A. Subdivision. The owner of any lot shown on an approved master development plan shall be entitled to lawfully divide such lot, including, without limitation, by virtue of plans endorsed by the Planning Board pursuant to MGL c. 41, § 81P, without modifying the approved master development plan and without the need for other approvals under Section 4700A, provided that any such lot must have minimum frontage of 150 feet at the street line and a minimum lot area of two acres. Condominium forms of ownership are allowed in any NRROD project.

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4782A. Two or more buildings on one lot. Notwithstanding anything to the contrary in this Zoning Bylaw, more than one building or structure, including those intended solely for use as residential dwellings, shall be permitted on any lot within the NRROD.

4783A. Screening and landscaping. Screening and landscaping, both internal and perimeter, for the NRROD project shall be substantially as shown on an approved master development plan, rather than by reference to Section 3500 of the Zoning Bylaw.

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4700B

Melone Smart Growth Overlay District

[Added 5-6-2019 ATM by Art. 28]

A Purpose.

The purpose of this Section 4700B is to establish the Melone Smart Growth Overlay District (SGOD), to encourage smart growth in accordance with the purposes of MGL c. 40R and to support development that meets the following objectives:

1. To provide for higher-density residential development in an area that is well suited for multifamily housing.
2. To provide for more types of housing choices in Sudbury, including affordable housing and multifamily units that meet community housing needs in a manner that advances the goals of the Sudbury Housing Production Plan.
3. To ensure high-quality planning, architecture and landscape design that enhances the distinct visual character and identity of Sudbury.
4. To promote best practices in planning, sustainability, and improved transportation infrastructure.
5. To the extent not in conflict with the purposes of MGL c. 40S and provisions for as-of-right development under the governing laws, generate positive tax and other revenues while providing opportunities for new workforce housing to meet regional needs.

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B Definitions.

As used in this Section 4700B, the following terms shall have the meanings set forth below, provided that, to the extent that any material conflict should arise between the definitions applicable to the same or similar terms that are directly or indirectly set forth in Subsection **B** below or elsewhere in Section 4700B and the corresponding terms in the governing laws, the terms of the governing laws shall govern unless DHCD has, and separately and expressly exercises, the authority to determine otherwise.

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ACCESSORY USE

A use subordinate to a principal use in the district and serving a purpose customarily incidental to the principal use, and which does not, in effect, constitute conversion of the principal use of the development lot, site or structure to a use not otherwise permitted in the district.

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AFFORDABLE HOMEOWNERSHIP UNIT

A dwelling unit required to be sold to an eligible household in accordance with the requirements of Subsection **F** of this section.

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AFFORDABLE HOUSING RESTRICTION

A deed restriction of one or more affordable units, in perpetuity or the maximum period allowed by law, meeting statutory requirements in MGL c. 184, § 3, and the requirements of Subsection **F** of this section.

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AFFORDABLE RENTAL UNIT

A dwelling unit required to be rented to an eligible household in accordance with the requirements of Subsection **F** of this section.

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Deleted: Affordable Homeownership Unit

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AFFORDABLE UNIT

An affordable rental unit or an affordable homeownership unit that is affordable to and occupied by an eligible household and is approved by the Department of Housing and Community Development for inclusion in the Town of Sudbury's Chapter 40B Subsidized Housing Inventory.

APPLICANT

The individual or entity that submits a project for plan approval.

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APPLICATION

A petition for plan approval filed with the approving authority by an applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to Subsection I, Plan approval.

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APPROVING AUTHORITY or PLAN APPROVAL AUTHORITY (PAA)

The Planning Board of the Town of Sudbury acting as the authority designated to review projects and issue approvals under this Section 4700B.

AS-OF-RIGHT DEVELOPMENT

A development project allowable under this section without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A development project that is subject to the plan review requirement of this section shall be considered an as-of-right development.

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DEPARTMENT or DHCD

The Massachusetts Department of Housing and Community Development or any successor agency.

DESIGN AND PERFORMANCE STANDARDS or DESIGN STANDARDS

Provisions of Subsection M of this section made applicable to projects within the district that are subject to the plan approval process, provided they comply with the limitations for design standards in the governing laws.

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DEVELOPMENT PROJECT

A development comprising any permitted uses provided for hereunder undertaken under this section. A development project shall be identified on a plan which is submitted to the approving authority for plan review.

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DISTRICT

The Melone Smart Growth Overlay District, adopted pursuant to MGL c. 40R in accordance with the procedures for zoning adoption and amendment under MGL c. 40A and approved by the Department of Housing and Community Development under MGL c. 40R and 760 CMR 59.00.

DWELLING UNIT

A room, group of rooms, or dwelling forming a habitable unit for living, sleeping, food storage and/or preparation and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit. The term shall not include a hotel, motel, bed-and-breakfast, rooming house, hospital, or other accommodation used for transient lodging.

ELIGIBLE HOUSEHOLD

An individual or household whose annual income is at or below 80% of the area median income as determined by the United States Department of Housing and Urban Development ("HUD"), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

GOVERNING LAWS

MGL Chapter 40R and 760 CMR 59.00.

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MONITORING AGENT

The entity designated to monitor and enforce the affordable housing restriction.

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MULTIFAMILY DWELLING UNITS

A residential building containing four or more dwelling units.

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PAA REGULATIONS

The rules and regulations of the PAA adopted pursuant to Subsection **I** of this Section 4700B.

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PLAN APPROVAL

The approving authority's authorization for a proposed development project based on a finding of compliance with this section of the bylaw and design and performance standards after the conduct of plan review.

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PROJECT or DEVELOPMENT PROJECT

A development comprising any permitted uses provided for under this Section 4700B. A project shall be identified on a plan which is submitted to the approving authority for plan review.

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UNDERLYING ZONING

The zoning requirements adopted pursuant to MGL 40A that otherwise apply to the geographic area in which the district is located.

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UNDULY RESTRICT

A provision of the district or a design standard adopted pursuant to MGL c. 40R and 760 CMR 59.00 that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed development project in the district.

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UNRESTRICTED UNIT

A dwelling unit that is not restricted as to rent, price, or eligibility of occupants.

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ZONING BYLAW or BYLAW

The Zoning Bylaw of the Town of Sudbury.

C Establishment and delineation of district.

The district is an overlay district having a land area of approximately 5.95 acres in size that is superimposed over the underlying zoning district. The boundaries of the district are shown on a map entitled "Melone Smart Growth Overlay District," dated November 13, 2018, on file with the Town Clerk; said map hereby made a part of the Zoning Bylaw and adopted as an amendment to the Sudbury Zoning Map.

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D Authority and applicability.

1. The district is established pursuant to the authority of MGL c. 40R and 760 CMR 59.00. The district is superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those projects undergoing development pursuant to this Section 4700B. At the option of the applicant, development of land within the district may be undertaken by means of plan approval under this Section 4700B or by complying with all applicable underlying zoning controls in the Zoning Bylaw. Notwithstanding anything to the contrary in the bylaw, development projects proceeding under this Section 4700B shall be governed solely by the provisions of this Section 4700B, and the standards and/or procedures of the underlying zoning shall not apply. Development projects proposed pursuant to this Section 4700B shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

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2. The provisions of this Section 4700B shall be administered by the Building Inspector, except as otherwise provided herein. Any legal appeal arising out of a plan approval decision by the PAA under Sections **9** through **13** shall be governed by the applicable provisions of MGL c. 40R. Any other request for enforcement or appeal arising under this Section 4700B shall be governed by the applicable provisions of MGL c. 40A.

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E Permitted uses.

The following principal uses, either alone or in any combination thereof, shall be permitted upon plan approval pursuant to the provisions of this Section 4700B. All uses not expressly allowed are prohibited.

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1. Multifamily residential use(s);
2. Parking accessory to any permitted uses, including surface, garage-under, and structured parking (e.g., parking garages);
3. Commercial uses accessory to the multifamily residential use(s) that in aggregate do not exceed 10% of the gross floor area of a project, including
 - a. Business or professional office with fewer than five employees;
 - b. Child-care facility;
 - c. Personal service establishment, under 1,000 square feet;
 - d. Restaurant, under 1,000 square feet;
 - e. Retail stores and services not elsewhere set forth, under 1,000 square feet.
4. Other accessory uses customarily incidental to any of the above permitted uses.

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F Housing and housing affordability.

1. Number of affordable units. At least 25% of all dwelling units constructed in a development project and the district shall be maintained as affordable units.
2. Fractional units. When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.
3. Affordable units shall comply with the following requirements:
 - a. The monthly rent payment for an affordable rental unit, including applicable utility allowances, shall not exceed 30% of the maximum monthly income permissible for an eligible household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits as approved by DHCD shall apply;
 - b. For an affordable homeownership unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking (to the extent such parking is more generally included in the housing cost for the unrestricted units), shall not exceed 30% of the maximum monthly income permissible for an eligible household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits as approved by DHCD shall apply; and
 - c. Affordable units required to be offered for rent or sale shall be rented or sold to and occupied only by eligible households.
4. Design and construction.
 - a. Design. As approved by DHCD, affordable units must be equitably integrated and proportionately dispersed throughout a development project, across all residential buildings, floors and distinct unit types in accordance with the affordable housing restriction and marketing and tenant selection plan. Affordable units must be comparable in initial construction quality and exterior design to the

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- unrestricted units. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the affordable units must be equal to or greater than the bedroom-per-unit average for the unrestricted units.
- b. Timing. All affordable units must be constructed and occupied not later than concurrently with construction and occupancy of unrestricted units and, for development projects that are constructed in phases, affordable units must be constructed and occupied in proportion to the number of units in each phase of the development project.
5. Affordable housing restriction. Each affordable unit shall be subject to an affordable housing restriction which is recorded with the Middlesex South Registry of Deeds. The affordable housing restriction shall meet the requirements of and provide for implementation of this Section 4700B and shall be approved by DHCD with regard to conformance with MGL c. 40R and 760 CMR 59.00. Each such restriction shall contain all of the following:
- a. Description of the development project, including whether the affordable unit will be rented or owner-occupied.
- b. A description of the affordable homeownership unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of affordable rental units in a development project containing dwelling units or portion of a development project containing dwelling units which are rental. Such restriction shall apply individually to the specifically identified affordable homeownership unit and shall apply to a percentage of rental units of a rental development project containing dwelling units or the rental portion of a development project containing dwelling units with the initially designated affordable rental units identified in, and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines.
- c. The term of the affordable housing restriction shall be the in perpetuity or the maximum period allowed by law.
- d. The name and address of a monitoring agent with a designation of its power to monitor and enforce the affordable housing restriction.
- e. Reference to an affirmative fair housing marketing and resident selection plan, to which the affordable unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be consistent with DHCD guidance and approved by the Town and DHCD. Consistent with DHCD guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable, and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD.
- f. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of eligible households compiled in accordance with the housing marketing and selection plan;
- g. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;
- h. A requirement that only an eligible household may reside in an affordable unit and that notice of any lease or sublease of any affordable unit to another eligible household shall be given to the monitoring agent;

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- i. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the monitoring agent;
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- j. Provision that the restriction on an affordable homeownership unit shall run in favor of the Town of Sudbury, in a form approved by Town Counsel, and shall limit initial sale and resale to and occupancy by an eligible household;
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- k. Provision that the restriction on affordable rental units in a rental project or rental portion of a development project containing dwelling units shall run with the rental development project containing dwelling units or rental portion of a development project containing dwelling units and shall run in favor of the Town of Sudbury, in a form approved by municipal counsel, and shall limit rental and occupancy to an eligible household;
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- l. Provision that the owner(s) or manager(s) of affordable rental unit(s) shall file an annual report to the monitoring agent, in a form specified by such agent, certifying compliance with the provisions of this bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
 - Deleted: Affordable Rental Unit
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- m. A requirement that residents in affordable units provide such information as the monitoring agent may reasonably request in order to ensure affordability; and
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- n. Designation of the priority of the affordable housing restriction over other mortgages and restrictions.
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- 6. Administration.
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- a. Monitoring agent. A monitoring agent shall be designated by the Town Manager. The monitoring agent shall ensure the following:
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- i. Prices of affordable homeownership units are properly computed; rental amounts of affordable rental units are properly computed;
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- ii. Income eligibility of households applying for and living in affordable units is properly and reliably determined, and that tenants of affordable rental units continue to be eligible, and that annual income recertification is completed, with results sent to the Town and DHCD;
 - Deleted: Affordable Units
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- iii. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
- iv. Sales and rentals are made to eligible households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
 - Deleted: Eligible Households
- v. Affordable housing restrictions meeting the requirements of this section are recorded with the Middlesex South Registry of Deeds.
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- b. Housing marketing and selection plan. The housing marketing and selection plan may make provision for payment by the applicant of reasonable costs to the monitoring agent to develop, advertise, and maintain the list of eligible households and to monitor and enforce compliance with affordability requirements.
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- c. Age restrictions. Age-restricted projects restricting occupancy to households with one or more older adults cannot be imposed upon the applicant and are further prohibited within the Melone SGOD without the express written approval of DHCD.
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- d. Failure of the monitoring agent. In the case where the monitoring agent cannot adequately carry out its
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administrative duties, upon certification of this fact by the Select Board, or by DHCD, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Select Board, or, in the absence of such designation, by an entity designated by DHCD.

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G Dimensional and other requirements.

1. Buildings and development lots within the district shall be subject to the dimensional and other requirements set forth in this Subsection **G**.
2. Density. Notwithstanding the limit on maximum residential Development in Subsection G6, below, multifamily dwelling units shall be permitted as-of-right at a density of at least 20 dwelling units per acre of developable land.
3. Minimum area and setbacks. There shall be no minimum development lot area or setback requirements within the district except for the district buffer described herein.
4. Height: three stories; 45 feet (or 50 feet, in the case of pitched roofs), provided that the Planning Board may approve a building height of up to four stories or 60 feet where it determines, based upon topography and the provision of adequate visual buffers, the visual impact from any adjacent public way is adequately minimized by the applicant.
5. Number of buildings on a development lot. In the district, more than one principal building may be erected on a development lot.
6. Maximum residential development. To the extent consistent with the governing laws, the aggregate number of dwelling units that may be permitted within the district pursuant to this Section 4700B shall be 101.
7. Structured parking. Structured parking allowable pursuant to Subsection **E** shall be governed by this Section 4700B and by design and performance standards as adopted pursuant to Subsection **M**.

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H Parking requirements.

1. Parking shall be provided within the district in order to meet the following minimum parking space requirements, subject to the provisions of this Subsection **H**.

Multifamily <u>Residential</u>	<u>Number of Parking Spaces</u>
1-bedroom units	1 per unit
2-bedroom units	2 per unit
3+-bedroom units	2 per unit

When application of the requirements set forth above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number. The maximum number of parking spaces provided in a development project shall not exceed an average of 1.75 per unit.

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2. Modification in parking requirements. Notwithstanding anything to the contrary herein, any minimum required or maximum permitted amount of parking may be modified by the approving authority through the plan approval process, if the applicant can demonstrate that the modified amount of parking will not cause excessive congestion, endanger public safety, or that a modified amount of parking will provide positive environmental or other benefits, taking into consideration:
 - a. The availability of public or commercial parking facilities in the vicinity of the use being served;

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- b. Shared use of parking spaces serving other uses having peak user demands at different times;
- c. Age or other occupancy restrictions which are likely to resulting a lower level of auto usage;
- d. Such other factors, including the availability of valet parking, shuttle service, or a transportation management plan as may be considered by the approving authority. Where such reduction is authorized, the approving authority may impose conditions of use or occupancy appropriate to such reductions;
- e. Parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act.

I Plan approval.

The approving authority shall adopt and file with the Town Clerk administrative rules (PAA regulations) for plan approval application submission requirements. Such administrative rules and any amendment thereto must be approved by DHCD before they become effective and applicable to plan approval applications. The plan approval process encompasses the following:

1. Preapplication review. The applicant is encouraged to participate in a preapplication review at a regular meeting of the approving authority. The purpose of the preapplication review is to minimize the applicant's cost of engineering and other technical experts, and to obtain the advice and direction of the approving authority prior to filing the application. At the preapplication review, the applicant shall outline the proposal and seek preliminary feedback from the approving authority, other municipal review entities, and members of the public. The applicant is also encouraged to request a site visit by the approving authority and/or its designee in order to facilitate preapplication review.
2. Application procedures:
 - a. The applicant shall file an original of the application with the Town Clerk for certification of the date and time of filing. Said filing shall include any required forms provided by the approving authority. A copy of the application, including the date and time of filing certified by the Town Clerk, as well as the required number of copies of the application, shall be filed forthwith by the applicant with the approving authority and Building Inspector. As part of any application for plan approval for a development project, the applicant must submit the following documents to the approving authority and, as applicable, the monitoring Agent:
 - i. Evidence that the development project complies with the cost and eligibility requirements of Subsection F;
 - ii. Development project plans that demonstrate compliance with the design and construction standards of Subsection F; and
 - iii. A form of affordable housing restriction that satisfies the requirements of Subsection F.

These documents in combination, to be submitted with an application for plan approval, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and older adults.

- b. Upon receipt by the approving authority, applications shall be distributed to the Building Inspector, Fire Chief, Police Chief, Health Department, Conservation Commission, the Town Manager, the Select Board, and the Department of Public Works. Any reports from these parties shall be submitted to the approving authority within 30 days of filing of the application; and
- c. Within 30 days of filing of an application with the approving authority, the approving authority or its

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designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report, in writing, to the applicant, certifying the completeness of the application. The approving authority or its designee shall forward to the applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.

3. Public hearing. The approving authority shall hold a public hearing for which notice has been given as provided in MGL c. 40A, § 11, and review all applications in accordance with MGL Ch. 40R, § 11, and 760 CMR 59.00.

4. Plan approval decision.

a. The approving authority shall make a decision on the plan approval application, and shall file said decision with the Town Clerk, within 120 days of the date the application was received by the Town Clerk. The time limit for public hearings and taking of action by the approving authority may be extended by written agreement between the applicant and the approving authority. A copy of such agreement shall be filed with the Town Clerk;

b. Failure of the approving authority to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application;

c. An applicant who seeks approval because of the approving authority's failure to act on an application within 120 days or extended time, if applicable, must notify the Town Clerk, in writing, of such approval within 14 days of the expiration of said time limit for a decision, and that a copy of that notice has been sent by the applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to MGL c. 40R and shall be filed within 20 days of the date the Town Clerk received such written notice from the applicant that the approving authority failed to act within the time prescribed;

d. The approving authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the application for plan approval. The written decision shall contain the name and address of the applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. The written decision shall certify that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the approving authority;

e. The decision of the approving authority, together with detailed reasons for it, shall be filed with the Town Clerk, the Planning Board, and the Building Inspector. A certified copy of the decision shall be mailed to the owner and to the applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing.

5. Effective date. If 20 days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the approving authority to timely act, the Town Clerk shall make such certification on a copy of the notice of application. A copy of the decision or notice of application shall be recorded with the title of the land in question in the Middlesex South Registry of Deeds, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question or the applicant.

6. Criteria for approval. The approving authority shall approve the development project upon the following findings:

a. The applicant has submitted the required fees and information as set forth in applicable regulations; and

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- b. The proposed development project as described in the application meets all of the requirements and standards set forth in this Section 4700B and applicable design and performance standards.
- i. For a development project subject to the affordability requirements of Subsection **F**, compliance with Subsection I6b above shall include written confirmation by the monitoring agent that all requirements of that subsection have been satisfied. Prior to the granting of plan approval for a project, the applicant must demonstrate, to the satisfaction of the monitoring agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Sudbury.
- 7. Criteria for conditional approval. The approving authority may impose conditions on a development project as necessary to ensure compliance with the district requirements of this Section 4700B and applicable design and performance standards, or to mitigate any extraordinary adverse impacts of the development project on nearby properties, insofar as such conditions are compliant with the provisions of MGL Ch. 40R and applicable regulations and do not unduly restrict opportunities for development.
- 8. Criteria for denial. The approving authority may deny an application for plan approval pursuant to this Section 4700B of the bylaw only if the approving authority finds one or more of the following:
 - a. The development project does not meet the requirements and standards set forth in this Section 4700B and applicable design and performance standards, or that a requested waiver therefrom has not been granted; or
 - b. The applicant failed to submit information and fees required by this Section 4700B and necessary for an adequate and timely review of the design of the development project or potential development project impacts.
- 9. Time limit. A project approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multiphase development project.
- 10. Appeals. Pursuant to MGL c. 40R, § 11, any person aggrieved by a decision of the approving authority may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within 20 days after the plan approval decision has been filed in the office of the Town Clerk.

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J Waivers.

With the exception of any provision other than Subsection F1 (which must nevertheless be at least 20%) contained in Subsection **F** or Subsection I2a or otherwise in conflict with the governing laws, the approving authority may waive dimensional and other requirements of this Section 4700B, including the design standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the district, or if it finds that such waiver will allow the project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section 4700B.

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K Project phasing.

The approving authority, as a condition of any plan approval, may allow a development project to be constructed in one or more phases for the purpose of coordinating its development with the construction of planned infrastructure (as that term is defined under 760 CMR 59.00), or that are required to mitigate any extraordinary adverse project impacts on neighboring properties.

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L Change in plans after approval by approving authority.

1. Minor change. After plan approval, an applicant may apply to make minor changes in a development project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the approving authority on red-lined prints of the approved plan, reflecting the proposed change, and on application forms provided by the approving authority. The approving authority may authorize such changes at any regularly scheduled meeting without the need to hold a public hearing. The approving authority shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.
2. Major change. Those changes deemed by the approving authority to constitute a major change in a development project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the approving authority as a new application for plan approval pursuant to this Section 4700B.

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M Design and performance standards.

1. The plan approval authority may adopt, by simple majority vote, design standards which shall apply to development projects subject to plan approval by the plan approval authority. Such design standards shall not extend beyond the scope of the elements explicitly permitted under 760 CMR 59.04(1)(f). Design standards shall be limited to the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties.
2. Purpose. The design standards are adopted to ensure that the physical character of projects within the SGOD:
 - a) Will be complementary to nearby buildings and structures;
 - b) Will be consistent with the master plan for the Melone property or any other plan document adopted by the Town; and
 - c) Will provide for high-density, quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town or in the region of the Town.
3. DHCD approval. After adopting design standards, the approval authority shall submit design standards to DHCD for approval. Design standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting proposed design standards for DHCD approval, the approval authority shall also submit sufficient documentation clearly showing that the proposed design standards will not add unreasonable costs to development projects or unreasonably impair the economic feasibility of a development project. A letter from a developer, property owner, or other interested party indicating that the design standards will not add unreasonable costs or unreasonably impair the economic feasibility of a development project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove design standards if it finds that the approval authority has not adopted objective design standards or has not submitted such documentation.
4. Plan approval. An application for plan approval that has been submitted to the Town Clerk pursuant to this Section 4700B shall not be subject to design standards that have not been approved by DHCD and filed with the Town Clerk.

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N Fair housing requirement.

All development projects within the district shall comply with applicable federal, state and local fair housing laws.

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O Annual update.

On or before July 31 of each year, the Select Board shall file an annual update with information provided by the property owner to DHCD in a form to be prescribed by DHCD. The annual update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to MGL c. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all updates transmitted to DHCD pursuant to this bylaw, with said copies to be made available upon request for public review.

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P Notification of issuance of building permits.

Upon issuance of a residential building permit within the district, the Building Inspector of the Town of Sudbury shall cause to be filed an application to the DHCD, in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to MGL 40R. The application shall contain all information required in 760 CMR 59.00 and additional information as may be required pursuant to MGL c. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all such applications transmitted to DHCD pursuant to this bylaw, with said copies to be made available upon request for public review.

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Q When effective.

The effective date of this bylaw shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of MGL c. 40A, § 5, and MGL c. 40R; provided, however, that an applicant may not proceed with construction pursuant to this bylaw prior to the receipt of final approval of this bylaw and accompanying Zoning Map by both the DHCD and the Office of the Massachusetts Attorney General.

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R Severability.

If any provision of this Section 4700B is found to be invalid by a court of competent jurisdiction, the remainder of Section 4700B shall not be affected but shall remain in full force. The invalidity of any provision of this Section 4700B shall not affect the validity of the remainder of the Sudbury Zoning Bylaw.

4800

Solar Energy Systems

[Amended 9-12-2020 ATM by Art. 37]

4810 Purpose.

This section is intended to define the parameters for the installation of new solar energy systems by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such systems that address public safety and minimize undesirable impacts on residential property and neighborhoods, as well as scenic, natural, and historic resources.

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4820 Applicability.

No solar energy system shall be erected or installed except in compliance with the provisions of this section and other applicable sections of the Zoning Bylaw, as well as state and federal law. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment throughout the useful life of the system or where alterations may impact abutters.

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4830 Roof-mounted installations.

4831. Solar energy systems installed on roofs of buildings or structures shall conform to the following provisions:

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- a. Roof-mounted solar energy systems of any size on single- and two-family dwellings are permitted as of right and are not subject to site plan review under Section 6300.
- b. Roof-mounted solar energy systems of any size on multifamily dwellings and all nonresidential buildings are permitted as of right, but shall require site plan review under Section 6300 prior to being erected.
- c. Roof-mounted solar energy systems which require site plan review may, at the discretion of the Planning Board, obtain minor site plan approval under Section 6370.
- d. Roof-mounted solar energy systems shall only be constructed within the footprint of the building upon which they are installed.

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4840 Ground-mounted installations.

4841. Ground-Mounted Solar Energy Systems shall conform to the following provisions.

- a. Ground-mounted solar energy systems shall require site plan review under Section 6300 prior to being erected. Systems which also require a special permit from the Zoning Board of Appeals shall require site plan review prior to submitting an application for a special permit.
- b. Ground-mounted solar energy systems may, at the discretion of the Planning Board, obtain minor site plan approval under Section 6370. Systems proposed to be located over parking or other vehicular areas, in lieu of naturally vegetated land, are strongly encouraged to seek this form of site plan review.
- c. All setback, yard, buffer, and screening requirements applicable in the zoning district in which the ground-mounted solar energy system, and all related structures, buildings, and equipment, are located shall apply, except for power feed and distribution lines.
- d. Ground-mounted solar energy systems proposed to be located in the area between a property's lot frontage and an existing or proposed building shall require a special permit from the Zoning Board of Appeals.
- e. All security fences surrounding a ground-mounted solar energy system shall be set back from property lines a distance equal to the setback requirement applicable to buildings within the zoning district in which the system is located.
- f. The visual impact of a ground-mounted solar energy system, including all accessory structures, buildings, equipment, and appurtenances, shall be mitigated. All accessory structures, buildings, equipment, and appurtenances shall be architecturally compatible with each other. Whenever reasonable, structures shall be shielded from view by vegetation and/or joined and clustered to avoid adverse visual impacts. Methods such as the use of landscaping, natural features, and fencing shall be utilized.
- g. Wherever possible, all utility connections, conduits, cables, power lines, transformers, and inverters shall be placed underground unless specifically permitted otherwise by the Planning Board or required by the State Building Code. Electrical transformers and inverters to enable utility interconnections may be above ground if required by the utility provider.
- h. The clearing of existing vegetation on the subject property shall be limited to what is necessary as deemed by the Planning Board for the construction, operation, and maintenance of a ground-mounted solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws.
- i. The entire square footage for the arrays of a Ground-Mounted Solar Energy System shall count toward the area of disturbance and impervious area square footage calculations.

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j. Ground-mounted solar energy system owners or operators shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. The owner or operator shall provide an emergency response plan. The emergency response plan is subject to the approval of the Fire Department and Police Department and shall include, at a minimum, explicit instructions on all means of shutting down the solar energy system, which shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

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k. Applicants for large-scale ground-mounted solar energy systems shall provide a form of surety (decommissioning security), either through escrow account, bond, letter of credit, or other mechanism acceptable to the Planning Board, to cover the cost of removal of all solar energy system facilities in the event the Town must remove the facilities and restore the property, to the extent feasible, to its original condition. The decommissioning security shall be in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 150% of the estimated cost of removal and compliance with the additional requirements set forth herein. Applicants shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, which estimate may be peer reviewed by a consultant selected by the Planning Board at the applicant's expense. The amount shall include a mechanism for calculating increased removal costs due to inflation over a period of 30 years. The decommissioning security shall be provided at completion of construction of the solar energy system (bonding date) and will be required before any electricity generated by the solar energy system is exported to the local electrical grid for sale to third parties. From and after the bonding date, the amount of decommissioning security may be reviewed at the Planning Board's direction every five years. In the event such review indicates the net decommissioning costs have increased since the bonding date, then the amount of the decommissioning security will be increased consistent with such revised estimate. The revised estimate will be obtained from a reputable, independent contractor selected by the owner of the solar energy system and may be peer reviewed by a consultant chosen by the Planning Board at the owner's expense.

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4850 Use regulations for all solar energy systems.

a. Lighting shall not be permitted unless required by the special permit/site plan granting authority or State Building Code. Where used, lighting shall be directed downward and full cut-off fixtures (dark-sky compliant) shall be used.

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b. The solar energy system shall not create a nuisance, which is discernible from other properties by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness, or other nuisance as determined by the special permit/site plan granting authority.

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c. The solar energy system owner or operator shall maintain the system in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, continued compliance with landscaping and screening requirements, and integrity of security measures. The owner or operator shall be responsible for the maintenance of any access roads serving the system to a level acceptable to the local Fire Chief, Police Chief, Emergency Medical Services, and Building Inspector. Any required site plan approval and/or special permit may require surety to secure such ongoing maintenance.

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4860 Discontinuance.

A solar energy system shall be deemed to have been discontinued if it has not been in service for a continuous twelve-month period without the written consent of the Planning Board. Upon receipt of a notice of discontinuance from the Building Inspector, the owner shall have the right to respond to the notice within 30 days of receipt. The Building Inspector shall withdraw the Notice of discontinuance and notify the owner the notice has been withdrawn if the owner provides information that demonstrates to the satisfaction of the Building Inspector the solar energy system has not been discontinued. If the solar energy system is determined to be discontinued, the owner shall remove the system, including all structures, buildings, equipment, appurtenances, security barriers, and transmission lines, and stabilize or revegetate the site as necessary to minimize erosion and sedimentation, at the owner's sole expense, within six months of receipt of

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the notice of discontinuance. Should the owner of the solar energy system fail to remove the system and stabilize the site within said time period, the Town shall then have the option to enforce against the decommissioning security and/or may subject the owner to action pursuant to Section 1340, Violations and penalties.

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4870 Administration.

a. Where a special permit is required from the Zoning Board of Appeals to erect or install a ground-mounted solar energy system, the record owner desiring to erect or install the solar energy system shall file with the Zoning Board of Appeals an application for a special permit, together with such plans, drawings, specifications, fees, and additional information as required by the Zoning Board of Appeals.

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b. The Zoning Board of Appeals shall have the authority to waive specific provisions of this section upon a determination the waiver is not inconsistent with the purpose and intent of this section.

c. The Zoning Board of Appeals shall conduct its review, hold a public hearing, and file its decision with the Town Clerk as required by MGL c. 40A, § 9.9.

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d. Approval criteria. Before the Zoning Board of Appeals may issue a special permit, it shall determine each of the following:

i. The ground-mounted solar energy system conforms to the provisions of this section.

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ii. The ground-mounted solar energy system will not be detrimental to the neighborhood or the Town.

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iii. Environmental features of the site and surrounding areas are protected, and the surrounding area will be protected from the proposed use by provision of adequate surface water drainage.

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iv. The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.

v. The ground-mounted solar energy system meets the special permit criteria of Section 6220.

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e. Any special permit shall be subject to such conditions and safeguards as the Zoning Board of Appeals may prescribe.

f. In reviewing any application for a special permit, the Zoning Board of Appeals shall give due consideration to promoting the public health, safety, convenience, and welfare; shall encourage the most appropriate use of land; and shall permit no building or use that is detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, or other visual nuisances.

4880 Severability.

If any provision of this Section 4800 is declared invalid or unenforceable, the other provisions shall not be affected thereby.

ARTICLE 5000 Alternative Residential Regulations

5100 Cluster Development

5110 Purpose.

The purpose of cluster development is to maintain land use density limitations while encouraging the preservation of common land for conservation, agriculture, open space, and recreational use; to preserve historical or archeological resources; to protect existing or potential municipal water supplies; to protect the

Deleted: Cluster Development

value of real property; to promote more suitable siting of buildings and better overall site planning; to promote better utilization of land in harmony with neighboring parcels, with its natural features and with the general intent of the Zoning Bylaw through a greater flexibility in design; and to allow more efficient provision of municipal services.

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5120 Applicability.

The Planning Board may grant a special permit for a cluster development in Single Residence "A," Single Residence "C" and the Wayside Inn Historic Preservation Residential Zone Districts for single-family detached dwellings and accessory structures, subject to the provisions of this Section 5100.

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5130 Standards.

The following standards shall apply to all cluster developments:

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

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

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

Deleted: Cluster Developments

District	A-RES	C-RES	WI
Minimum lot area	20,000 square feet	30,000 square feet	2 acres
Minimum frontage	50 feet	50 feet	50 feet
Average frontage (feet)	90	105	105
Minimum front yard setback (feet)	35	35	50
Minimum side yard setback (feet)	20	20	30
Minimum rear yard setback (feet)	30	30	30
Minimum lot width (feet)	50	50	50

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(Lot perimeter ratio from Subsection 2641 shall not apply)

District	A-RES	C-RES	WI
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1 In instances where a tract overlaps Residence Zones "A," "C" or the Wayside Inn Historic Preservation Zone, the size and number of allowable lots shall be determined independently within each zone as follows: The minimum lot size in the cluster development shall be determined by multiplying the number of lots in Residence Zone "A" by 20,000 square feet, in Residence Zone "C" by 30,000 square feet and in the Wayside Inn Historic Preservation Zone by 2 acres, adding the areas and dividing by the total number of lots. The minimum area of any cluster development building lot which includes a special water resource area as defined in this paragraph shall be equal to that which would otherwise be allowed in the district in which it is located. For purposes of this section, "special water resource area" shall include any area constituting a protected resource under MGL c. 131, § 40, and the Town of Sudbury.

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Wetlands Bylaw excluding the 100-foot buffer contained in the law, regulations promulgated under the law, or the Town bylaw and any area used for or suitable for development of a municipal water supply. An area shall be considered suitable for development of municipal water supply if the Planning Board finds, after reviewing the documentation provided under Section 5150 of this section and after consulting with the Sudbury Water District, that the hydrogeology of the area compared favorably with that of one or more other areas used successfully for municipal water supply in Sudbury.

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

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

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

Deleted: Special Permit

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

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

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

5140 Common land.

Not less than 35% of the land area of the tract, exclusive of land set aside for road area, shall remain unsubdivided and shall be dedicated as common open land. The common open land shall contain, as a minimum and exclusive of land set aside for road area, 17.5% of the upland area of the parcel being subdivided. "Uplands" shall be defined as those portions of the parcel not defined as wetlands under MGL c.

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131, § 40, and Chapter 283, the Sudbury Wetlands Administration Bylaw, excluding buffer area. Ledge outcroppings, slopes in excess of 15% grade and floodplain shall not be included in the common open land for purposes of calculating the 17.5% minimum upland requirement.

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5141. The common land shall be used for open space, conservation, agriculture, outdoor recreation or park purposes and shall be maintained and groomed by the owner in a manner appropriate for such use and in accordance with the purpose of this bylaw. The common land shall be in one or more parcels of a size, shape and location appropriate for its intended use as determined by the Planning Board. The common land shall be selected in order to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The common land shall be left in an undisturbed, natural state. The common land shall remain unbuilt upon, except that a maximum of 5% of such land may be devoted to paved areas or structures accessory to active outdoor recreation and consistent with the open space use of the land. Such structures or paved areas may not be constructed on floodplain, wetland, slopes in excess of 10% grade, or ledge outcroppings. Provision shall be made so that the common land shall be readily accessible to all lots within the cluster development that do not abut the common land. Each parcel of common land shall be provided with at least one means of access at least 20 feet in width, leading from a public or private way. Such means of access shall be identified on the cluster development site plan submitted with the special permit application.

Deleted: "Cluster Development Site Plan"

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

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

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- a. A legal description of the common land;
- b. A statement of the purposes for which the common land is intended to be used and the restrictions on its use and alienation;
- c. The type and name of the corporation, trust or nonprofit organization which will own, manage and maintain the common land;
- d. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, the ownership or beneficial interest in the corporation, nonprofit organization or trust of each owner of a dwelling in the cluster development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom;
- e. Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and officers of the corporation or nonprofit organization or of trustees of the trust;

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- f. Procedures for the conduct of the affairs and business of the corporation, trust or nonprofit organization, including provisions for the calling and holding of meetings of members, directors and officers of the corporation or nonprofit organization or beneficiaries and trustees of the trust, and provisions for quorum and voting requirements for action to be taken. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, each owner of a dwelling shall have voting rights proportional to his ownership or beneficial interest in the corporation or trust;
- g. Provisions for the management, maintenance, operation, improvement and repair of the common land and facilities thereon, including provisions for obtaining and maintaining adequate insurance and, where applicable, levying and collecting from the dwelling owners common charges to pay for expenses associated with the common land, including real estate taxes. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the cluster development, it shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation or trust and that each dwelling owner's share of the common charges shall be a lien against his real estate in the cluster development which shall have priority over all other liens with the exception of municipal liens and first mortgages of record;
- h. The method by which such instrument or instruments may be amended.

5150 Application for special permit.

Any person who desires a special permit for a cluster development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

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

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

5153. Copies of all instruments to be recorded with the cluster development site plan, including the proposed common land deed and, if applicable, the trust document(s) or organizational articles of the corporation and perpetual restriction.

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5160 Reports from Town boards or agencies.

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

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

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5170 Planning Board action.

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

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

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

5173. Changes of cluster development plan. Any change in the number of lots, the layout of ways, any significant changes in the common open land, its ownership or use, or in any conditions stated in the original special permit shall require that a new special permit be issued in accordance with the provisions of this Section 5100.

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

5180 Rules, regulations and fees.

The Planning Board shall adopt, and from time to time amend, rules and regulations consistent with the provisions of this bylaw, MGL c. 40A and other applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules shall prescribe, as a minimum, the size, form, contents, style and number of copies of plans and specifications; the Town board or agencies from which the Planning Board shall request written reports; and the procedure for submissions and approval of a

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cluster development special permit. Nothing contained herein shall in any way exempt a proposed subdivision from compliance with other applicable provisions of these bylaws or the Subdivision Rules and Regulations of the Planning Board, nor shall it in any way affect the right of the Board of Health and of the Planning Board to approve, with or without conditions and modifications, or disapprove a subdivision plan in accordance with the provisions of such rules and regulations and of the Subdivision Control Law.

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5200

Flexible Development

5210 Purpose.

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

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5220 Applicability.

The Planning Board may grant a special permit for a flexible development in Single Residence "A," Single Residence "C," and the Wayside Inn Historic Preservation Residential Zoning Districts for the construction of single-family detached dwellings and accessory structures, subject to the provisions of this Section 5200.

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5230 Standards.

The following standards shall apply to all flexible developments:

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

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

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

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District	A-RES	C-RES	WI
Minimum lot area	30,000 square feet	40,000 square feet	2 acres
Minimum frontage	120 feet	120 feet	120 feet

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5234. Single dwelling per lot. No more than one single-family dwelling and its accessory structures and uses may be located on a lot created under this flexible development section.

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5235. Restriction against further development. No flexible development for which a special permit has been issued under this section may be further subdivided. A notation to that effect shall be made on the definitive plan prior to endorsement by the Planning Board and recording in the Registry of Deeds or the Land Court. In addition, a perpetual restriction, running with the land, and enforceable by the Town of Sudbury, shall be recorded with respect to the land within the flexible development. Such restriction shall provide that no lot in the flexible development may be further subdivided into additional building

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lots. Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the lots as the Planning Board may deem appropriate.

5236. All applications for flexible development shall require subdivision approval pursuant to MGL c. 41, and shall conform to the preliminary or definitive plan requirements and all design and construction standards in the Rules and Regulations Governing the Subdivision of Land, as may be amended.

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5240 Planning Board action.

A special permit for flexible development shall be granted only if the Planning Board determines the proposal better serves the bylaw purposes than would development under otherwise applicable requirements by the incorporation into the proposal of one or more of the following elements:

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

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

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

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

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

5250 Rules and regulations.

The Planning Board may adopt, and from time to time amend, rules and regulations consistent with the provisions of this bylaw, MGL c. 40A and other applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. In the absence of dedicated rules and regulations for flexible development, those Rules and Regulations Governing the Subdivision of Land shall suffice, where applicable.

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5300
Senior Residential Community

5310 Purpose.

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

Deleted: Senior Residential Community Special Permit

5320 Applicability.

The Planning Board, acting as special permit granting authority, may grant a special permit for construction of a senior residential community (SRC) and accessory structures, in the following districts: Single Residence "A," Single Residence "C," the Wayside Inn Historic Preservation, Limited Business, Village Business and Research Districts.

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5330 Standards.

The following standards shall apply to all senior residential communities:

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5331. Tract qualifications. At the time of granting a special permit by the Planning Board, the property under consideration for an SRC shall be located on one or more contiguous parcels, whether or not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres. [Amended 5-8-2012 ATM by Art. 22]

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5332. Age qualification. An SRC shall constitute housing intended for persons of age 55 or over within the meaning of MGL c. 151B, § 4, Subdivision 6, and 42 U.S.C. § 3607(b)(2)(C), and in accordance with the same, 100% of the dwelling units in a senior residential community shall each be owned and occupied by at least one person 55 years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in an SRC, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

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

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5334. Number of dwelling units permitted. The maximum number of dwelling units in an SRC shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations for which district the parcel is located within, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single-family home. In Village Business Districts and Research Districts, a minimum lot area of 40,000 square feet and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% which is underwater land or wetland resource as defined in MGL c. 131, § 40, or in Chapter 283, the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of five bedrooms shall be permitted. The number of bedrooms shall determine the number of units, pursuant to Subsection 5336 below, with the maximum number of bedrooms in any unit being less than or equal to three.

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

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5336. Building and dwelling unit requirements. The following requirements shall apply to all buildings and dwelling units in a senior residential community:

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

b. Dwelling units per building. No building shall contain more than four dwelling units.

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

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d. No dwelling unit in an SRC shall contain more than three bedrooms. No more than 25% of the total units in a SRC shall have fewer than two bedrooms. [Amended 5-7-2013 ATM by Art. 25]

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5337. Accessory buildings and structures. In an SRC, accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures, garages, and other customary accessory structures. Accessory buildings and structures shall be shown on the site plan.

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5338. Parking. Two parking spaces shall be provided for each dwelling unit (with the exception of one bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than 12 parking spaces, and all such areas shall be adequately landscaped.

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

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

5339B. Project maintenance. In every SRC, there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of internal roads and driveways, snowplowing, landscape maintenance, trash removal, utility services and maintenance and repair of other common elements and facilities serving the residents, and the Town of Sudbury shall not be responsible therefor.

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

5340 Open space.

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

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

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5350 Design criteria.

All buildings in an SRC shall be designed (a) to have compatibility of style, building materials and colors with those in Sudbury; (b) to afford variations of facade and rooflines, and interior layouts of dwelling units; (c) so as not to have any dwelling unit extend under or over another dwelling unit in the same building and (d) to comply with requirements of law with respect to housing intended for persons of age 55 and over. The Planning Board may utilize the skills of the Design Review Board or may appoint a committee to review the architectural details and styling of the buildings prior to approval of an SRC.

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

5360 Procedures.

The procedure for issuance of a special permit for a senior residential community shall be as follows:

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

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

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- c. An SRC site plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Natural Resources Conservation Service maps; resource areas as defined by MGL c. 131, § 40, and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to Chapter 283, the Sudbury Wetlands Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land, including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.
- d. A schedule of the stages or phases of development which the applicant proposes to construct the SRC, including dates.
- e. Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

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

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5362. Reports from Town Boards or agencies. The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Select Board, Board of Health, Conservation Commission, Engineering Department, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Department of Public Works, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the application shall be deemed a lack of opposition.

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5370 Planning Board action.

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

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

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

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

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5380 Enforcement.

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

5381. The penalty provisions of this Section 5300 may be imposed upon the applicant, his general

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agent, tenant(s), architect(s) contractor(s), or any and all persons having an interest in the development site, including a mechanics lien, mortgage or attachments.

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

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

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5390 Rules, regulations and fees.

The Planning Board shall adopt, and from time to time amend, rules and regulations consistent with the provisions of this Zoning Bylaw, MGL c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall, subject to and in accordance with provisions of this Section 5300, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of an SRC special permit. The Planning Board shall also specify the fees to be paid in connection with an application for special permit for an SRC, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction. Other specifications as deemed necessary by the Planning Board shall be included in the rules and regulations.

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Incentive Senior Development

5410 Purpose.

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

5420 Applicability.

The Planning Board, acting as special permit granting authority, may grant a special permit for construction of an incentive senior development and accessory structures, in the following zoning districts: Single Residence "A," Single Residence "C," Limited Business, Village Business and Research District.

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5430 Standards.

The following standards shall apply to all incentive senior developments:

5431. Tract qualification. At the time of granting a special permit by the Planning Board, the property under consideration for an incentive senior development shall be located on a contiguous parcel, not

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separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres. For parcels greater than 20 acres, parcels may be separated by a private or public way.

5432. Age qualification. An incentive senior development shall constitute housing intended for persons of age 55 or over within the meaning of MGL c. 151B, § 4, Subdivision 6, and 42 U.S.C. § 3607(b)(2)(C), and in accordance with the same, 100% of the dwelling units in an incentive senior development shall each be owned and occupied by at least one person 55 years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in such a development, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

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

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5434. Number of dwelling units permitted. The maximum number of dwelling units shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations; possessing suitable soils as determined by the Board of Health; and sufficient upland, buildable area to sustain a single-family home. In Village Business Districts, Limited Business Districts and Research Districts, a minimum lot area of 40,000 square feet and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% of land which is underwater land or wetland resource as defined in MGL c. 131, § 40, or in Chapter 283, the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of four units shall be permitted to be constructed.

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5435. Building and dwelling unit requirements. The following requirements shall apply to all buildings and dwelling units in an incentive senior development:

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

b. No building shall contain more than four dwelling units.

c. No dwelling unit in an incentive senior development shall contain more than two bedrooms. No more than 25% of the total units in an incentive senior development shall have fewer than two bedrooms. [Amended 5-7-2013 ATM by Art. 25]

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d. Accessory buildings and structures. Accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis courts, cabanas, storage and maintenance structures, garages, and other customary accessory structures; however, any common facilities or structures must be constructed on land owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners. Accessory buildings and structures shall be shown on the development plan, and may not be constructed within any minimum open space required herein.

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

5436. **Parking.** Two parking spaces shall be provided for each dwelling unit (with the exception of one-bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than 12 parking spaces, and all such areas shall be adequately landscaped. The Planning Board may authorize a decrease in the number of parking spaces up to 30% of the total number required. The reserved spaces shall be set aside and shall not be intended for immediate construction, but shall be properly designed as an integral part of the overall parking layout. Such spaces shall be labeled as "Reserve Parking" on the plan.

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

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

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

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

5440 Open space.

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

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Size of Parcel	
(acres)	Minimum Open Space Required
10 to 15	17.5% of the upland area of the parcel
16 to 20	20% of the upland area of the parcel
21 to 25	22.5% of the upland area of the parcel
Over 25	25% of the upland area of the parcel

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

The open space areas shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface

Size of Parcel (<u>acres</u>)	Minimum Open Space Required
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area ratio in order to preserve large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board. If revegetation of any area is within the jurisdiction of the Conservation Commission, the Commission shall determine the type and extent of plantings, to be compatible with the values and functions of the wetland and upland resources of the site.

5441. Ownership of open space. The open space shall be owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners; or can be offered to the Town, or another nonprofit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable restriction shall be recorded on all open space parcels, providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

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

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5450 Price restrictions.

Units developed under this Section 5400 shall be sold and resold at no more than two times the cost for the sale of two bedroom detached or attached homes, whichever is applicable, under the Department of Housing and Community Development guidelines for the Local Initiative Program, or other state or federal affordable housing program that determines purchase price for housing units in the Boston area (plus 25%). Condominium fees are excluded from the cost-per-unit calculation.

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

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5460 Procedures.

The procedure for issuance of a special permit for an incentive senior development shall be as follows:

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5461. Application for special permit. Any person who desires a special permit for construction of an incentive senior development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

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- a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.
- b. A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a certified soil evaluator, with confirmation that the results have been approved by the

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Board of Health, stating which lots on said plan contain soil conditions suitable for subsurface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in Chapter 283, the Sudbury Wetlands Administration Bylaw.

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c. A site plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Natural Resources Conservation Service maps; resource areas as defined MGL c. 131, § 40, and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to Chapter 283, the Sudbury Wetlands Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land, including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.

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

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

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

g. Plans showing proposed wastewater disposal facilities;

h. Sample copies of the legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and bylaws of the organization. All such documentation shall include a reference to the objectives of this Section 5400 and the requirement for 100% of the units to be owned and occupied by at least one person age 55 or over.

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

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5470 Planning Board action.

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

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5471. Special permit conditions. In order to implement a special permit for an incentive senior development and to assure compliance therewith, the Planning Board shall in the special permit set forth requirements and conditions that, before a building permit is issued for any buildings, (a) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase; (b) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board, securing the construction and installation of driveways, utilities, drainage and related services in such phase; and (c) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the special permit.

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

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

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5480 Enforcement.

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

5481. The penalty provisions of this Section 5400 may be imposed upon the applicant, his general agent, tenant(s), architect(s), contractor(s), or any and all persons having an interest in the development site.

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

5483. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the Zoning Bylaw.

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5490 Rules, regulations and fees.

The Planning Board shall adopt, and from time to time amend, rules and regulations consistent with the provisions of this Zoning Bylaw, MGL c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules and regulations shall, subject to and in accordance with provisions of this Section 5400, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a special permit under the provisions of this section. The Planning Board shall also specify the fees to be paid in connection with application for a special permit for an incentive senior development, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting deemed necessary by the Planning Board shall be

included in the rules and regulations.

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5500

Accessory Dwelling Units in Residence Districts

[Amended 4-6-2009 ATM by Art. 20]

5510 Purpose.

The purpose of this Section 5500 is to increase housing opportunities in Sudbury by allowing the utilization of the existing housing stock to offer different housing styles reflective of a more diverse population in terms of age, family size and income. The type of housing allowed under this Section 5500 may benefit several sectors of the population, — current residents whose lifestyles no longer fit into the usefulness of a larger single-family dwelling will be able to supplement their income by renting a portion of their home, and those not financially capable of home ownership may be able find suitable housing in these units, — without adding to the number of buildings in Town or substantially altering the appearance of the Town. This type of diverse housing is in accordance with the 2001 Master Plan and the 2005 Community Housing Plan, and ensures compliance with zoning standards, regulations regarding building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

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5520 Conditions and requirements.

An owner or owners of a single-family dwelling in Single Residence District "A," "C" or Wayside Inn Historic Preservation Zone may apply to the Zoning Board of Appeals for a special permit for the creation and occupancy of an accessory dwelling unit. Such application shall be accompanied by the application fee established by the Zoning Board of Appeals. After such notice and public hearing, and after due consideration of the report of the Board of Health, the Zoning Board of Appeals may grant such special permit, provided that each of the following conditions and requirements is met:

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5521. Such accessory dwelling unit shall be occupied by not more than four persons.

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5522. The accessory dwelling unit shall contain no more than 850 square feet and shall occupy no more than 30% of the floor area of the single-family dwelling. "Floor area," for the purpose of Subsection 5522, is defined as the actual heated living area and does not include unfinished basements, attics, or storage spaces. On request of the applicant, the Zoning Board of Appeals may waive the provisions of Subsection 5522 due to the physical constraints of an existing structure (but not for a new structure).

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5523. An accessory dwelling unit may be built in a detached accessory structure separate from the main dwelling, provided: (1) the detached structure has existed at its current size for no less than five years prior to the date of the application for creation of an accessory dwelling unit, (2) the lot meets the current minimum zoning requirement for lot area in the district in which the lot is located, (3) the detached structure meets the same minimum setback requirements that apply to the principal residence in the district in which the structure is located, (4) the accessory dwelling unit occupies no more than 50% of the floor area of the detached structure, and (5) the accessory dwelling unit is not greater than 850 square feet.

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

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5525. The owner of the dwelling in which the accessory dwelling unit is created shall reside in the dwelling, either in the principal dwelling unit or the accessory dwelling unit. For the purpose of this subsection, the "owner" shall be one or more individuals who constitute a family, who holds title to the dwelling, and for whom the dwelling is the primary residence. If the lot on which the accessory dwelling unit is to be located is owned by the Town of Sudbury or the Sudbury Housing Authority, the owner-occupancy requirement of this subsection shall not be applicable. If the owner of the dwelling resides in the accessory dwelling unit, the occupancy of the principal dwelling shall comply with the requirements

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of Subsection 5521 above.

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

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5527. The accessory dwelling unit shall be designed so that the appearance of the structure remains that of a single-family dwelling and its associated accessory structures.

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5528. Off-street parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking for the accessory dwelling unit. No parking spaces shall be located within the boundary of a street right-of-way. In no case shall parking spaces which are more than two spaces deep be considered in computing the required parking.

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5529. All the special permit criteria of Section 6220 of the Zoning Bylaw shall be met.

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5530 Reports.

5531. In order to ensure compliance, the applicant shall obtain and submit to the Zoning Board of Appeals prior to the hearing, a written report of the Board of Health certifying that the conditions of Subsection 5526 have been met.

5532. Planning Board report. In connection with an application for a special permit under this section, the applicant may consult with the Planning Board prior to the hearing and the Planning Board may submit, in writing, prior to the hearing, its recommendations and report to the Zoning Board of Appeals.

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5540 Number of accessory dwelling units.

The number of accessory dwelling units permitted under this Section 5500 shall not exceed 5% of the total number of dwelling units existing in the Town at the beginning of the calendar year in which the application was filed.

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5550 Duration of special permit.

The special permit for an accessory dwelling unit may be issued for the duration of ownership of the principal structure. Such permit shall require the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Zoning Board of Appeals, certifying compliance every four years consistent with the special permit. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit, unless a special permit to transfer the unit to a prospective new owner, utilizing the same criteria set forth herein, is applied for and granted.

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5560 Other requirements.

5561. Building permit required. A building permit, or inspection by the Building Department, shall be required to create an accessory dwelling unit.

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5562. Recording of permit. Any special permit issued under this bylaw shall be recorded at the Middlesex South Registry of Deeds prior to issuance of a building permit for a new unit, or a certificate of occupancy for existing units.

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5563. No separate conveyance. The ownership of the accessory dwelling unit shall not be conveyed or otherwise transferred separately from the principal dwelling.

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5564. Removal of separate facilities. The Building Inspector may, in addition to other remedies, order removal of the separate kitchen facilities, equipment or fixtures that were made or installed to create such unit, if the unlawful use of such unit is discovered.

5565. Revocation. A special permit granted hereunder may be revoked by the Zoning Board of Appeals

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for violation of the terms thereof or occupancy of the accessory dwelling unit in violation of the special permit or the Zoning Bylaw.

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5566. Provision of information. The applicant for a special permit shall file with the Zoning Board of Appeals such plans, specifications and other information concerning the unit and its proposed use as the Board may require by general rule or request to the applicant.

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5567. Discontinuation of accessory unit. If an accessory dwelling unit is discontinued, the owner shall notify the Zoning Enforcement Officer of removal of the facilities. Upon certification by the Zoning Enforcement Officer, said unit shall be removed from the Town's inventory.

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5570 Existing special permits.

With respect to structures constituting or containing an accessory dwelling unit for which a special permit was obtained at any time prior to April 6, 2009, any references in Chapter **295**, the Zoning Bylaw, to "850 square feet" will be replaced with references to "1,200 square feet." This modified language will apply to both the renewal of an existing special permit with respect to such accessory dwelling unit, as well as to any new special permit applied for with respect to such accessory dwelling unit.

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5580 Rules and regulations.

The Zoning Board of Appeals may adopt, and from time to time amend, rules and regulations to implement the provisions of this Section 5500, and shall file a copy of said rules and regulations with the Town Clerk.

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5600

Inclusion of Affordable Housing

[Added 9-12-2020 ATM by Art. 38]

5610 Purpose.

The purpose of this Section 5600 is to increase the amount of affordable housing in the Town of Sudbury available to and affordable by low- or moderate-income households who might otherwise have difficulty purchasing or renting homes in Sudbury, to ensure affordable housing remains affordable in perpetuity, and that such housing is offered in accordance with the requirements of MGL c. 40B and its implementing regulations, the Sudbury Comprehensive Permit Policy, the Sudbury Master Plan, and other ongoing programs within the Town of Sudbury. It is intended that affordable dwelling units authorized under the provisions of this bylaw be considered as local initiative program (LIP) dwelling units in compliance with the requirements for the same as specified by the Commonwealth's Department of Housing and Community Development (DHCD) or successors, and that said units count toward the Town's requirements under MGL c. 40B, §§ 20 to 23, as amended.

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5620 Applicability.

5621. Beginning with the effective date of this Section 5600, any development or any division of land subject to MGL c. 41, §§ 81K through 81GG, which will result in the creation of three or more dwelling units shall require a special permit from the Planning Board, and shall include as conditions of said permit that:

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a. At least 10% of the dwelling units in the development, as defined by the development's application (subdivision, site plan, special permit, etc.), shall meet the criteria of affordable dwelling units. For developments consisting of at least three and up to four dwelling units, the applicant shall make a payment in accordance with Section 5670 or shall provide an affordable dwelling unit in accordance with Section 5630. For developments consisting of at least five and up to 10 dwelling units, a minimum of one affordable dwelling unit shall be included in the development. For developments consisting of 11 to 15 dwelling units, a minimum of two affordable dwelling units shall be included in the development. For all other developments where 10% of the dwelling units results in a fractional number, all fractional

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units of 0.5 or greater shall be rounded up to the nearest whole number to determine the total number of affordable dwelling units required to be included in the development.

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b. The ratio of affordable dwelling units to market rate dwelling units, built in any twelve-month period, shall be at least equivalent to the ratio of affordable dwelling units to market rate dwelling units defined for the entire development. The development's regulatory agreement shall be recorded with the Registry of Deeds prior to the first certificate of occupancy.

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c. Resale deed restrictions shall be established which ensure affordable dwelling units remain affordable dwelling units in perpetuity or for as long a period as is allowed by law.

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5622. Dwelling units shall be considered part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of Section 5600. It is the intent of this bylaw to avoid segmentation of developments intended to circumvent the affordable housing requirements set forth in this section.

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5623. Developments which are permitted under the following regulations shall be exempt from this Section 5600 in its entirety: MGL c. 40B or 40R and from this Zoning Bylaw, Section 4700A, North Road Residential Overlay District; Section 4700B, Melone Smart Growth Overlay District; Section 5300, Senior Residential Community; and Section 5400, Incentive Senior Development.

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5630 Provision of affordable dwelling units.

5631. The requirement to provide affordable dwelling units, as outlined under Subsection 5621, shall be achieved in any one or combination of methods described below, subject to approval by the Planning Board:

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a. Affordable dwelling units may be constructed on the subject property associated with the special permit.

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b. Subject to the requirements of Subsection 5621b, affordable dwelling units may be constructed off of the subject property associated with the special permit in another location at 1.5 times the ratio of affordable dwelling units to be constructed on the subject property. The applicant for a development subject to this Section 5600 shall prove to the Planning Board the off-site land is buildable and suitable for residential housing, including under the existing Zoning Bylaw. The Planning Board may require the applicant to submit appraisals or conduct a Phase I environmental site assessment documenting there are no hazardous materials on the property as defined by Massachusetts Department of Environmental Protection and/or the United States Environmental Protection Agency, as well as conduct soil testing to ensure wastewater treatment systems can be implemented. If using this provision, the Planning Board and the applicant for a development shall make best efforts to avoid the dense concentration of affordable dwelling units in Town and shall attempt to ensure affordable dwelling units are spread evenly throughout the community.

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c. Subject to the requirements of Subsection 5621b, the applicant for a development subject to this bylaw may choose to convert and preserve existing dwelling units not previously established as affordable dwelling units. Affordable dwelling units proposed under this method shall be comparable to the market rate dwelling units in the development, be in good repair, have a home inspection report from a licensed inspector submitted to the Planning Board, and it shall be proven all major home systems have a useful life of at least 10 years.

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d. For affordable dwelling unit calculations where fractional affordable dwelling units result below 0.5, the applicant for a development subject to this Section 5600 shall pay equivalent fees in lieu of constructing affordable dwelling units (see Section 5670) or provide an additional affordable dwelling unit.

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e. Other alternatives to providing affordable dwelling units which are not listed in this section will also be considered for approval by the Planning Board.

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5640 Provisions applicable to affordable dwelling units.

5641. Permissible types of construction for affordable dwelling units, built as a freestanding unit(s) or in combination with a market rate dwelling unit(s) within a development, are as follows:

- a. Single-family dwellings;
- b. Two-family dwellings which are designed to be consistent in character with the single-family dwellings in the same development;
- c. Multifamily dwellings which are designed to be consistent in character with the single-family dwellings in the same development. Such multifamily dwellings may be allowed, provided:
 - i. No more than one doorway faces the front yard area and further provided that, in terms of exterior appearance, the building is compatible in design and, to the extent practicable, indistinguishable from the single-family dwellings in the same development; and
 - ii. There shall be no more than four dwelling units in any residential building; and
- iii. The total number of multifamily dwellings shall not exceed 10% of the lots in the development.

5642. Siting of affordable dwelling units. All affordable dwelling units constructed under this Section 5600, except for those as in Subsection 5631b, shall be situated within the development so as not to be in less desirable locations than market rate dwelling units and shall be no less accessible to public amenities, such as open space, than market rate dwelling units. The site plan shall clearly identify lots proposed for affordable dwelling units.

5643. Minimum design and construction standards for affordable dwelling units. Affordable dwelling units shall be integrated with market rate dwelling units and shall be compatible in design, construction quality, and appearance with the market rate dwelling units.

5650 Maximum incomes, rents, and selling prices.

To ensure a development's affordable dwelling units are counted on the Town's Subsidized Housing Inventory, the applicant for a development shall retain a qualified agency or entity to conduct a lottery, and enter into an LIP regulatory agreement compliant with the requirements of the commonwealth's DHCD.

5660 Maintaining affordability.

The purchaser of an affordable dwelling unit developed as a result of this Section 5600 shall agree to execute a deed rider in a form approved by the commonwealth's DHCD or its successor. The applicant for a development subject to this Section 5600 shall be responsible for coordinating with the Planning and Community Development Department and ensuring all requirements of DHCD to include the affordable dwelling units on the Town's Subsidized Housing Inventory are satisfied.

5670 Calculation of fees-in-lieu for fractional affordable dwelling units.

The applicant for a development subject to this Section 5600 shall pay fees in lieu of the construction of fractional affordable dwelling units below 0.5 or provide the affordable dwelling unit in accordance with Section 5630. For the purposes of this Section 5600, the fees in lieu of the construction or provision of affordable dwelling units shall be 300% of the area median income (AMI) for a household of four as reported by the most recent information from the United States Department of Housing and Urban Development (HUD), multiplied by the fractional affordable dwelling unit figure. For purposes of illustration, a twenty-two-unit development shall provide two affordable dwelling units and shall also pay fees-in-lieu equal to 300% of the AMI x 0.2 or, alternatively, provide a total of three affordable dwelling units within the twenty-two-unit development. Fees-in-lieu shall be paid to the Sudbury Housing Trust prior to the issuance of a certificate of occupancy for any unit in the development for the support, development, and preservation of affordable housing.

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5680 Severability.

If any provision of this Section 5600 is declared invalid or unenforceable, the other provisions shall not be affected thereby.

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ARTICLE 6000 Procedures

6100

Zoning Board of Appeals

6110 Establishment.

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

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6120 Powers.

The Zoning 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.

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6130 Variances.

Variances shall be granted by the Zoning Board of Appeals only upon its written determination that all the following conditions are met and in accordance with MGL c. 40A, § 10, as amended from time to time:

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

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

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

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

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6140 Use variances.

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

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

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

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

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

The use variance shall be granted only if the Zoning Board of Appeals makes all of the findings required by the special permit criteria in Section 6220, in addition to the findings required by statute for a variance in Section 6130, and subject to all of the following limitations:

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

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

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

a. The use nonconformity on the lot in question shall be permitted no further from such prior adjoining conditions as the width of the lot or 100 feet, whichever is less; and

b. The use nonconformity shall be terminated within one year of the time when such adjoining conditions have been terminated, except that the Zoning Board of Appeals may grant a special permit for a further delay of not more than five years.

6150 Regulations.

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

6160 Fees.

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

6200 Special Permits

6210 Special permit granting authority.

Unless specifically designated otherwise, the Zoning Board of Appeals shall act as the special permit granting authority.

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6220 Criteria.

6221. Unless otherwise specifically provided to the contrary, the Zoning Board of Appeals shall, before granting special permits, find that in its judgment all the following conditions are met:

a. That the use is in harmony with the general purpose and intent of the bylaw;

b. That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district;

c. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;

d. That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances;

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

6230 Procedures.

An application for a special permit shall be made in accordance with the rules and regulations of the special

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permit granting authority.

6240 Conditions.

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this bylaw.

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6250 Plans.

An applicant for a special permit shall submit a plan in substantial conformance with the rules and regulations of the special permit granting authority.

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6260 Regulations.

The special permit granting authority may adopt rules and regulations for the administration of this section.

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6270 Fees.

The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

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6280 Lapse.

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

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Site Plan Review

[Amended 4-2-2002 ATM by Art. 38; 5-6-2015 ATM by Art. 43]

6310 Applicability.

The following types of activities and uses require site plan review by the Planning Board:

- 6311. Construction or exterior expansion of, or change of use within, a municipal, institutional, exempt, commercial, or industrial structure involving more than 500 square feet;
- 6312. Construction or expansion of a parking lot for a municipal, institutional, exempt, commercial, or industrial structure or purpose;
- 6313. Construction or expansion of loading or vehicular service, including driveways giving access thereto for any municipal, institutional, exempt, commercial or industrial structure or purpose;
- 6314. Substantial alteration to areas for parking, loading or vehicular access, including a change in the layout or location of parking spaces, an increase in pavement area or any relocation, addition or change in driveways. Resurfacing shall not be construed as a substantial alteration unless it involves a change of surface material.
- 6315. Grading or clearing more than 10% of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single- or two-family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with an approved subdivision plan, or work pursuant to an earth removal permit.
- 6316. Additions to wireless facilities pursuant to Subsection **4345.**

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6320 Interpretation.

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

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Classification of Uses	
Educational	Repair <u>shop</u> and <u>building trade</u>
Religious	Veterinary and <u>kennel</u>
Philanthropic	Financial and <u>business office</u>
Medical center and nursing home	Medical <u>center</u> and <u>laboratory</u>
Lodge and club	Auto <u>service station</u>
Hotel and motel	Auto <u>body shop</u>
Retail store	Vehicular <u>dealership</u>
Personal service shop	Warehouse
Restaurant	Storage <u>yard</u>
Indoor recreation	Manufacturing, <u>packaging, processing, testing</u>
Outdoor recreation	Laboratory <u>research</u> and <u>development</u>
Funeral home	Professional <u>office</u>

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Deleted: Body Shop

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Deleted: Packaging, Processing, Testing

Deleted: Research

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6330 Procedures.

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

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

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

The work described herein requires the approval of a site plan by the Sudbury Planning Board pursuant to

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Section 6300 of the Zoning Bylaw. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

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

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

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

6340 Rules, regulations and fees.

The Planning Board shall adopt, and from time to time amend, rules and regulations not inconsistent with the provisions of this Section 6300 or MGL c. 40A or other applicable provisions of the General Laws, and shall file a copy of said rules and regulations with the Town Clerk. Such rules shall prescribe, as a minimum, the size, form, contents, style and number of copies of plans and specifications, the Town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a site plan. Such rules and regulations form an integral part of this Section 6300.

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6350 Application.

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

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

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

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

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6354. A building plan(s) and elevations shall be prepared by a registered architect in all cases where the plan specifies a facility of 35,000 cubic feet or more of gross volume. In any case a building plan(s) shall show the front elevation of the building and its height; and floor plan(s) for the building(s) showing the layout of each floor with a tabular summary of the gross floor area used to calculate the required parking and the proposed uses to be conducted on each floor. An architectural rendering of the appearance of the proposed new or altered structures, showing front and side features as they will appear from the public way or private access, shall also be submitted.

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

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

6360 Reports from Town boards or agencies.

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

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6370 Minor site plan.

The Planning Board may, upon written request of the applicant, waive any of the technical requirements of this Section 6300, including the requirement for a public hearing, where the project involves relatively simple development plans or constitutes a minor site plan. Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2,000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate the gross floor area of new construction permitted within the five previous calendar years. Minor site plans shall set forth all of the information required by Section 6350; provided, however, that the scale of the site plan may as agreed upon with the Planning Board, need not be prepared by a professional, and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

6380 Approval.

Site plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the site plan after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

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6381. 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;

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

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

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

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

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

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

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

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

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6390 Special provisions in Village Business District.

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

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6390A Lapse and appeal.

Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant. An appeal from a decision of the Planning Board relating to the substantive provisions of the Zoning Bylaw pursuant to Section 6300 shall be taken in accordance with the provisions of MGL c. 40A, § 8.8.

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Planning Board Associate Member

6410 Appointment; term; duties.

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

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Design Review Board

6510 Establishment and membership.

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

6520 Organization.

The Design Review Board shall elect from among its members a Chair, Vice Chair and shall arrange for the services of a secretary and such other officers or employees as is deemed necessary. Each officer shall serve for a term of one year. The Design Review Board shall adopt rules and guidelines as are considered necessary to the conduct of its responsibilities which shall be a matter of public record. Meetings shall be held at the call of the Chair and at such other times as the Board may determine.

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6530 Proceedings.

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

6540 Duties and procedures.

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

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

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6542. For special permits: to the special permit granting authority regarding effect of the amenity on the neighborhood.

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

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**6600
Amendments**

6610 Authority

This 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.

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**6700
Severability**

6710 Severability.

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

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**ARTICLE 7000
Definitions**

[Amended 4-2-2002 ATM by Art. 37; 4-14-2004 ATM by Art. 45A; 4-11-2005 ATM by Art. 40; 4-6-2009 ATM by Art. 20; 4-6-2010 ATM by Art. 20; 5-7-2014 ATM by Art. 38; 5-7-2018 ATM by Art. 20]

7100

7110 Definitions and word usage.

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 word "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this bylaw.

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ACCESS DRIVEWAY

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

ACCESSORY BUILDING

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

ACCESSORY USE

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

ADULT DAY-CARE FACILITY

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

AGRICULTURAL USE, NONEXEMPT

Agricultural use of property not exempted by MGL c. 40A, § 3.3.

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ALTERATION

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

ANIMAL CLINIC OR HOSPITAL

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

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ANIMAL FEEDLOT

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

AQUIFER

Geologic formation, composed of rock, sand or gravel, that contains significant amounts of potentially recoverable water.

AREA MEDIAN INCOME (AMI)

The most recently published median income for the Boston-Cambridge-Quincy Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development (HUD) for a four-person household.

ASSISTED CARE FACILITY

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

BEST MANAGEMENT PRACTICES (BMPs)

Any structural or nonstructural mechanism designed to minimize the impact of nonpoint source pollution on receiving waters or resources, including, but not limited to, detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs.

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BOARDINGHOUSE

A dwelling or part thereof in which lodging is provided by the owner to not more than five boarders. Where more than two unrelated individuals rent a portion of a dwelling, it shall be considered a boardinghouse.

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BUILDING

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

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BUILDING COVERAGE

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

BUILDING HEIGHT IN FEET

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

BUILDING, PRINCIPAL

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

BUSINESS OR PROFESSIONAL OFFICE

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

CHILD-CARE FACILITY

A child-care facility, as that term is defined in MGL c. 40A, § 3.3.

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CLUB OR LODGE, PRIVATE

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

COMMERCIAL RECREATION, INDOOR

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

COMMERCIAL RECREATION, OUTDOOR

Drive-in ~~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 this ~~bylaw~~.

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CONTAINER

Typically, but not limited to, being eight feet wide, 8.5 feet high, and 10 ~~feet~~ to 40 feet long, constructed entirely of steel with securable doors and designed to be taken over the road or on a ship to transport dry goods.

DEMOLITION

Removal of a building or structure by any means whatsoever.

DESIGN FLOW

The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203 (Title 5).

DOG KENNEL

An establishment in which more than three dogs are housed, groomed, bred, boarded, trained or sold.

DRIVEWAY, INTERIOR

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

DWELLING

A building for human habitation, which shall not include a trailer or other mobile living unit. Single- and two-family dwellings shall be designed for and occupied by not more than one or two families, respectively. A multifamily dwelling shall be one designed for and occupied by three or more families.

DWELLING UNIT

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

DWELLING UNIT, ACCESSORY

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

DWELLING UNIT, AFFORDABLE

A dwelling unit, the value of which is determined by the Commonwealth's Department of Housing and Community Development (DHCD) to be affordable by a low-income or moderate-income household, and thus to be included in the DHCD's Subsidized Housing Inventory of low-income or moderate-income dwelling units for the purposes of compliance with the provisions of ~~MGL c. 40B, §§ 20 to 23~~.

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DWELLING UNIT, MARKET RATE

A dwelling unit which has no rental or ownership restrictions. The entity who owns the dwelling unit is free to attempt to rent or sell the unit at whatever price the local market may fetch.

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.

EDUCATIONAL USE, NONEXEMPT

Educational facilities not exempted from regulation by MGL c. 40A, § 3.3.

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ERECT

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

ESSENTIAL SERVICES

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

FAMILY

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

FAMILY DAY CARE

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

FARM STAND, NONEXEMPT

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

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FLOOR AREA, GROSS

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

FUNERAL HOME

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

GROUNDWATER

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

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HAZARDOUS MATERIAL OR WASTE

Household quantity of any or all of the following:

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- a. Two hundred seventy-five gallons or less of oil on-site at any time to be used for heating of a structure or to supply an emergency generator; and/or
- b. Twenty-five gallons (or the dry weight equivalent) or less of other hazardous materials on-site at any time, including oil not used for heating or to supply an emergency generator; and/or
- c. A quantity of hazardous waste at the very small quantity generator level as defined and regulated in the

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Massachusetts Hazardous Waste Regulations, specifically 310 CMR 30.353.

HAZARDOUS OR TOXIC MATERIALS

Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section 1910.1200(c), and any other chemical, material or substance identified as hazardous based on available scientific evidence. Hazardous or toxic materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under MGL c. 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials, including, but not limited to, auto parts or treated wood. Hazardous materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities as defined below.

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HAZARDOUS WASTE

Any waste material as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.010 and/or MGL c. 21C. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint, and waste pesticides.

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HOME OCCUPATION

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

IMPERVIOUS SURFACE

Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil. This shall include nonpaved surfaces that are compacted through regular use of automobiles such as gravel driveways or dirt roads.

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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, cannot be used for its original purpose as readily as when new shall be considered junk.

JUNKYARD or AUTOMOBILE GRAVEYARD

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

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LANDFILL

A facility or part of a facility established in accordance with a valid site assignment for the disposal of solid waste into or on land.

LEACHABLE WASTE

Waste materials, including solid waste, sludge, and agricultural wastes, that are capable of releasing water-borne contaminants to surrounding environment.

LIGHT MANUFACTURING

Fabrication, assembly, processing, finishing work or packaging.

LOCAL INITIATIVE PROGRAM (LIP)

A state housing initiative administered by the commonwealth's Department of Housing and Community Development (DHCD) to encourage communities to produce affordable housing for low- and moderate-income households. The program provides technical and other nonfinancial assistance to cities or towns seeking to increase the supply of housing for households at or below 80% of the area median income (AMI). LIP-approved units are entered into the Subsidized Housing Inventory pursuant to MGL c. 40B, §§ 20 to 23.

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LOT

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

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LOT AREA

Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which the lot abuts, even if fee to such street is in the owner of the lot; provided, however, when computing minimum lot area for any lot laid out and submitted for approval by the Planning Board, in accordance with MGL c. 41 as of the effective date of this bylaw, no land designed for surface collection of stormwater or drainage waters (i.e., detention, retention, infiltration ponds or basins, etc.) and no more than 25% of the minimum required lot size in any district which is underwater land or wetland resource area as defined in MGL c. 131, § 40, or Chapter 283, the Sudbury Wetlands Administration Bylaw, shall be used in the computation. The above limitation on calculated lot area shall not be applied in determining maximum building coverage, maximum floor area ratio or any open space requirement set forth herein.

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LOT FRONTAGE

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

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LOT LINE

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

LOT LINE, REAR

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

LOT, CORNER

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

MAJOR COMMERCIAL PROJECT

Any commercial or industrial building or combination of buildings containing more than 20,000 gross square feet which is a permitted use or a special permit use in a specific zoning district pursuant to

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Section 2230, Table of [Principal Use Regulations](#) (Appendix A).

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MANEUVERING AISLE

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

MARIJUANA CULTIVATOR

An entity licensed by the Commonwealth of Massachusetts to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA ESTABLISHMENT

A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in [MGL c. 94G, § 1.1](#).

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MARIJUANA PRODUCT MANUFACTURER

An entity licensed by the Commonwealth of Massachusetts to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA PRODUCTS

Products that have been manufactured and contain marijuana or an extract from marijuana, including, but not limited to, concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures as defined by the Commonwealth of Massachusetts.

MARIJUANA RETAILER

An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

MEDICAL CENTER OR CLINIC

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

MEDICAL MARIJUANA TREATMENT CENTER

A not-for-profit entity, as defined by Massachusetts law only, registered by the MA Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

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[Massachusetts General Laws.](#)

MINING OF LAND

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

MOTEL or HOTEL

A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than

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four continuous months, nor may the guest reoccupy any unit within 30 days of a continuous four-month stay, 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 BODY REPAIR

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

MOTOR VEHICLE GENERAL REPAIR

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

MOTOR VEHICLE LIGHT SERVICE

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

MUNICIPAL PURPOSES

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

NONCONFORMING USE OR STRUCTURE

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

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NURSING OR CONVALESCENT HOME

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

OPEN SPACE

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

PARKING GARAGE

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

PARKING STALL, LENGTH OF LINE

The dimension of the stall measured parallel to the angle of parking.

PARKING STALL, WIDTH

The linear dimension measured across the stall and parallel to the maneuvering aisle.

PERSONAL SERVICE ESTABLISHMENT

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

POLLUTANT

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate,

heated effluent, or other matter, which is or may be discharged, drained or otherwise introduced into any surface or subsurface disposal or conveyance system, or waters of the commonwealth.

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PROCESS LIQUIDS

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

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PUBLICLY OWNED TREATMENT WORKS (POTW)

Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

QUALIFIED AFFORDABLE DWELLING UNIT PURCHASER

A household with an income that qualifies for the requirements under the commonwealth's Local Initiative Program for median area income as reported from the United States Department of Housing and Urban Development (HUD) and/or the commonwealth's Department of Housing and Community Development (DHCD).

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RADIOACTIVE MATERIALS

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

RECHARGE AREAS

Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

RECORDED LOTS

Lawfully laid out lots are governed and protected under the provisions of MGL c. 40A, § 6.6.

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RESIDENTIAL CARE FACILITY

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

RESTAURANT

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

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RESTAURANT, FAST-FOOD

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

RETAIL

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

SIGN

The following definitions apply specifically to Section 3200, Signs and Advertising Devices:

ALTER — To change the size, shape, height, colors, lettering or materials of a sign.

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ANIMATION — Any form of movement by electric, mechanical, or kinetic means, including, but not limited to, rotation, revolving or wind activation of all or a portion of a sign, or incorporating flashing or intermittent lights for sign illumination.

AWNING SIGN — Any fabric-covered, roof-like structure, projecting from a building and providing shelter from the weather, which serves as a sign or advertising device. For secondary signs, verbiage shall occur on the valance of the awning.

BANNER SIGNS — Any sign of lightweight fabric or similar nonrigid material, including nylon, vinyl, cloth, canvas or similar fabric, and which is attached to a rod at the top. National flags and state or municipal flags shall not be considered banners.

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BEACON — Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

BILLBOARD — Any single- or double-faced sign that is permanently fixed or placed on particular premises advertising goods, products or services that are not sold, manufactured or distributed from the premises or facilities on which the sign is located.

BUILDING FRONTAGE —

a. Primary building frontage: the linear extent of the public face of a structure which is occupied/leased by a single business and which contains the front door to the business.

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b. Secondary building frontage: if a business has a direct customer entrance into the business in a wall other than the front wall, the linear extent of the public face of this side.

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BUSINESS CENTER IDENTIFICATION SIGN — Any sign identifying a building or group of buildings containing two or more businesses. All business center identification signs shall contain only the name and address of the business center, and shall not contain logos, icons or names of individual businesses.

BUSINESS — All of the activities carried on by the same legal entity on the same premises and shall include, but not be limited to, service, commercial and industrial uses and fraternal, benevolent, educational and social organizations.

BUSINESS CENTER — Two or more business tenants as occupants in a building, or on land in single ownership, or business condominiums.

CANOPY SIGN — Any sign that is a part of or attached under an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area, and viewed when one is under a canopy.

CHANGEABLE COPY SIGN — A sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign. A sign on which the only copy that changes is an electronic or mechanical indication of the time and temperature shall be considered a "time-and-temperature" portion of a sign and not a changeable copy sign.

CHANNEL LETTERS — Individual, three-dimensional, hollow letters, as metal or plastic structures, and

mounted to the front face of a sign.

a. Silhouette **letters**: Also called "**reverse channel letters**," these **opaque, hollow letters** are manufactured with individual lights built into each letter, and the letters are mounted with **standoffs**, leaving a gap between the rear of the letter and the sign face. The illumination directs the light back onto the surface of the sign face, creating a halo effect around the letter.

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b. Backlit **channel letters**: Similar to **silhouette letters**, these **hollow letters** are manufactured with individual lights built into each letter, and the front of each letter is fitted with a translucent colored plastic, which allows for the illumination to be seen through the face of the letter. These letters are mounted directly to the sign face or with **standoffs**.

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CONSTRUCTION SIGN — Any sign identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product.

DIRECT ILLUMINATED SIGN — Any sign illuminated by an artificial light source located in front of the face of the sign. This includes lighting coves. Where signs are externally illuminated, adjacent roads and properties shall be screened from the light source.

DIRECTIONAL SIGN — Any signs erected near a street, driveway or parking area if necessary for the safety and direction of vehicular or pedestrian traffic. Directional signs shall not advertise, identify or promote any product, person, premises or activity but may identify the street name/number and provide traffic directions.

DIRECTORY SIGN/GENERAL DIRECTORY SIGN — A sign giving the name, address number and location of the occupants of a building or buildings, and may also include a map or plan and the name of the business center to locate such buildings, if it is a general directory sign.

FLAG — Any fabric banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government or political subdivision and that is mounted to a pole or building attached at a maximum of one point to a structure. A flag must be free-flying (i.e., it must be attached to a pole on one end only, not two).

FREESTANDING SIGN — Any two-sided sign supported by one or more uprights or braces placed on, or anchored in, the ground and not attached to any building or structure.

FUEL PUMP SIGNS — In accordance with **MGL c. 94, § 295c**, standard gasoline fuel pump signs on service station fuel pumps bearing thereon in usual size and form the name, type and price of the gasoline.

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GOVERNMENTAL, UTILITY OR PUBLIC SAFETY SIGNS — Any signs such as traffic control signs, railroad crossing signs, legal notices, signs that serve as an aid to public health or safety or that show the location of public telephone, underground cables, etc. Includes signs erected and maintained by the Town of Sudbury, the Sudbury Water District, the Sudbury Housing Authority, the Lincoln-Sudbury Regional High School, the Commonwealth of Massachusetts, or the **federal government** on any land, building or structure used by such agencies and any other signs at any location required by such agencies.

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ILLUMINATION — Any method of giving forth artificial light, either directly from a source of light incorporated in or connected with a sign, or indirectly from an artificial source.

INTEGRAL ROOF SIGN — Any sign erected, constructed, painted **on**, or woven into the shingles of the roof as an integral or essentially integral part of a normal roof structure of any design, including a false mansard roof or other fascia, such that no part of the sign extends vertically above the highest portion of the roof and

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such that no part of the sign is separated from the rest of the roof by more than 12 inches.

INTERIM SIGN — Any sign used as an identifier of the business on the property on a temporary basis, which is replaced with a permanent sign.

LIGHT BOX — Any sign illuminated by an internal light source located behind a translucent panel which is the continuous front face of the sign.

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LIGHTING COVE — A decorative architectural device that conceals a light source and is mounted above, below or around and separate from a sign face, leaving a gap that reflects the light back and creates a soft lighting effect around the sign face.

MAINTAIN — To allow to exist or to continue.

NEON SIGN — A self-illuminated sign using neon light which is created by injecting either neon or argon gas into an exposed thin glass tube that has been bent to form either letters or graphic designs.

NONCONFORMING SIGN — Any sign that existed on the effective date of this bylaw (or amendment thereto) and does not comply with the regulations set forth herein.

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PORTABLE SIGNS — Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs. Includes A-frame signs.

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PROJECTING SIGN — Any two-sided sign which is supported by an exterior wall of a building with the exposed face of said sign in a plane approximately perpendicular to the plane of the wall, etc., and projecting more than 12 inches and less than 60 inches.

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REAL ESTATE SIGNS — All signs advertising the sale or rental of the premises on which it is located; on subdivisions of land, all signs erected solely to advertise the selling of land or buildings in said subdivision.

RELIGIOUS INSTITUTION SIGNS — All signs erected by religious institutions on any land, building or structure used by such institutions.

REPAIR — To restore to sound condition, but not reconstruct. Repairs are considered general, routine maintenance.

RESIDENT IDENTIFICATION SIGN — Any sign in a residential district, either attached or freestanding, indicating only the name of the occupant, street number, and accessory permitted uses or occupations engaged in thereon.

ROOFLINE — The top of the roof or the top of the parapet, whichever forms the top line of the building silhouette, on the side of building on which the sign is located.

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ROOF SIGN — Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure.

SELF-ILLUMINATED SIGN — Any sign illuminated by an artificial light source located within the front face of the sign including channel letters.

SIGN — Any object, device, display, or structure or part thereof which is affixed to or otherwise represented directly or indirectly upon a building interior or exterior or piece of land and that is used to advertise, identify,

display, or attract attention to any object, person, institution, organization, business, product, service, place, activity, or event related to the premises on which the sign is situated by any means, including words, letters, figures, designs, or symbols.

SIGN FACE — The area made available by the sign structure for the purpose of displaying a message thereon.

SIGN PERMIT — A permit issued by the Town to regulate the erection, expansion, alteration, relocation, or reconstruction of signs in all parts of this municipality.

TEMPORARY SIGN — A banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, sheet metal, plywood or similar materials on private property and intended to be displayed for a limited period of time; includes political signs.

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VEHICLE SIGN — Any sign on a vehicle of any kind, provided the sign is painted or attached directly to the body of the original vehicle and does not project or extend beyond two inches from the original manufactured body proper of the vehicle. The vehicle to which the sign is attached shall be in proper working order and shall bear a current license plate and shall not be permanently parked on a public street or street right-of-way. A sign in or on a vehicle that advertises the vehicle for sale, lease or rental shall not be considered a vehicle sign.

Deleted: Vehicle Sign

WALL SIGN — Any sign attached parallel to, but within 12 inches of, a wall, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

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WINDOW AREA — The total area of all windows along a building frontage.

WINDOW SIGN — Any sign visible from the exterior of a building that is painted on, affixed to, or suspended immediately in front of, on, or up to 24 inches behind a window.

SOLAR ENERGY SYSTEM

A system whose primary purpose is to harvest energy by transforming solar energy into another form of energy, such as electricity, or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED

An active solar energy system that is structurally mounted to the ground and is not roof-mounted.

Deleted: Solar Energy System

SOLAR ENERGY SYSTEM, LARGE-SCALE GROUND-MOUNTED

An active solar energy system that occupies more than 1,750 square feet of surface area (equivalent to a rated nameplate capacity of about 10 kW DC or greater), except in the Single Residence "A," Single Residence "C," and Wayside Inn Historic Preservation Residential Zone Districts, where such systems occupy more than 500 square feet of surface area.

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SOLAR ENERGY SYSTEM, ROOF-MOUNTED

An active solar energy system that is structurally mounted to the roof of a building or structure.

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SOLAR ENERGY SYSTEM, SMALL-SCALE GROUND-MOUNTED

An active solar energy system that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less), except in the Single Residence "A," Single Residence "C," and Wayside Inn Historic Preservation Residential Zone Districts, where such systems occupy 500 square feet of surface area or less.

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SOLID WASTE

Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility as defined by 310 CMR 19.00 and regulated by 310 CMR 30.00.

SOLID WASTES

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

STORMWATER MANAGEMENT

The process of ensuring that the volume and velocity of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

STORY

That portion of a building contained between any floor and the floor or roof next above it, not including either the lowest portion so contained if more than 1/2 of such portion vertically is below the mean finished grade of the ground adjoining such building, or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

STORY, HALF

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

STREET

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

STREET FRONTAGE

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

STREET LINE

The boundary of a street right-of-way or layout.

STRUCTURE

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

STRUCTURE, HEIGHT IN FEET OF

"Height in feet" shall be the vertical distance measured from the mean of the finished ground level

adjoining the entire structure to the highest extension of any part of the structure.

STRUCTURE, TEMPORARY

A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the intensity schedule of Section 2600 and shall receive a permit from the Building Inspector.

SWIMMING POOL

A structure or tank designed or customarily used for human swimming and which is at least 18 inches in depth and at least 10 feet in its longest dimension.

TOXIC OR HAZARDOUS MATERIALS

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

TRAILER or SEMITRAILER

Typically, but not limited to, having a maximum length of 53 feet, a maximum height of 13.5 feet, and a maximum width of 8.5 feet, being an enclosed box with a single or double set of wheels to be towed by a tractor over the road for the purpose of transporting dry goods.

WAREHOUSE

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

WIRELESS SERVICES

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

YARD

An open space on a lot unoccupied by a building or structure or such parts thereof; provided, however, that cornices or eaves not exceeding 18 inches in width, steps, unroofed porches, ~~windowsills~~, slanted bulkheads, fences, gates or security stations, yard accessories, ornaments and furniture, and customary summer awnings are permitted in any yard but shall be subject to height limitations. Yard depth shall be measured from the street or lot line to the nearest point on a building in a line perpendicular or normal to such lot or street line. The minimum required yard shall be a strip of land of uniform depth required by this bylaw measured from the lot or street line and adjacent thereto.

YARD, FRONT

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1640. May 13*	Land granted to Sudbury (one mile on southeast and southwest).
1649. May 2*	Land granted to Sudbury (two miles westward)
1651. May 13*	Bounds between Sudbury and Watertown established.
1701. June 13*	Bounds between Sudbury and Framingham established.
1721. June 9*	Certain farms annexed.
1730. Dec. 29*	Part annexed to Stow
1780. Apr. 10	Part established as East Sudbury (Now Wayland).
1871. Apr. 19	Part included in the new town of Maynard.
1983. June 15	Bounds between Sudbury and Wayland redrawn.

*Date given is "Old Style" or according to the Julian Calendar Source: "Historical Data relating to Counties, Cities and Towns in Massachusetts", Prepared by the Secretary of the Commonwealth.

[§ A400-2 Selected Special Statutory Provisions Relative to the Town of Sudbury.](#)
(Not requiring acceptance by the Town)

Year & Chapter Of Act	Subject	Town Action
1971:20	At-Large Election of Lincoln-Sudbury Regional School District School Committee	10/26/70:1 (Adopted amendment to agreement)
1966:513	Authorized formation of regional vocational school district	
1963:435	Establishment of Encroachment Lines and Flood Plain Zones in drainage areas of Sudbury & Concord Rivers by Water Resources Commission	
1962:69	Approval of Certain Site Plans by Planning Board	
1961:579	Acquisition by U.S. of Migratory Bird Conversation Areas in Sudbury and Concord River Valleys	
1958:419	Easements to be acquired by Boston Edison over Commonwealth land in Sudbury	
1956:631	Establishment of Massachusetts Bay Circuit	
1952:449	Department of Conservation acquisition of lands in Pantry Brook Area of Sudbury	

Deleted: "The term "vernal pool" shall include, in addition to that already defined under the Wetlands Protection Act, G.L. Ch. 131, § 40 and Regulations thereunder, 310 CMR 10.00, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Wildlife and Fisheries."

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Deleted: B. . . This presumptive definition for vernal pools is based on systematic field observations in the Town of Sudbury by the Sudbury Conservation Commission showing that virtually all basins that possess the above characteristics actually host breeding vernal species. Undoubtedly this is a particular consequence of Sudbury's semi-rural character and enduring woodlands and wetlands.

C. - The presumption of vernal pool habitat may be overcome, however, with the presentation of credible evidence which in the judgment of the Conservation Commission demonstrates that the wetland does not provide, or cannot provide, vernal pool habitat functions. ¶

D. - Demonstrating that a ponding area is not a vernal pool. For the purposes of overcoming the presumption of vernal pool habitat the Commission will consider:¶

(1) - Evidence that the ponding area does not hold water for at least two continuous months in most years. As a rule of thumb the term "most years" shall mean three out of five consecutive years. ¶

(2) - Evidence that vernal pool species do not breed or have not bred in the ponding area for three of five consecutive years of normal rainfall. The Conservation Commission shall provide explicit guidelines for this evidence. ¶

(3) - Evidence that the ponding area could not be a viable breeding site for vernal pool species due to incompatible physical, chemical, biological, or other persistent conditions at the site in most years. Such evidence could include, without limitation, several months of pH and dissolved oxygen measurements yielding values incompatible with amphibian or reptile breeding. ¶

E. - Timing of evidence collection.¶

(1) - Many of the indicators of vernal pool habitat are seasonal. For example certain salamander egg clusters are only found between late March and late May. Wood frog chorusing only occurs between late March and May, and then only at night. Consequently, failure to find evidence of breeding must be tied explicitly to those periods during which the evidence is most likely to be available. ¶

(2) - Accordingly, in the case of challenges to the

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Deleted: ". . . are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without

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<u>Year & Chapter Of Act</u>	<u>Subject</u>	<u>Town Action</u>
<u>1950:286</u>	<u>Policing of White Pond by Concord and Sudbury</u>	
<u>1949:34</u>	<u>Resolve providing for a study relative to the Sudbury River and its environs</u>	
<u>1948:53</u>	<u>Borrowing of money for school building</u>	
<u>1934:100</u>	<u>Establishment of Sudbury Water District</u>	<u>Accepted by voters in Dist. 4/25/34</u>
<u>1930:269</u>	<u>Borrowing of money for town hall purposes</u>	
<u>1925:260</u>	<u>Borrowing of money for school purposes</u>	
<u>1975:167</u>	<u>Amends Special Act re Highway Commission [1963:577] to allow Commissioners to be Charter Commission Members [1963:577 rescinded 12/15/75:3]</u>	
<u>1979:272</u>	<u>Validated Annual Town Election and Annual Town Meeting</u>	
<u>1979:407</u>	<u>Authorized contingency fund for Regional High School</u>	
<u>1983:170</u>	<u>Sudbury and Wayland Boundary Redrawn (Eng. Funds 10/7/82:3)</u>	
<u>2008:458</u>	<u>An Act authorizing the town of Sudbury to regulate certain property tax exemption eligibility requirements. Approved: January 7, 2009</u>	

§ A400-3 General Statutory Provisions Under Which the Town of Sudbury Operates.

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>39:16</u>	<u>Finance Committee (Established by Bylaw)</u>	<u>1924:27</u>
<u>40:4A</u>	<u>Fire Protection for Concord</u>	<u>1970:17</u>
	<u>Sudbury/Wayland Septage Disposal Agreement</u>	<u>1975:28</u>
<u>40:5B</u>	<u>Stabilization Funds</u>	<u>1962:7, 10/21/64:6</u> <u>1968:49, 1969:64</u>

Deleted: B. . In some circumstances some types of activities, when properly mitigated and conditioned, may be acceptable in adjacent upland resource areas. Under other circumstances even minimal adjacent upland resource disturbance may have serious harmful effects on resource area values and functions. When the presumption of significance is questioned the actual determination of impact must be made on a project-and site specific basis. And in this respect the actual impact of proposed adjacent upland resource work or activities on wetland values and functions can often be reduced substantially, and thus made permissible, when appropriate conditions are imposed. ¶

C. - Therefore the traditional approach of "all or nothing" adjacent upland resource restrictions unnecessarily creates conflicts between property use and resource protection. Accordingly the Bylaw gives the Conservation Commission broad discretion to permit, condition, and prohibit work within the adjacent upland resource as the specific situation warrants. ¶

D. - The Character of the Work or Activities Proposed and Alternatives.¶

(1) - The applicant shall carry the burden of proof for demonstrating to the Commission's satisfaction that the proposed work or activities in the adjacent upland resource are necessary and that reasonable alternatives, including reducing the scale and scope of the project, do not exist. ¶

(2) - The Commission shall consider the specific characteristics of the work proposed for immediate and cumulative impact on the resource area. For example, shrub landscaping in sensitive sections of the adjacent upland resource might be appropriate where a lawn might not due to concerns about nutrient runoff. Similarly, clearing a flat section of the adjacent upland resource to establish a vegetable garden might not threaten adjacent wetland values and functions. However, construction of a tennis court with extensive impervious surface on the same site and covering the same area might not be acceptable. ¶

(3) - The Conservation Commission may offer suggestions and advice for altering plans and proposals to reduce impact on wetlands values and functions toward the goal of modifying the project to make it acceptable. However, the Commission is not obligated to do so and shall not be bound in its decision making by any prior advice or suggestions offered to applicants. ¶

(4) - In all cases, the Conservation Commission shall require mitigation measures to offset impacts to protected resource area functions." ¶

E. - Setting disturbance restrictions.¶

(1) - A growing body of research evidence suggests that even "no disturbance" areas reaching 100 feet from wetlands may be insufficient to protect many important wetland resource characteristics and values. Problems of nutrient runoff, water pollution, siltation, erosion, vegetation change, and habitat destruction are greatly exacerbated by activities within 100 feet of wetlands. Thus, in general work and activity within 100 feet of wetlands should be avoided and discouraged and reasonable alternatives pursued. ¶

(2) - Accordingly, the Conservation Commission shall begin with the presumption that lands within the adjacent upland resource of a resource are best left in an undisturbed and natural state. [Note: The Bylaw contains a number of exemptions for single family residences existing prior to July 27, 1994]. ¶

(3) - However the Commission shall designate areas of the adjacent upland resource to be suitable for temporary, limited, or permanent disturbance as appropriate when the applicant can demonstrate to the Commission's satisfaction that the proposed work or activity will not affect resource values singularly or cumulatively and that reasonable

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
		<u>1970:52</u>
<u>40:21(11)</u>	<u>Town Property Bylaw</u>	<u>1962:25</u>
<u>40:22F</u>	<u>License Fees; Service Charges</u>	<u>19924</u>
<u>40:44 A-K</u>	<u>Regional Refuse Disposal Planning Committee</u>	<u>1967:28, 1973:44, 1974:45</u>
<u>40A:5A</u>	<u>Recorded Lots</u>	<u>1974:17</u>
<u>40A:17</u>	<u>Notices of hearings by Board of Appeals</u>	<u>1967:55</u>
<u>41:23A</u>	<u>Executive Secretary appointed by Selectmen</u>	<u>1962:4</u>
<u>41:81A-J</u>	<u>Planning Board</u>	<u>1/3/46:2, 3</u>
<u>41:81E</u>	<u>Official Town Map</u>	<u>1970:36</u>
<u>41:110A</u>	<u>Closing of Public Offices on Saturday</u>	<u>1948:24</u>
<u>44:4</u>	<u>Borrowing in Anticipation of Revenue</u>	<u>Each Year</u>
<u>44:7(3)</u>	<u>Borrowing funds for construction of new Police Station</u>	<u>1960:26</u>
<u>44:17</u>	<u>Borrowing in Anticipation of Revenue</u>	<u>Each year</u>
<u>44:53A</u>	<u>Gifts for Heritage Park Project</u>	<u>1973:9</u>
<u>45</u>	<u>Park and Recreation Commission</u>	<u>5/20/58:23</u>
<u>71:14</u>	<u>Regional School District Planning Committee</u>	<u>6/24/53:7</u>
<u>121B</u>	<u>Sudbury Housing Authority</u>	<u>1971:44</u>
<u>132A:11</u>	<u>Acquiring Land for Conservation</u>	<u>1964:18</u>
<u>147:13A</u>	<u>Reserve Police Force</u>	<u>1968:10</u>
<u>166:32</u>	<u>Appointment of Wire Inspector [1949:529]</u>	<u>1951:27</u>
<u>1888:331</u>	<u>Taking Pickerel in any River, Stream or Pond</u>	<u>1899:21</u>
<u>R.L. 11:335</u>	<u>Election of Town Clerk</u>	<u>1902:2</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>R.L. 11:364</u>	<u>Election of Town Officers</u>	<u>1904:21</u>
<u>1902:346(1)</u>	<u>Choice of Moderator</u>	<u>1906:11</u>
<u>1908:209</u>	<u>Forest Fire Protection</u>	<u>1909:25</u>
<u>1911:180</u>	<u>Restoration of Certain Trust Funds</u>	<u>1911:16, 6/10/11:2</u>
<u>1909:574(42)</u>	<u>8-hour Day for Town Employees</u>	<u>March 1914</u> <u>Ballot Question</u>
<u>1913:807(152)</u>	<u>Workmen's Compensation</u>	<u>March 1914</u> <u>Ballot Question</u>
<u>1910:624 [G.L. 41:55-61]</u>	<u>Appointment of Town Accountant</u>	<u>1918:15</u>
<u>1919:311</u>	<u>Continuation Schools for Employed Minors</u>	<u>November 1919 Ballot Question</u>
<u>G.L. 48:42</u>	<u>Fire Department, Establishment of</u>	<u>1931:32</u>
<u>G.L. 48:43</u>	<u>Chief of Fire Department to act as Forest Warden</u>	<u>1931:33</u>
<u>G.L. 136</u>	<u>Sports on Lord's Day</u>	<u>1935:11</u>
<u>G.L. 136:7, 8</u>	<u>Lord's Day Permits</u>	<u>1936:14</u>
<u>G.L. 32:85</u>	<u>Pensions, Fire and Police</u>	<u>1942:9</u>
<u>1943:450</u>	<u>Mt. Wadsworth Cemetery Corporation Property</u>	<u>1944:15</u>
<u>1945:727</u>	<u>Equal Pay for Men & Women Teachers</u>	<u>March 1946 Ballot Question</u>
<u>G.L. 32:1-28</u>	<u>Contributory Retirement System, Cities & Towns</u>	<u>November 1946 Ballot Question</u>
<u>G.L. 40:6C</u>	<u>Snow & Ice Removal from Private Ways</u>	<u>March 1947 Ballot Question</u>
<u>G.L. 41:100A</u>	<u>Indemnification of Certain Public Employees</u>	<u>1947:11</u>
<u>G.L. 94:120-120A</u>	<u>License Fee, Slaughtering Animals</u>	<u>1947:23</u>
<u>1947:265</u>	<u>Closing of Public Offices on Saturdays</u>	<u>1948:24</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>[G.L. 41:110A]</u>		
<u>1948:588</u>	<u>Increased pensions for former employees</u>	<u>1949:36</u>
<u>1950:86</u>	<u>Chief of Police under Civil Service (See ATM 1984:8)</u>	<u>March 1950 Ballot Question</u>
<u>1950:538</u>	<u>Temporary Repairs on Private Ways</u>	<u>1951:26</u>
<u>[G.L. 40:6E]</u>		
<u>1951:781</u>	<u>Increased Pensions</u>	<u>1952:26</u>
<u>1952:624</u>	<u>Increased Pensions for Former Employees</u>	<u>1953:69</u>
<u>G.L. 31:48</u>	<u>Civil Service, Police</u>	<u>March 1954</u>
		<u>Ballot Question</u>
	<u>Petition to Exempt</u>	<u>1984:8</u>
<u>G.L. 71:16-161</u>	<u>Lincoln-Sudbury Regional High School, Establishment of</u>	<u>March 1954</u>
		<u>Ballot Question</u>
<u>1954:511</u>	<u>Interim Commission to Promote Business & Industry</u>	<u>1955:26</u>
<u>1954:297</u>	<u>Commission to Promote Business & Industry</u>	<u>1955:26</u>
<u>[G.L. 40:8A]</u>		
<u>1955:670</u>	<u>Increased Pension, Former Employees</u>	<u>1956:35</u>
<u>G.L. 40:8C</u>	<u>Conservation Commission, Establishment of</u>	<u>6/27/60:5</u>
<u>G.L. 136:4B</u>	<u>Bowling on Sundays</u>	<u>1/21/61:2</u>
<u>G.L. 32B</u>	<u>Group Insurance for Town Employees</u>	<u>March 1962</u>
		<u>Ballot Question</u>
<u>Public Law 560</u>	<u>Funds for Library Purposes</u>	<u>12/4/62:4</u>
<u>[83rd Congress]</u>		
<u>G.L. 53:9A</u>	<u>Nomination Papers</u>	<u>1963:19</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>G.L. 139:1-3</u>	<u>Substandard Buildings</u>	<u>1963:5</u>
<u>1963:40</u>	<u>Historic District Commission, Establishment of</u>	<u>1963:31</u>
<u>1963:577</u>	<u>Highway Commission, Establishment of [Amended 1975:167] [Rescinded - STM 12/15/75:31]</u>	<u>11/6/63:6</u>
<u>1948:540</u> <u>[G.L. 41:97A]</u>	<u>Police Department, Establishment of [Superseded the acceptance of G.L. 41:97 at ATM 1942:8]</u>	<u>1965:30</u>
<u>G.L. 40:8D</u> <u>[1963:697]</u>	<u>Historical Commission, Establishment of</u>	<u>1968:11</u>
<u>G.L. 147:13A</u>	<u>Reserve Police Force</u>	<u>1968:10</u>
<u>G.L. 58:7A</u>	<u>State Assessment System</u>	<u>1968:9</u>
<u>G.L. 54:16A</u>	<u>Temporary Filling of Vacancies, Election Officers</u>	<u>1969:23</u>
<u>G.L. 32B:7A</u>	<u>Additional rate for insurance of Town Employees</u>	<u>March 1970</u> <u>Ballot Question</u>
<u>G.L. 32B:9A</u>	<u>Payment of one-half premium of retired Employees</u>	<u>March 1970</u> <u>Ballot Question</u>
<u>G.L. 32B:11A</u>	<u>Additional Insurance for Town Employees</u>	<u>March 1970</u> <u>Ballot Question</u>
<u>1969:768</u>	<u>Accelerated Highway Program</u>	<u>11/1/74:4</u>
<u>G.L. 71:16-161</u> <u>[1966:513]</u>	<u>Regional Vocational Technical School District Study Committee for RVTSD</u>	<u>1971:48</u> <u>1967:27</u>
<u>G.L. 44:53C</u>	<u>Police Paid Details</u>	<u>1972:7</u>
<u>G.L. 39:23</u>	<u>Timing of Town Elections</u>	<u>1972:32</u>
<u>G.L. 40:8G</u>	<u>Mutual Aid, Police Department</u>	<u>1975:44</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>G.L. 41, Sec 81K-81Y</u>	<u>Town Property. Selectmen accept gifts of land for Town</u>	<u>STM 1973:6</u>
<u>G.L. 129:15 (Para. 2)</u>	<u>Animal Inspector Nominated by Board Of Health</u>	<u>1975:7</u>
<u>1971:486</u>	<u>Beano</u>	<u>ATE 1975</u>
<u>G.L. 41:41B</u>	<u>Automatic Payroll Deposits</u>	<u>4/7/76:3</u>
<u>1976:379</u>	<u>Certain Fees Paid to the Town Clerk to be paid to the Treasurer (Dog & Fish & Game Fees)</u>	<u>1977:6</u>
<u>G.L. 41:100 I</u>	<u>Indemnification of Municipal Officers (repealed by C.512 of 1978, s. 10)</u>	<u>1977:7</u>
<u>G.L. 40:6N</u>	<u>Temporary Repairs on Private Ways [Repealed now Bylaws VII(B) 1980 ATM:21]</u>	<u>1977:23</u>
<u>1980:306</u>	<u>Exemptions from Civil Service for certain Municipal Employees [Plumbing Insp., Gas Insp., Sealer of Weights & Measures]</u>	<u>1980:12</u>
<u>G.L. 90:20E</u>	<u>[Accepted s. 20C] Parking Fines</u>	<u>6/24/80:10</u>
<u>G.L. 258:13</u>	<u>Indemnification of Municipal Officers</u>	<u>March 1980</u>
		<u>Ballot Question</u>
<u>1980:416</u>	<u>Qualification of Assessors (amended 1979:797, s. 22)</u>	<u>Accepted by Selectmen 9/23/80</u>
<u>G.L. 44:65</u>	<u>Advance vacation pay</u>	<u>1981:12</u>
<u>G.L. 40:4G</u>	<u>\$4,000 non-bid contract limit</u>	<u>1981:18</u>
<u>G.L. 44:53D</u>	<u>Park & Rec. Revolving Fund</u>	<u>1981:39</u>
<u>G.L. 148:26C</u>	<u>Smoke/Heat detectors in Apts./motels</u>	<u>1982:13</u>
<u>G.L. 90:20A1/2</u>	<u>Parking Fines Administration</u>	<u>1982:26</u>
<u>G.L. 32B:17</u>	<u>Extended Group Insurance</u>	<u>1982:27</u>
<u>G.L. 44:53E</u>	<u>User Fee Budget Offsets</u>	<u>1982:29</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>G.L. 59:5(17C)</u>	<u>Real Estate Tax Abatements</u>	<u>10/7/82:4</u>
<u>G.L. 545:26G</u>	<u>Automatic Sprinklers</u>	<u>1983:8</u>
<u>G.L. 41:108L</u>	<u>Career Incentive</u>	<u>1983:12</u>
<u>G.L. 59:5 (37A)</u>	<u>Property Tax Relief to Blind Persons</u>	<u>10/3/83:5</u>
<u>G.L. 59:5 (41B)</u>	<u>Provides Relief to Certain Persons from Impact of Revaluation</u>	<u>10/3/83:6</u>
<u>CH148, Sec. 26G</u>	<u>Regulating the installation of Automatic Sprinkler Systems</u>	<u>ATM 1983:8</u>
<u>1984 Special Act</u>	<u>Exemption of Police Chief from Civil Service (G.L. Chap. 31)</u>	<u>ATM 1984:8</u>
<u>G.L. 60A:1 1982:597</u>	<u>POW Auto Excise Tax Exemption</u>	<u>ATM 1984:28</u>
<u>G.L. 148:26E 1979:712</u>	<u>Residential Smoke Detectors</u>	<u>ATM 1985:10</u>
<u>1985:188(13)</u>	<u>Public School Improvement Act</u>	<u>9/9/85:11</u>
<u>Ch. 293, Act of 1985 Special Act</u>	<u>Liens: Septage billings</u>	<u>ATM 1986:9</u>
<u>Ch. 40 s4H</u>	<u>Bid Law Exemption</u>	<u>ATM 1986:10</u>
<u>Ch. 663, Act of 1983</u>	<u>School Transportation</u>	<u>ATM 1986:11</u>
<u>Ch. 640, Act of 1985</u>	<u>Licenses & Permits Subj. to Unpaid Taxes and Fees</u>	<u>9/25/86:10</u>
<u>Ch. 59 s5, cl. 17</u>	<u>Increased eligibility for real estate tax exemptions - increase when calculating gross income</u>	<u>ATM 1987:25</u>
<u>Ch. 59 s5, cl. 41C</u>	<u>Increased eligibility for real estate tax exemptions - increasing limits of income and estates</u>	<u>ATM 1987:26</u>
<u>Ch. 646, Act of 1986 Special act</u>	<u>Allows Town to purchase swimming facility from Atkinson Pool Foundation, Inc., and exempts Town from bidding requirements for said project</u>	<u>STM 9/25/86:22</u>
<u>G.L. Chap. 40, s39K (Ch. 306, acts of 1986)</u>	<u>Landfill Enterprise Fund</u>	<u>ATM 1988:4</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>1988 Special Act; Chap 253 of Acts of 1988</u>	<u>Provides appointment of the combined office of Town Treasurer and Collector</u>	<u>ATM 1988:50</u>
<u>G.L. 59, s 5, cl. Fifth B (Estab. By Chap. 499 of Acts of 1987)</u>	<u>Regulating real estate and personal property tax exemptions of organizations for veterans of war.</u>	<u>STM 10/3/88:1</u>
<u>Chap. 40 s 8H and 4A</u>	<u>Establish recycling program for solid waste & authorize Selectmen to enter into agreements with other communities for joint recycling programs</u>	<u>ATM 1989:5</u>
<u>Ch 696, Acts of 1986</u>	<u>An Act providing for reimbursement to the Town of the Wachusett & Sudbury Watershed.</u>	<u>Approved 1/7/87</u>
<u>Ch. 84 of Acts of 1989 Special Act</u>	<u>Shahian Conservation Restriction & Walkway Easement</u>	<u>ATM 1988:75 Approved 5/18/89</u>
<u>Ch. 524, Acts of 1989 Special Act</u>	<u>Authorizing sale of Conservation land to Jan B. Morgan (Run Brook Rd.)</u>	<u>ATM 1989:50</u>
<u>Ch. 92, Acts of 1990 Special Act</u>	<u>Barker Real Estate Tax Refund (from 950-800 Unclassified Health Insurance FY 90 Budget)</u>	<u>STM 10/17/89:2</u>
<u>Ch. 93, Acts of 1990 Special Act</u>	<u>Symington Real Estate Tax Refund (from 950-800 Unclassified Health Insurance FY 90 Budget)</u>	<u>STM 10/17/89:3</u>
<u>Ch. 653s41 Acts of 1989</u>	<u>Quarterly tax billing by the Town of property taxes</u>	<u>ATM 1989:3</u>
<u>Ch. 653 s40 Acts of 1989</u>	<u>Assessment date changes for new growth</u>	<u>ATM 1989:48</u>
<u>Ch. 95, Acts of 1990 Special Act</u>	<u>Authorizing Wayland & Sudbury to borrow money for reconstruction of Sherman's Bridge, not to exceed \$200,000</u>	<u>Approved 7/3/90</u>
<u>Ch. 653 s40</u>	<u>Allows communities to tax in the current fiscal year new construction and improvements built between January 2 and June 30.</u>	<u>ATM 1989:48</u>
<u>Ch. 90 s22B, (b) through (k)</u>	<u>Non-criminal disposition of abandoned motor vehicle offenses</u>	<u>ATM 1991:12</u>
<u>CH. 291, Acts of 1990</u>	<u>Emergency Telephone E-911</u>	<u>ATM 1991-22</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>Ch. 40 s22D</u>	<u>Towing Regulations of motor vehicles in certain circumstances</u>	<u>ATM 1991:34</u>
<u>Ch. 40 s22F</u>	<u>Reasonable fees for Licenses, Permits, etc.</u>	<u>ATM 1992:13</u>
<u>Ch. 71s71F</u>	<u>Nonresident students' tuition; Foster Care Children State Reimbursements; deposit in separate accounts.</u>	<u>ATM 1992:24</u>
<u>Ch. 131, Acts of 1989 Special Act</u>	<u>Simon Real Estate Tax Refund (\$505 from Free Cash)</u>	<u>STM 10/3/88 Art. 8</u>
<u>Ch. 12, Acts of 1989 Special Act</u>	<u>An Act authorizing certification for Todd F. Eadie as Police Officer</u>	<u>STM 10/3/88 Art. 14</u>
<u>Ch. 64, Acts of 1989 Special Act</u>	<u>An act authorizing Town to convey Curtis School land to Water District</u>	<u>STM 10/3/88 Arts. 2 & 3</u>
<u>Ch. 40 s8J</u>	<u>Create Commission on Disability Accept G.L. Ch. 40, Sec. 8J</u>	<u>ATM 1993:11</u>
<u>Ch. 449, Acts of 1993 Special Act</u>	<u>An Act to amend a certain Conservation Restriction (Drake)</u>	<u>ATM 1993:20</u>
<u>Ch. 449, Acts of 1993 Special Act</u>	<u>Release a certain portion of a Conservation Restriction (Gruber)</u>	<u>ATM 1993:36</u>
<u>Ch. 131, Acts of 1994 Special Act</u>	<u>An Act Establishing a Board of Selectman/Town Manager Form of Administration</u>	<u>ATM 1994:2 Approved 9/2/94</u>
<u>Accepted Ch. 71 s83, Acts of 1993 Accepted</u>	<u>Early Retirement Incentive Sudbury Schools K-8</u>	<u>ATM 1994:6</u>
<u>Ch. 180, Acts of 1996 Special Act</u>	<u>Authorize the Town to send information to registered voters</u>	<u>ATM 1996:23</u>
<u>Accepted Ch. 481 Acts of 1993</u>	<u>Relative to the sale of liqueurs of cordials by common victualers</u>	<u>ATM 1995:10</u>
<u>Ch. 122 Special Act Acts of 1998</u>	<u>Release a portion of Conservation Restriction located on land owned by Robert F. & Kathy K. Wilcox</u>	<u>ATM 1995:43 & STM 1998:1</u>
<u>Accepted Ch. 64G, s3A</u>	<u>Accept local excise tax upon the transfer of occupancy of any rooms in a hotel, motel, bed & breakfast</u>	<u>STM 1997:10</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>Special Act (not accepted)</u>	<u>Third Quarter Estimated Tax Bills</u>	<u>STM 1997:5</u>
<u>Accept MGL C.59, s5</u>	<u>Increase Tax Exemptions to allow for an increase of up to 100% of the current exemption amounts under clauses 41C, 37A, 22 and 17D of Ch.59, S5</u>	<u>STM 1997:6</u>
<u>Special Act (not yet passed Legislature)</u>	<u>Kaplan Conservation Restriction</u>	<u>ATM 1997:51</u>
<u>Special Act (Stalled in Legislature)</u>	<u>Land Bank</u>	<u>ATM 1997:52</u>
<u>Accepted Ch. 181s1 MGL 59.S5</u>	<u>Accept Ch 181 S.1 of the Acts & Resolves of 1995 amending MGL. C. 59, S5, to allow cost of living increases to be added, etc.</u>	<u>ATM: 1997:28</u>
<u>MGL CH 59, S5, clause 41A</u>	<u>Adopted \$40,000 max gross income re: exemption and deferral of real estate taxes for persons 65 and older</u>	<u>ATM 1997:29</u>
<u>MG. CH 140, S147A</u>	<u>Regulations of Dogs</u>	<u>ATM 1998:42</u>
<u>Accepted MGL CH 59, S5</u>	<u>Accepted statute to allow increase of up to 100% of current exemption amounts under clauses 41C, 37A, 22 and 17D.</u>	<u>STM 1997:6</u>
<u>CH. 148, S.26(H) & 26(I)</u>	<u>Automatic Sprinkler Systems</u>	<u>ATM 1999: 32/33</u>
	<u>Accepted</u>	
<u>CG, 63, SEC 4 Acts of 1983</u>	<u>REAL ESTATE TAX EXEMPTION</u>	<u>ATM: 1999:31</u>
	<u>Annual acceptance</u>	
<u>Special Act Acts of 1994</u>	<u>AMEND CH. 131 OF THE ACTS OF 1994 TO ALLOW APPOINTMENT OF HEALTH DEPT. EMPLOYEES BY TOWN</u>	<u>ATM 2000:10</u>
	<u>MGR Voted: Indefinitely postponed by sponsor Board of Selectmen</u>	
<u>Special Act Acts of 1994</u>	<u>AMEND CH. 131 OF THE ACTS OF 1994 TO INCREASE SELECTMEN MEMBERSHIP TO 5</u>	<u>ATM 2000:11</u>
	<u>Defeated</u>	
<u>Chapter 127 of the Acts of 1999 Ch.59, s5K</u>	<u>To establish a program to allow persons over the age of 60 to volunteer to provide services to the Town in exchange for a reduction of</u>	<u>ATM 2001 By act of legislative body Apr. 2, 2001</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
	<p><u>up to \$500 annually in his/her tax bill, beginning in fiscal year 2002. (Senior Work Program)</u></p> <p><u>Accepted</u></p>	
<u>Acts Ch. 116 Acts of 2002</u>	<p><u>Early Retirement Incentive Program- To accept the Early Retirement Incentive Program under Ch. 116 of the acts of 2002 for implementation by the Town of Sudbury specifically for 1 person from Group 1 and 1 person from Group 4.</u></p> <p><u>Accepted</u></p>	<u>October 31, 2002</u>
<u>Special Act Chapter 59, s5, Clause 17E, 41D</u>	<p><u>Optional cost of living adjustment for determining real estate tax exemptions</u></p> <p><u>Accepted</u></p>	<u>ATM 2002:27</u>
<u>Special Act Ch.59 s.5 Clause 41A</u>	<p><u>Application of Chapter 59,s.5, Clause 41A —Property Tax Deferment</u></p> <p><u>Accepted</u></p>	<u>ATM 2002:28</u>
<u>Special Act Chapter 280 Acts of 2002</u>	<p><u>Authorizing the Town of Sudbury to establish a special fund for deposit of certain funds to be used for affordable housing.</u></p> <p><u>Accepted</u></p>	<u>ATM2002:29</u>
<u>Special Act Ch. 131 Acts of 1994</u>	<p><u>AMEND CH. 131 OF THE ACTS OF 1994- HEALTH DEPT. (Submitted by the Board of Selectmen To petition the Great and General Court to amend Part IV of Chap. 131 of the acts of 1994</u></p> <p><u>Motion defeated</u></p>	<u>ATM 2002:30</u>
<u>Special Act By petition</u>	<p><u>Article 54-SENIOR CITIZEN REAL ESTATE TAX EXEMPTION: Voted to petition the General Court of the Commonwealth of Massachusetts to enact special legislation to provide that the Assessors of the Town of Sudbury shall use the Senior Citizen Real Estate Tax Exemption as described.* See Vote Certificate.</u></p>	<u>ATM: 2003:54</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
	<u>Accepted at Town Meeting. Failed at Legislature</u>	
<u>Special Act</u>	<u>Article 2 - SENIOR CITIZEN RESIDENTIAL EXEMPTION</u>	<u>ATM: 2005:2</u>
	<u>Defeated at Town Meeting</u>	
<u>Special Act By petition to Legislature</u>	<u>Article 16 - AUTHORIZING the establishment of a Post Employment Health Insurance Liability Fund.</u>	<u>ATM: 2005:16</u>
<u>Special Act By petition to Legislature</u>	<u>Article 33 - AUTHORIZING the establishment of a Rental Property Revolving Fund</u>	<u>ATM: 2005:33</u>
<u>Special Act Amendment of Special Act-Chapter 40 of the Acts of 1963 Petition to Gen.Court</u>	<u>For Approval of an Amendment of Special Act: Chapter 40 of the Acts of 1963 relative to membership of the Historic Districts Commission</u>	<u>ATM:2005:34</u>
<u>MGL c.71, s.71E</u>	<u>Article 32 - School Building Use</u>	<u>ATM:2006:32</u>
	<u>Accepted</u>	
<u>MGL c.44, s55C</u>	<u>Article 33 - Sudbury Affordable Housing Trust</u>	<u>ATM: 2006:33</u>
	<u>Accepted</u>	
<u>Ch. 52 of the Acts of 2007</u>	<u>An act authorizing the Town of Sudbury to extend the election date for approving a debt exclusion vote.</u>	<u>Home Rule Petition</u>
	<u>Approved June 21, 2007</u>	
<u>Ch. 32B § 18</u>	<u>Medicare Eligible Retiree Health Insurance</u>	<u>ATM 2007:9</u>
	<u>Accepted</u>	
<u>Ch. 179 of the Acts of 2007</u>	<u>An Act relative to the administration of Elections to be held in the year 2008.</u>	<u>Approved Nov. 26, 2007 by the Governor</u>
<u>Ch. 222 of the Acts of 2008</u>	<u>An Act authorizing the Town of Sudbury to use certain insurance or recovery proceeds received to compensate for Fire and Police injured in the line of duty as a salary offset. Approved July 31, 2008</u>	<u>ATM 2008:15</u>

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
<u>Ch. 458 of the Acts of 2008</u>	<u>An Act authorizing an increase in the allowable income level relative to Clause 41A tax deferrals for FY09 and succeeding years. (Now \$72,000 Tax Deferral Income Allowance) Owners over age 60 whose calendar yr.2007 income did not exceed \$72,000, to enter into a tax deferral and recovery agreement with the Town of Sudbury.</u>	<u>ATM 2008:20</u>
	<u>Approved: January 7, 2009</u>	
<u>M.G.L. C64L, § 2(a)</u>	<u>To accept M.G.L. c. 64L, § 2(a) to impose a local meals excise</u>	<u>ATM 2010:14</u>
<u>M.G.L. c.64G, § 3(A)</u>	<u>To accept M.G.L. c.64G, § 3(A), local room occupancy excise</u>	<u>ATM 2010:15</u>
<u>M.G.L. c. 71 § 37M</u>	<u>To accept M.G.L. c.71 § 37M - consolidate school & town facility maintenance functions</u>	<u>ATM 2010:16</u>
<u>M.G.L. c.272, § 73A</u>	<u>To accept M.G.L. c.272, § 73A - removal of gravestones</u>	<u>ATM 2010:26</u>
<u>Special Act by Petition Acts 2012, Ch. 169, Acts of 2016, Ch. 10</u>	<u>Home Rule Petition - means tested senior citizen property tax exemption Amended to extend exemption for 3 years, by vote of ATM.</u>	<u>STM January 2011:2</u> <u>2015:35</u>
	<u>Ballot Question Passed-2016 ATE</u>	
<u>Special Act by Petition Acts 2012, Ch. 410</u>	<u>SPECIAL ACT - REVISE c. 131 OF THE ACTS OF 1994 TO INCREASE SELECTMEN MEMBERSHIP TO 5</u>	<u>STM Sept. 2012:4</u>
<u>Ch. 59, s.5N</u>	<u>To accept CH. 59, s.5N - Veterans Property Tax Abatement</u>	<u>ATM 2013:13</u>
<u>Ch. 110, Section 110 of the Acts of 1993</u>	<u>To accept CH 110, Section 110 of the Acts of 1993, Disabled Veteran's Exemption Residency Requirement</u>	<u>ATM 2014:28</u>
<u>Chap. 10 Acts of 2016</u>	<u>An act amending chap. 169 of the acts of 2012, extending a certain property tax exemption for seniors Approved 1/29/16</u>	<u>ATM: 2015:35</u>
<u>Ch. 90, s.17C</u>	<u>To accept the provisions of G.L. c.90, § 17C,STM 10.15.2018:6 which allows the Board of Selectmen to</u>	

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
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establish a speed limit of 25 miles per hour in any thickly settled or business district in the Town that is not a state highway.
Accepted

<u>Chapter 245 Acts of 2020</u>	<u>Article 2-An Act making the charter of the Town of Sudbury Gender Neutral Approved</u>	<u>STM:2020:2</u>
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<u>Ch. 59, sec. 5, 22H</u>	<u>Art. 35-To accept the provisions of the Brave Act, MGL. 59, sec. 5, clause 22H. An act relative to Veteran's Benefits.</u>	<u>ATM:2020:35</u> Accepted
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<u>Sec. 4 of chap. 40 of the acts of 1963, as amended by Ch. 73 of the acts of 2006 amended by Chap 72 of the Acts of 2022</u>	<u>An Act to increase the membership of the Historic District Commission to allow the appointment of two associate members.</u>	<u>ATM:2020:36</u> <u>Approved May 24, 2022</u>
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<u>Chap 40 of the Acts of 2022</u>	<u>Art. 39-An Act to Transfer and change of use of Chapter of Brimstone Lane Parcels.</u>	<u>ATM 2020:39</u>
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<u>Pending</u>	<u>Art. 56-An Act to authorizing the Town to Establish a Fee for A Checkout Bag Charge.</u>	<u>ATM 2020:56</u>
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<u>Ch. 58 of the acts of 2021</u>	<u>An Act authorizing the Town to grant an additional license for the the sale of alcoholic beverages to be drunk on the premises.</u>	<u>ATM 2020:34</u>
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<u>MGL C.71, sec 71F</u>	<u>To accept the provisions of MGL to allow tuition payments received for non-residents and foster care students to be expended by the school committee.</u>	<u>ATM 2020:33</u> Accepted
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<u>Pending</u>	<u>Amend Process for Creating New local historic Districts Sec 12 of Chapter 40 of the Acts of 1963</u>	<u>ATM 2022:29</u>
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To do: 1997 ATM:48 -May need special Act—Loring row easement
1998 ATM: 9 - Rollback Taxes from DH 61.

Key to abbreviations:

First Column: 1971:20 = Chapter 20 of the Acts of 1970
39:16 = Chapter 39, Section 16, General Laws

<u>General Law Chapter & Section</u>	<u>Subject</u>	<u>Town Action</u>
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[R.L. 11:335 = Revised Laws, Chapter 11, Section 335](#)

[G.L. 48:42 = General Laws, Chapter 48, Section 42](#)

Last Column:

[1924:27 - Annual Town Meeting of 1924, Article 27](#)

[10/21/64:6 = Special Town Meeting of 10/21/64, Article 6](#)

Derivation Table

Chapter DT Derivation Table

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where articles and sections of the General Bylaws have been included in the 2023 Code, or the reason for exclusion.

§ DT-1 Derivation Table of General Bylaws to 2023 Code.

Article/Title From General Bylaws	Location in 2023 Code
General Bylaws	
Article I, Town Meetings	Ch. 68, Art. I
Article II, Government of Town Meeting	Ch. 68, Art. II
Article III, Town Affairs	
§ 1	Ch. 25, Art. I
§ 2	Ch. 61
§ 3	Ch. 61
§ 4	Ch. 61
§ 5	Ch. 25, Art. I
§ 6	Ch. 5, Art. I
§ 7	Ch. 25, Art. I
§ 8	Ch. 5, Art. I
§ 9	Ch. 52, Art. I

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Article/Title From General Bylaws	Location in 2023 Code
§ 10	Not passed by 2013 ATM
§ 11	Ch. 68 , Art. III
Article IV, Finance Committee	Ch. 5 , Art. II
Article V, Public Safety	
§ 1	Ch. 105 , Art. II
§ 2	Ch. 256 , Art. I
§ 3	Ch. 117 , Art. II
§ 4	Ch. 117 , Art. I
§ 5	Ch. 117 , Art. I
§ 6	Ch. 117 , Art. I
§ 7	Ch. 137
§ 8	Ch. 179
§ 9	Ch. 179
§ 10	Ch. 237
§ 11	Ch. 237
§ 12	Ch. 237
§ 13	Deleted 1980 ATM, Art. 22
§ 14	Ch. 204
§ 15	Ch. 270 , Art. I
§ 16	Ch. 270 , Art. II
§ 17	Ch. 160
§ 18	Ch. 160
§ 19	Ch. 256 , Art. II
§ 20	Ch. 113
§ 21	Ch. 105 , Art. I

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Article/Title From General Bylaws	Location in 2023 Code
§ 22	Ch. 175 , Art. I
§ 23	Ch. 175 , Art. I
§ 24	Ch. 175 , Art. I
§ 25	Ch. 175 , Art. II
§ 26	Ch. 170 , Art. I
§ 27	Ch. 270 , Art. III
§ 28	Ch. 129 , Art. I
§ 29	Ch. 221
§ 30	Ch. 256 , Art. III
§ 31	Ch. 279 , Art. I
§ 32	Ch. 124
§ 33	Ch. 160
Article V(A), Removal of Earth	Ch. 151
Article V(B), Rules & Regulations for Burglar Alarms	Ch. 109 , Art. I
Article V(C), Smoking Prohibition	Repealed 5-7-2018 ATM by Art. 18
Article V(D), Fire Alarm Systems	Ch. 109 , Art. II
Article V(E), Underground Storage Tanks	Ch. 243
Article V(F), Stormwater Management	Ch. 252
Article VI, Enforcement	
§ 1	Ch. 129 , Art. II
§ 2	Ch. 1 , Art. I
§ 3	Ch. 1 , Art. II
Article VII, Legal Affairs	Ch. 43
Article VII(A), Equal Employment Opportunity	Ch. 20
Article VII(B), Temporary Repairs on Private Ways	Ch. 256 , Art. IV

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Article/Title From General Bylaws	Location in 2023 Code
Article VIII, Planning Board	<u>Repeal pending</u>
Article VIII(A), Board of Appeals for Subdivisions	Deleted 1968 ATM by Art. 20
Article VIII(B), Scenic Roads	Ch. 232
Article IX, Zoning Bylaw	Ch. 295
Article X, Amendments	Ch. 1 , Art. III
Article XI, Personnel Administration Plan	Deleted 1997 ATM by Art. 34
Article XI(A), Council on Aging	Ch. 5 , Art. III
Article XII, Town Property	Ch. 72
Article XIII, Plumbing Bylaw	Superseded by the Massachusetts State Plumbing Code
Article XIV, Perpetual Care of Burial Places	Ch. 133
Article XV, Building Code	Ch. 129 , Art. III
Article XVI, Town Seal	Ch. 76
Article XVII, Fees	
§ 1	Ch. 170 , Art. II
§ 2	Ch. 170 , Art. III
§ 3	Ch. 170 , Art. IV
Article XVIII, Licenses & Permits Subject to Unpaid Taxes & Fees	Ch. 199 , Art. I
Article XIX, Appoint Tree Warden	Ch. 52 , Art. II
Article XX, Prohibition & Regulation of Overhead Utilities	Ch. 265 , Art. I
Article XXI, Highway Surveyor	Repealed 1997 ATM by Art. 33
Article XXII, Wetlands Administration	Ch. 283
Article XXIII, Water Resource Protection Committee	<u>Repeal pending</u>
Article XXIV, Upper Hop Brook Protection	Ch. 216 , Art. I

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Article/Title From General Bylaws	Location in 2023 Code
Article XXV, Capital Planning	Ch. 11
Article XXVI, Public Way Access Permit	Ch. 256 , Art. V
Article XXVII, In-Ground Irrigation Systems	Ch. 279 , Art. II
Article XXVIII, Demolition Delay of Historically Significant Buildings, Structures or Sites	Ch. 145
Article XXIX, Community Preservation Committee	Ch. 5 , Art. IV
Article XXX, Removal of Double Utility Poles	Ch. 265 , Art. I
Article XXXI, Farming Preservation Bylaw	Ch. 166
Article XXXII, Illicit Discharge and Connection	Ch. 248 , Art. I
Article XXXIII, Revolving Funds	Ch. 25 , Art. II
Article XXXIV, Plastic Bag Ban	Ch. 156 , Art. I
Article XXXV, Regulation of Sale and Use of Bottled Water	Ch. 156 , Art. II
Article XXXVI, Polystyrene Reduction	Ch. 156 , Art. III
Article XXXVII, Disposable Plastic Pollution Reduction	Ch. 156 , Art. IV

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Disposition List

Chapter DL Disposition List

The following is a chronological listing of legislation of the Town of Sudbury adopted since 2022, indicating for each its inclusion in the Code or the reason for exclusion. The last legislation reviewed for the original publication of the Code was Article 40 of the May 2, 2023, Annual Town Meeting.

§ DL-1 Disposition of legislation.

<u>Enactment</u>	<u>Adoption</u> <u>Date</u>	<u>Subject</u>	<u>Disposition</u>
<u>Art. 25</u>	<u>5-2-2022</u> <u>ATM</u>	<u>Town</u> <u>Meetings:</u> <u>Procedures</u> <u>Amendment</u>	<u>Ch. 68, Art.</u> <u>II</u>

<u>Enactment</u>	<u>Adoption Date</u>	<u>Subject</u>	<u>Disposition</u>
<u>Art. 31</u>	<u>5-2-2022</u> <u>ATM</u>	<u>Stormwater</u> <u>Management</u> <u>Amendment</u>	<u>Ch. 252</u>
<u>Art. 30</u>	<u>5-2-2023</u> <u>ATM</u>	<u>Finances:</u> <u>Revolving</u> <u>Funds</u> <u>Amendment</u>	<u>Ch. 25, Art.</u> <u>II</u>
<u>Art. 38</u>	<u>5-2-2023</u> <u>ATM</u>	<u>Zoning</u> <u>Amendment</u>	<u>Ch. 295</u>
<u>Art. 39</u>	<u>5-2-2023</u> <u>ATM</u>	<u>Housing</u> <u>Trust</u>	<u>Ch. 186</u>
<u>Art. 40</u>	<u>5-2-2023</u> <u>ATM</u>	<u>Wireless</u> <u>Facilities in</u> <u>Public Ways</u>	<u>Ch. 287</u>