PROTECTIVE ZONING BYLAWS

November 2015

(Includes changes made through November 14, 2015 Special Town Meeting)

Shirley, Massachusetts

Official Copy Attest: _____ _____

Signature of Town Clerk **Affix Seal Here**

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1. GENERAL PROVISIONS *(Revised 11-01-05)*

1.1. Authority and Title

This Bylaw is adopted in accordance with and pursuant to the provisions of M.G.L., c.40A, as amended. This Bylaw shall be known and may be cited as the Zoning Bylaw of the Town of Shirley, Massachusetts.

1.2. Purposes

The purposes of this Bylaw include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the Master Plan adopted by the Planning Board, the Shirley Open Space and Recreation Plan and the Comprehensive Plan of the Montachusett Regional Planning Commission; and to preserve and increase amenities by the promulgation of regulations to fulfill these purposes under the provisions of M.G.L. c. 40A.
In accordance with these purposes, the use, erection, establishment, movement, repair, alteration, enlargement, height, appearance, location and occupancy of buildings and structures, and the uses and occupancy of premises in the Town of Shirley are hereby regulated and restricted as hereinafter provided.

1.3. Planning Board Associate Member

Per M.G.L. c. 40A, Section 9, the Shirley Planning Board, as it is a Special Permit granting authority, shall have one associate member who shall sit, when necessary, on the Board for the purpose of acting on Special Permit applications. This position will be filled by the general election at the Annual Town Meeting and term shall be for two (2) years.

1.4. Zoning Districts

The Town of Shirley is hereby divided into the following classes of districts to be known as:

R-R	Rural Residential
R-1	Residential-1
R-2	Residential-2
R-3	Residential-3
SV	Shirley Village Business District
NSV	North Shirley Village Business District
GRW	Great Road West Mixed-Use District
MXD	Mixed-Use District
LRC	Lancaster Road Commercial
I	Industrial

1.5. Overlay Districts

The following overlay districts are hereby established:

FP	Flood Plain
Z1	Water Supply and Wellhead Protection
Z2	Water Supply and Wellhead Protection

1.6. Zoning Map *(Revised 11-01-05, 11-07-11 and 11-14-15)*

The location and boundaries of the zoning districts are hereby established as shown on a map entitled, "Town of Shirley, MA Zoning Map – Districts dated 2015 and Town of Shirley, MA Zoning Map – Overlay Districts dated November 2005" which accompanies and is hereby declared to be part of this Bylaw. All explanatory legend and memoranda thereon or attached thereto are hereby declared to be a part of this Bylaw. Any change in the location of boundaries of a zoning district hereafter made through the amendments of this Bylaw shall be indicated by the alteration of such Map, and the Map, thus altered, is declared to be a part of the Bylaw thus

amended. A composite "Zoning Map" shall be prepared at a large scale with ink on a stable material and shall be located in the office of the Planning Board.

Copies of the Zoning Maps are on file with the Town Clerk.

1.7. Boundaries of Districts ***(Revised 6-07-10)***

1.7.1. Where a district boundary line is shown as following a street, railroad or utility, the boundary shall be the centerline thereof as said line existed at the date of the Zoning Map unless otherwise indicated.

1.7.2. Where a boundary line is shown outside of a street, railroad or utility and approximately parallel thereto, the boundary shall be deemed parallel to the nearest line thereof, and the figure placed on the zoning map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line unless otherwise indicated.

1.7.3. Where a boundary line is shown as following a watercourse, the boundary line shall coincide with the centerline thereof as said line existed at the date of the Zoning Map.

1.7.4. Where a boundary line shall include a numerical figure followed by the letters M.S.L., it is at that number of feet above Mean Sea Level. The source for determining such a line shall be the United States Geological Survey as interpreted by the Building Inspector/Zoning Enforcement Officer or by subsequent field surveys.

1.7.5. Where a boundary line is indicated as a property or lot line and the exact position of such line is not defined by measurements, the true location thereof shall be taken as the boundary line as said line existed at the date of the establishment of such boundary line.

1.7.6. Where the location of a boundary line is otherwise uncertain, the Building Inspector/Zoning Enforcement Officer shall determine its position in accordance with the distance in feet from other lines or bounds as given or as measured on the zoning map and good engineering practice.

1.7.7. *(Section Removed)*

1.8 Electronic copies-

All plans which show any lot line changes shall also be submitted in a digital format acceptable to the Planning Board and the Assessor's Office.

2. BASIC REQUIREMENTS FOR ALL DISTRICTS *(Revised 11-01-05)*

2.1. Uses; General

2.1.1. No building or other structure shall be erected and no building, structure, or land shall be used for any purpose or in any manner other than as regulated and permitted in this Bylaw.

2.1.2. Uses allowed by the Planning Board, Board of Appeals or any other Special Permit Granting Authority (SPGA) authorized by this Bylaw, shall be in conformity with all use, density and dimensional regulations and any other pertinent requirements of this Bylaw, as set forth in the applicable regulations for each district and Section 8.

2.1.3. A building, use or structure not specifically permitted shall be deemed prohibited, except for uses that may not be regulated by zoning under M.G.L. c.40A, Section 3.

2.2. Prohibited Uses

2.2.1. In any district, no use will be permitted which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, biohazardous, hazardous or toxic materials, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in the Town.

2.2.2. The following uses are explicitly prohibited in the Town of Shirley:

a. Drive-through food service establishments, unless specifically identified as a Special Permitted use in a Commercial or Industrial District

b. Parks for mobile homes, travel trailers, tent trailers

c. Auto dismantling, junkyards

d. Garbage and refuse incineration or disposal otherwise of material not originating on the premises or solid waste recovery facilities, except municipal recycling facilities;

e. Distillation of bones, rendering of fat or reduction of animal matter

f. Slaughterhouses

g. Manufacturing of glue; oil refining; bulk storage of petroleum products

h. Foundries, manufacture of large machine parts

i. Tanneries

j. Processing, storage and distribution of asphalt products

k. Sorting, baling and storage of waste paper, rags or junk

l. Sand, gravel and stone processing plants

m. Airports

n. Transportation or freight terminals

o. Truck stops

2.3. Uses Permitted in All Zoning Districts

2.3.1. The following uses are permitted as of right in all districts subject to the dimensional, density and use intensity regulations of the districts in which they are located, and to Site Plan Review under Section 7 of this Bylaw:

a. Use of land or structures for religious purposes

b. Use of land or structures for public or non-profit private educational purposes

c. Child care or day care center as defined in M.G.L. c.28A, Section 9

2.3.2. Agriculture as defined in M.G.L. c.128, Section 1A, is allowed as a matter of right on more than five acres of land.

2.3.3. A farm stand associated with an agricultural use on more than five acres of land, or a farm stand associated with an agricultural use on five acres or less in areas zoned for agriculture, is permitted in accordance with M.G.L. c.40A, Section 3 in all zoning districts.

2.3.4. Municipal uses are allowed in any zoning district when authorized by a two-thirds vote of Town Meeting. Any building or structure for an approved municipal use shall meet all applicable dimensional, density, and design requirements of the district in which it is located and shall be subject to Site Plan Review under Section 7 of this Bylaw.

2.4. Nonconforming Uses, Structures and Lots

2.4.1. Any use or structure lawfully existing at the time of the adoption of the Shirley Zoning Bylaw or any amendment thereto and any use or structure lawfully begun, or as to which a building or Special Permit has been issued, before the first publication of notice of the public hearing on such Bylaw or any future amendment thereto may be continued or completed although such structure or use does not conform to the provisions hereof or of such amendment, provided that:

a. Construction or operations pursuant to such building or Special Permit shall conform to the provisions of this Bylaw as amended unless the use or construction is commenced within a period of six (6) months after issuance of the permit and, in cases involving construction, unless such construction is completed as continuously and expeditiously as is reasonable;

b. Any conversion of any non conforming use to a conforming use shall be subject to the requirements for such uses in the district in which the use is located and once changed shall not thereafter revert to the non conforming use;

c. Wherever a non conforming use has been abandoned for a period of more than two (2) years except for agricultural, horticultural or floricultural where the period shall be for more than five (5) years, it shall not be reestablished and any future use shall conform to the Zoning Bylaw and any amendment thereto;

d. No building or structure put to a non conforming use or non conforming structure which is destroyed or damaged by fire or other causes, or demolished to the extent, in any of such cases, of more than three-quarters (3/4) of its fair market value at the time of said damage or demolition as determined by the Building Inspector may be rebuilt for the purpose of reestablishing the non conforming use, unless the Board of Appeals shall make the finding set forth in Section 9.2.3 below with respect to such reconstruction or repair;

e. Any reconstruction or repair of a partially destroyed, demolished or damaged structure which is non conforming, or which was put to a non- conforming use must be commenced within one

year of such damage or destruction and the reconstruction completed and the structure occupied within two (2) years of such damage or destruction.

2.4.2. A residence in a district where residences are permitted, but on a non conforming lot, may be reconstructed, altered or repaired without change in the lot size, provided that such alteration, reconstruction, extension or structural change does not increase the non conforming nature of such structure.

2.4.3. Any other non conforming structure or use the change or alteration of which is not otherwise permitted as a matter of right by the provisions hereof, may be extended, altered, reconstructed or repaired, provided any such extension shall not exceed twenty-five percent (25%) of its area on said lot as of June 16, 1988, and that in each case the Board of Appeals, in accordance with the procedures of Section 9.2.3 hereof, shall find that such extension, alteration, reconstruction or repair is not substantially more detrimental to the neighborhood than the existing non conforming structure or use.

2.4.4. Notwithstanding anything contained herein to the contrary, such expansion of a structure or use permitted hereunder must be physically located within the perimeter of the lot as said perimeter existed and upon which the non conforming structure or use was situated on the date the structure or use originally became nonconforming.

2.5. Accessory Uses

Accessory uses shall be on the same lot with the building of the owner or occupant except as otherwise provided herein, and shall not alter the character of the premises on which they are located nor impair the neighborhood.

2.5.1. Residential Accessory Uses. The following accessory uses are specifically permitted as of right or by Special Permit:

a. Family day care homes. Licensed family day care homes as defined in M.G.L. c.28A, Section 9, are allowed as an accessory use as of right in all districts in which detached single-family dwellings are a permitted use. Where detached single-family dwellings require a Special Permit, family day care homes may be approved by Special Permit from the applicable Special Permit granting authority.

b. Accessory apartments. In all residential districts, one accessory apartment is allowed in a detached single-family dwelling by Special Permit from the Board of Appeals, subject to the requirements of Section 4.5.

c. In-law accessory apartments. In all residential districts, one in-law apartment is allowed as of right as an accessory use to a detached single-family dwelling, provided the apartment meets the requirements of Section 4.10.

d. Boarders in single-family dwelling. The renting of rooms and/or furnishing of board to not more than one person in a single-family dwelling by the owner/occupant thereof shall be a permitted accessory use in the residential and village business zoning districts. The renting of rooms and/or furnishing of board to more than one person in a single-family dwelling by the owner/occupant thereof shall be deemed a rooming or boarding house, which is a principal use, not an accessory use.

e. Private garage or carport for not more than four vehicles, solar system, greenhouse, toolshed or barn; swimming pool or tennis court, provided that such recreational facilities are used exclusively by the residents and their guests.

2.5.2. Nonresidential Accessory Uses

a. 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 the applicable use or dimensional regulations of the district or in Section 7, Site Plan Review, shall also require site plan review and approval.

b. Truck or trailer cleaning or washing, provided that the truck or trailer is necessary for the conduct of the principal commercial or industrial use.

c. An employee food service area established exclusively to serve employees of the principal use.

d. Facilities for training employees of the principal use.

e. The outdoor display or storage of goods and merchandise for sale is permitted only when such display or storage is wholly incidental and secondary to the primary use conducted within the permanent structure on the lot. No such display or storage may occur in delineated parking spaces, traffic lanes, crosswalks, sidewalks or public ways, and all outdoor storage shall be screened from view from adjacent or nearby streets and properties. No additional signs are permitted except as otherwise provided herein.

2.5.3. Scientific Research. 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, may be permitted upon the issuance of a Special Permit provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

2.6. Building or Use Permit

2.6.1. No building or structure shall be used, constructed, relocated, added to or demolished without a permit having been issued by the Building Inspector. No such permit shall be issued until such construction, alteration, or use, as proposed complies in all respects with the provisions of this Bylaw or with a decision rendered or Special Permit granted by the applicable Special Permit granting authority (SPGA) authorized by this Bylaw.

2.6.2. Plot Plan Accompanying Application

a. Any application for a building, structure or use permit or a certificate of occupancy shall be accompanied by a plot plan in triplicate, accurately drawn to a scale of one inch = forty feet, showing the actual shape, area and dimensions of the lot to be built upon, the exact location and size of any buildings or structures already on the lot, the location of proposed alterations to and enlargements of existing buildings or structures, driveways, the location of new buildings or structures to be constructed together with the lines within which all buildings or structures are to be erected or enlarged, the existing and intended use of each building or structure and all streets and ways on or adjacent to the lot, the delineation of any Flood Plain District or Water Supply Protection District areas located within a lot, unless the plot plan includes a statement that: "No part of lot is within a Flood Plain District or Water Supply Protection District," and such other information as the Building Inspector/Zoning Enforcement Officer may determine is necessary. In the case of a building or use permit limited to interior improvements to an existing building or structure, a plot plan shall not be required.

b. In addition, for all new buildings and structures, and all existing buildings and structures to be externally enlarged or expanded in ground area to an extent greater than 30% of internal floor areas or ground coverage, or six hundred square feet, whichever is larger, plot plans shall show existing and approved abutting street grades, the proposed elevation of the top of the foundation of existing and proposed buildings or structures, existing and proposed topography,

existing septic disposal systems, private wells, wetland boundary delineations as approved by the Conservation Commission, gas, water and other public utilities in the abutting street and the zoning classification of the abutting properties. Plot plans shall also show such other information as may be necessary to provide for the verification of compliance with the applicable provisions and the enforcement of this Bylaw, including, but not limited to, off street parking, screening and fencing. Plot plans shall be certified by a registered professional engineer or land surveyor. In the event that the information required under this subsection can be determined from the Town's Assessor's maps, the Building Inspector shall have the authority to waive the requirement of a plot plan certified by a professional engineer or land surveyor. A record of all applications, plans, and permits shall be kept on file by the Building Inspector/Zoning Enforcement Officer.

2.7. Lots in Two Towns

When a lot in one ownership is situated in part in the Town of Shirley and in part in an adjacent municipality, the provisions of this Bylaw shall be applied to that portion of the lot lying in the Town of Shirley in the same manner as if the entire lot were situated therein.

2.8. Protective Overlay Districts

For any lot located in the Water Supply and Wellhead Protection District or the Flood Plain District when the regulations of said district are more restrictive than the regulations of the underlying district, the more restrictive regulations shall apply.

2.9. Rate of Development *(Added 9-11-00; Extended 3-21-05)*

2.9.1. The purpose of this Section, "Rate of Development", is to ensure that growth occurs in an orderly and planned manner; to phase growth so that it will not unduly strain the community's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services; to maintain the community at a quality of life which citizens expect; to provide the Town boards and its agencies information, time, and capacity to incorporate such growth into or as per the Master Plan for the community; and to preserve and enhance existing community character and the value property.

2.9.2. General

Beginning on September 11, 2000, building permits, including foundation permits, for not more than thirty (3) dwelling units shall be applied for or issued in each of the five (5) calendar years following said date, for the construction of new residential dwelling units, per approved ANR and/or standard or cluster subdivision. Further, no one person or entity nor their successors in interest, nor any entity in which they hold a legal or beneficial ownership shall be issued more than five (5) of the total number of permits available in any one year, with the exception of the exemptions as described in this Bylaw.
"Dwelling unit" shall mean any portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities. Within the provisions of this Section, an "Accessory Apartment", as defined in Section 11.1 of the Zoning Bylaws, shall not constitute a dwelling unit.

2.9.3. Procedures

Any building permits issued shall act on each permit with the following procedures:

a. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant within three (3) business days and shall require new submittal.

b. The Building Inspector shall accept applications and issue permits one (1) year at a time.

c. The Building Inspector shall mark each application with the time and date of submittal.

d. Any issued permit shall conform to the time limits set by Section 8.2.3.

e. Any building permits not issued in any calendar year (January 1 – December 31) shall not be available for issuance in any subsequent year.

f. At the end of each calendar year in which this Bylaw is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth (10th) day of January of the succeeding year the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with Section 2.9.2. above.

2.9.4. Exemptions

The provisions of this Section shall not apply to, nor limit in any way, the granting of building permits or occupancy permits required for enlargements, restoration, or reconstruction of existing dwellings existing on lots as of the date of passage of this Bylaw.

a. Dwelling units for low and/or moderate income families or individuals, where all of the following conditions are met:

   1. Occupancy of the units is restricted to households qualifying under the Local Initiative Program as administered under the Massachusetts Department of Housing and Community Development.

   2. The affordable units are subject to a property executed and recorded deed restriction running with the land which shall limit each succeeding resale price to an increase of ten percent (10%), plus any increase in the consumer price index, plus cost of any improvements certified by the Building Inspector.

b. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through a property executed and recorded deed restriction running with the land. For purposes of this Section, "Senior" shall mean persons over the age of fifty-five (55).

c. Development projects which voluntarily agree to a minimum of twenty-five percent (25%) permanent reduction in buildable lots permitted under an approved definitive subdivision plan. Such developer shall be eligible for a maximum of five (5) exempt building permits per year within the said subdivision.

d. Person or entity is entitled to one (1) permit, on only one (1) lot, per year, on a lot the person or entity owns at the time of the acceptance of this Bylaw.

e. Beginning on September 12, 2000 through December 31, 2000, no more than fifteen (15) building permits may be granted under the provisions of this Bylaw

2.9.5. Time Limitation and Extension

This Bylaw shall expire on December 31, 2010, provided however, that this Bylaw may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to September 10, 2010.

2.9.6. Separability

The provisions of this Bylaw are herby declared separable and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this Bylaw.

2.10. Dimensional Regulations; General

Where the following terms appear in the dimensional regulations for any district, they shall be interpreted according to the following standards.

2.10.1. Height

a. Measurement. Height shall be measured as the vertical distance from the average ground elevation around the exterior walls of the structure to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof, provided that the ridge of a pitched roof shall not be higher than 130% of the maximum height for the district.

b. Limitations. In determining the height of a building, any floor level shall be counted as a story if it is to be used in part for sleeping rooms, or if it is higher than three (3) feet below the average ground level around the exterior walls of the structure. Limitations of height shall not apply to chimneys, ventilators, skylights, spires, tanks, antennas, solar panels, and other features of such building usually carried above roofs, provided that in a residential district such features are in no way used for living purposes.

2.10.2. Lot Area Computation *(Amended 3-21-05)*

In computing the area of any lot in any district, no part of a street or public way and no part of any water body or river bordering the lot shall be included.

At least sixty percent (60%) of the lot area required for minimum lot size zoning compliance, or ten thousand (10,000) square feet, whichever is greater, shall be land exclusive of any resource areas as defined by the Wetland Protection Act, M.G.L. Chapter 131, Section 40, and its corresponding regulations, 310 CMR 10.00, as of the adoption of this requirement. At least ten thousand (10,000) square feet of this "land exclusive of any resource areas" shall be contiguous.

2.10.3. Frontage

a. Frontage; Access. A building lot shall have frontage on and rights of access to one or more of the following for the distance required in the applicable zoning district:

1. A way legally accepted by Town Meeting vote, or

2. A way established by county, state, or federal authority, or

3. A way established by a subdivision plan approved in accordance with the Subdivision Control Law, or

4. Any other way or portion of a way in existence when the Subdivision Control Law became effective which, because of unusual conditions such as limitations upon the extent or type of land use to be served, the Planning Board, following consultation with the Public Works Director, Police Chief, Fire Chief and Board of Selectmen, has determined to be sufficient for the needs for access and utilities to serve potential needs of land abutting on or served thereby.

The Planning Board shall make such determinations with respect to the ways described in 1, 2, 3, herein above. Any determination made by the Building Inspector or Planning Board under this Section may be appealed to the Board of Appeals by any party having standing as provided in M.G.L. c.40A, Section 8.

The Town Clerk shall maintain a list of ways and portions thereto which have been determined to qualify to provide frontage under the provisions of this Section. The Planning Board may specify that its determination of adequacy applies only to given premises and not generally to all properties served by that way in cases where the limitations or other conditions justifying

access adequacy for those premises are not generally true for other properties served by that way.

b. Frontage; Measurement. Frontage shall be measured along a straight line connecting points of intersection of the side lot lines with the street line on which the lot is located, and with not less than the required distance between said lot lines at all points from the street line to the dwelling or main non-residential structure, except as hereafter provided in Section 4.3. for hammerhead lots.

c. Frontage; Dead-End Streets. A lot on a turning circle of a dead end street may have a frontage of not less than eighty (80) feet provided that the shortest distance between side lot lines shall be at least 120 feet at every point more than thirty-five (35) feet from the street line to the dwelling or main non-residential structure.

d. Frontage and Setback; Corner Lot. A lot having frontage on two (2) streets which do not intersect shall have two (2) front yards, each of which shall comply with the minimum front yard setback requirements of this Bylaw, but needs to meet the minimum frontage requirement only with respect to one of the streets. A corner lot having frontage at the intersection of two (2) streets must have the minimum frontage on at least one of the streets and shall be deemed to have two (2) front yards, each of which shall comply with the minimum front yard setback requirements of this Bylaw; one of the remaining yards shall be a rear yard, as identified by the Building Inspector/Zoning Enforcement Officer.

2.10.4. Minimum Lot Width

In any district, the minimum width of the lot at the building shall be measured as the shortest distance between side lot lines taken through each dwelling or main non-residential structure on said lot.

2.10.5. Irregular Lots; Side Lot Lines

In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for measurements, the matter shall be decided by the Building Inspector with the advice of the Planning Board.

2.10.6. Front Yard Measurements

Front yards shall be measured from the street line to the nearest point of the front wall of any dwelling or any structure, provided that nothing shall prevent the projection of uncovered steps, cornices, window sills and other ornamental features, nor the construction of walls or fences which do not interfere with vision at the intersection of two (2) or more streets.

2.10.7. Building Setback; Modifications

a. Where existing buildings on adjacent lots are set back less than the minimum required in the district in which they are located, a new building may be located at the average setback of the adjacent existing buildings. A vacant lot is counted as though occupied by a building set back at the minimum setback line in the district in which it is located.

b. In the Village Business, Mixed-Use, Commercial and Industrial Districts, the setback from any lot line abutting a residential district shall be a minimum of 50 feet unless a reduction is authorized by Special Permit from the Planning Board.

c. By Special Permit from the Planning Board, side lot lines may be waived for “zero lot line” design, i.e., a building in which ownership is divided along a common wall.

2.10.8. Accessory Buildings

Accessory buildings shall be allowed only in side or rear yards and shall conform to the minimum setback requirements for principal buildings in the district in which they are located. Accessory buildings may be permitted in front yards, subject to minimum setback requirements, upon issuance of a Special Permit by the Zoning Board of Appeals. [Amendment passed June 16, 1988; approved by the Attorney General on Sept. 6, 1988.]

2.10.9. Corner Lot Road Visibility

Within an area formed by the side lines of intersecting streets, walkways and driveways; and a line joining points on such lines twenty-five (25) feet distant from their point of intersection, or in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of three and one-half (3-1/2) feet and a height of eight (8) feet above the plane through their curb grades.

2.10.10. Principal Buildings

a. In any Residential District, there shall not be more than one principal building on any lot except by Special Permit from the Planning Board.

b. In any Village Business, Mixed-Use, Commercial and Industrial District, a principal building may contain more than one permitted or Special Permitted use provided that the building and each of its associated uses comply with all applicable provisions of this Bylaw. More than one principal nonresidential structure may be erected on a lot when all of the following conditions are met:

1. Where required, a Special Permit for more than one principal building is issued by the Planning Board.

2. Aggregate gross floor area does not exceed the maximum gross floor area ratio for a lot in the applicable zoning district.

3. All buildings comply with the design standards set forth in Section 7, Site Plan Review.

4. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire.

5. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles.

6. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

3. DISTRICT REGULATIONS *(Revised 11-01-05 and 6-8-2009)*

3.1. Rural Residential District *(revised 06/08/2009)*

The purposes of the Rural Residential District are to preserve agricultural and forested land, protect the Town of Shirley's natural resources, wildlife corridors and scenic landscapes, encourage farming, and provide for residential uses appropriate to a rural setting.

3.1.1. Use Regulations

a. Permitted Uses

1. Detached single-family dwelling
2. One in-law apartment in a single-family dwelling, subject to Section 4.10
3. Conservation areas, reservations, or wildlife areas
4. On five acres of land or less: Gardens; growing and storing of fruits, berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; or nursery and similar agricultural crop activities
5. Residential accessory uses in accordance with Section 2.5 of this Bylaw
6. Uses permitted in accordance with Section 2.3 of this Bylaw or otherwise exempt from zoning under M.G.L. c.40A Section 3
7. Home professional office, home personal service, subject to Section 4.6
8. Home business workshop, subject to Section 4.6
9. Conversion of a single-family dwelling to a two-family dwelling

b. Uses Allowed by Special Permit from the Planning Board

1. Low-impact development, subject to Section 4.2A
2. Detached single-family dwelling on a hammerhead lot, subject to Section 4.3
3. Assisted living facility or nursing home, or an assisted living facility and nursing home in a single development
4. Conversion of a single-family dwelling to a multi-family dwelling of up to three units, subject to Section 4.1
5. Rooming house or boarding house for not more than four lodgers
6. Residential accessory uses in accordance with Section 2.5

c. Uses Allowed by Special Permit from the Board of Appeals

1. Golf course (not including miniature golf), ski grounds, camping areas, or swimming facilities, including the incidental sale of refreshments, if primarily for the convenience of the patrons, and of equipment customarily related to their use
2. Cemetery

3. Hospital, medical institution, or historic, philanthropic or charitable institution

4. Kennel or riding stable, except that a horse farm or stable that is otherwise exempt under M.G.L. c.40A, Section 3 shall not require a Special Permit

5. Public utility

6. Home specialty retail, subject to Section 4.6

7. Bed and breakfast

8. Day or overnight outdoor recreation camp

3.1.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1. Single-family: 80,000 square feet

2. Two-family: 100,000 square feet

3. Multi-family: Subject to Section 4.1

4. Other uses: 80,000 square feet

b. Minimum Frontage: 225 feet

c. Minimum Yard Setbacks:

1. Front: 50 feet

2. Side: 50 feet

3. Rear: 50 feet

d. Lot Width: 225 feet

e. Building & Use Intensity

1. Max. Height (Feet): 35 feet

2. Maximum Number of Stories: 2.5 stories

3. Maximum Lot Coverage: 25%

4. Maximum Building Coverage: N/A

5. Minimum Open Space % Lot Area: N/A

3.2. R-1 District *(revised 06/08/2009)*

The purposes of the R-1 District are to provide for neighborhoods developed at a suburban density and scale, with a limited mix of residential uses appropriate for outlying areas in a small town.

3.2.1. Use Regulations

a. Permitted Uses

1. Detached single-family dwelling

2. One in-law apartment in a single-family dwelling, subject to Section 4.10

3. Two-family dwelling, provided its appearance is not significantly different from that of a single-family dwelling

4. Rooming or boarding house for not more than four lodgers

5. Home professional office, home personal service, subject to Section 4.6

6. Home business workshop, subject to Section 4.6

7. Conservation areas, reservations, or wildlife areas

8. On five acres of land or less: Gardens; growing and storing of fruits, berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; or nursery and similar agricultural crop activities

9. Residential accessory uses in accordance with Section 2.5 of this Bylaw

10. Uses permitted in accordance with Section 2.3 of this Bylaw or otherwise exempt from zoning under M.G.L. c.40A Section 3

11. Conversion of a single-family dwelling to a two-family dwelling

b. Uses Allowed by Special Permit from the Planning Board

1. Low-impact development, subject to Section 4.2A

2. Assisted living facility or nursing home, or an assisted living facility and nursing home in a single development

3. Detached single-family dwelling on a hammerhead lot, subject to Section 4.3

4. Conversion of a single-family dwelling to a multi-family dwelling of up to three units, subject to Section 4.1

5. Residential accessory uses in accordance with Section 2.5

c. Uses Allowed by Special Permit from the Board of Appeals

1. Golf course (not including miniature golf), ski grounds, camping areas, or swimming facilities, including the incidental sale of refreshments, if primarily for the convenience of the patrons, and of equipment customarily related to their use

2. Cemetery

3. Hospital, medical institution, or historic, philanthropic or charitable institution

4. Kennel or riding stable, except that a horse farm or stable that is otherwise exempt under M.G.L. c.40A, Section 3 shall not require a Special Permit

5. Public utility

6. Home specialty retail, subject to Section 4.6

7. Bed and breakfast

8. Day or overnight outdoor recreation camp

3.2.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1. Single-family 40,000 square feet

2. Two-family 60,000 square feet

3. Multi-family Subject to Section 4.1

4. Other uses 40,000 square feet

b. Minimum Frontage: 175 feet

c. Minimum Yard Setbacks:

1. Front: 40 feet

2. Side: 17 feet

3. Opposite Side: 23 feet

4. Rear: 50 feet

d. Lot Width: 175 feet

e. Building & Use Intensity

1. Max. Height (Feet): 35 feet

2. Maximum Number of Stories: 2.5 stories

3. Maximum Lot Coverage: 25%

4. Maximum Building Coverage: N/A

5. Minimum Open Space % Lot Area: N/A

3.3. R-2 District

The purposes of the R-2 District are to provide for traditional residential neighborhoods comprised primarily of single-family and two-family homes, in areas with an established, moderate-density development pattern near goods and services and the Town's main roads.

3.3.1. Use Regulations

a. Permitted Uses

1. Detached single-family dwelling

2. One in-law apartment in a single-family dwelling, subject to Section 4.10

3. Two-family detached dwelling, provided its appearance is not significantly different from that of a single-family dwelling

4. Rooming or boarding house for not more than four lodgers

5. Home professional office, home personal service, subject to Section 4.6

6. Home business workshop, subject to Section 4.6

7. Conservation areas, reservations, or wildlife areas

8. On five acres of land or less: Gardens; growing and storing of fruits, berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; or nursery and similar agricultural crop activities

9. Residential accessory uses in accordance with Section 2.5 of this Bylaw

10. Uses permitted in accordance with Section 2.3 of this Bylaw or otherwise exempt from zoning under M.G.L. c.40A Section 3

11. Conversion of an existing single-family dwelling to a two-family dwelling

b. Uses Allowed by Special Permit from the Planning Board

1. Low-impact development, subject to Section 4.2A

2. Detached single-family dwelling on a hammerhead lot, subject to Section 4.3

3. Infill residential uses, subject to Section 4.16

4. Assisted living facility or nursing home, or an assisted living facility and nursing home in a single development

5. Conversion of an existing single-family dwelling to a multi-family dwelling of three units

6. Residential accessory uses in accordance with Section 2.5

c. Uses Allowed by Special Permit from the Board of Appeals

1. Cemetery

2. Hospital, medical institution, or historic, philanthropic or charitable institution

3. Public utility

4. Home specialty retail, subject to Section 4.6

5. Bed and breakfast

6. Day or overnight outdoor recreation camp

3.3.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1. Single-family 30,000 square feet

2. Two-family 45,000 square feet

3. Multi-family Subject to Section 4.1

4. Other uses 30,000 square feet

b. Minimum Frontage: 150 feet

c. Minimum Yard Setbacks:

1. Front: 30 feet

2. Side: 15 feet

3. Opposite Side: 20 feet

4. Rear: 40 feet

d. Lot Width: 150 feet

e. Building & Use Intensity

1. Max. Height (Feet): 35 feet

2. Maximum Number of Stories: 2.5 stories

3. Maximum Lot Coverage: 30%

4. Maximum Building Coverage: N/A

5. Minimum Open Space % Lot Area: N/A

3.4. R-3 District *(revised 06/08/2009)*

The purposes of the R-3 District are to preserve and reinforce Shirley's traditionally designed, compact neighborhoods, where the established development pattern consists of a mix of moderate-density residential uses near Shirley Village.

3.4.1. Use Regulations

a. Permitted Uses

1. Detached single-family dwelling

2. One in-law apartment in a single-family dwelling, subject to Section 4.10

3. Conversion of an existing single-family dwelling to a two-family dwelling

4. Two-family detached dwelling, provided its appearance is not significantly different from that of a single-family dwelling

5. Home professional office, home personal service, subject to Section 4.6

6. Home business workshop, subject to Section 4.6

7. Rooming or boarding house for not more than four lodgers

8. Conservation areas, reservations, or wildlife areas

9. On five acres of land or less, gardens; growing and storing of fruits, berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; or nursery and similar agricultural crop activities

10. Residential accessory uses in accordance with Section 2.5 of this Bylaw

11. Uses permitted in accordance with Section 2.3 of this Bylaw or otherwise exempt from zoning under M.G.L. c.40A Section 3

b. Uses Allowed by Special Permit from the Planning Board

1. Multi-family housing, subject to Section 4.1

2. Infill residential uses, subject to Section 4.16

3. Assisted living facility or nursing home, or assisted living facility and nursing home in a single development

4. Residential accessory uses in accordance with Section 2.5

5. Detached single-family dwelling on a hammerhead lot, subject to Section 4.3

6. Conversion of a single-family dwelling to a multi-family dwelling of up to three units, subject to Section 4.1.

c. Uses Allowed by Special Permit from the Board of Appeals

1. Cemetery

2. Hospital, medical institution, or historic, philanthropic or charitable institution

3. Public utility

4. Home specialty retail, subject to Section 4.6

5. Bed and breakfast

3.4.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1.	Single-family	15,000 square feet
2.	Two-family	19,000 square feet
3.	Multi-family	Subject to Section 4.1
4.	Other uses	15,000 square feet

b. Minimum Frontage: 100 feet

c. Minimum Yard Setbacks:

1.	Front:	25 feet
2.	Side:	15 feet
3.	Opposite Side:	20 feet

4. Rear: 30 feet

d. Lot Width: 100 feet

e. Building & Use Intensity

1. Max. Height (Feet): 35 feet

2. Maximum Number of Stories: 2.5 stories

3. Maximum Lot Coverage: 40%

4. Maximum Building Coverage: 15%

5. Maximum Gross Floor Area: .35

6. Minimum Open Space % Lot Area: N/A

3.5. Shirley Village Business District *(revised 06/08/2009)*

The purposes of the Shirley Village Business District are to reinforce and enhance Shirley Village as the town's primary commercial center, to develop and sustain a vital local economy, to provide goods and services that meet the needs of local residents and workers, and to provide a traditional village that encourages people to live and work in Shirley.

3.5.1. Use Regulations

a. Permitted Commercial Uses:

1. Retail store, except retail uses requiring a Special Permit under Subsection 3.5.1.c

2. Retail sale of baked goods, and manufacture of same for sale on the premises

3. Professional or business office

4. Bank

5. Banking or Automated Teller Machine, where public access is available only from within a building and is operated in connection with other uses in the same building

6. Restaurant for the serving of food or beverages inside the premises or outside but on the premises, such as at tables on an adjoining deck or patio, but not including drive-through service

7. Take-out food establishment or delicatessen where food is prepared and sold retail but not consumed on the premises, but not including drive-through service

8. Personal service, such as a barber and beauty shop, laundry agency, shoe and hat repair, bicycle and household appliance repair, dressmaking, dry cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere

9. Shop for custom work involving the manufacture of articles to be sold on premises; or shop and display area of an upholsterer, cabinet-maker or similar craftsperson receiving customers on the premises

10. Museum or other cultural establishment

11. Bed and breakfast

12. Accessory uses customarily incidental to a permitted commercial use, in accordance with Section 2.5 of this Bylaw

13. Business Service Establishment

14. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter, cabinet maker, general appliance repair person, or of a person engaged in a similar occupation

b. Permitted Residential and Accessory Uses:

1. Up to two dwelling units above the ground floor of a building occupied principally by permitted commercial uses

2. Conversion of an existing single-family dwelling to a two-family dwelling

3. Conversion of an existing single-family dwelling to a multi-family dwelling of three units

4. Congregate elderly housing, up to eight units in a single building

5. Rooming or boarding house for not more than four lodgers

6. Home professional office, home personal service, subject to Section 4.6

7. Home business workshop, subject to Section 4.6

8. Home specialty retail, subject to Section 4.6

c. Uses Allowed by Special Permit from the Planning Board:

1. Permitted or Special Permitted commercial uses or mixed-uses in more than one principal building on the same lot

2. More than two dwelling units above the ground floor of a building used principally for permitted commercial uses

3. Drive-through service for a permitted commercial use such as a bank, but not including food service establishments

4. Indoor recreation or amusement facility

5. Laundromat

6. Multi-family housing, subject to Section 4.1

7. Two-family detached dwelling, provided its appearance is not significantly different from that of a single-family dwelling

8. Accessory uses customarily incidental to Special Permitted commercial or residential uses, in accordance with Section 2.5 of this Bylaw

9. Dry cleaning and pressing or tailor shop

10. Auto filling stations, service stations and repair shops (not including junkyards) provided that there shall be no storage of automobiles on the premises other than those in the process of or awaiting repair or awaiting delivery or pick up after repair.

11. Grocery store or supermarket, not exceeding 80,000 sf.

3.5.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1. Single-family 15,000 square feet
2. Two-family 15,000 square feet
3. Multi-family Subject to Section 4.1
4. Other uses 10,000 square feet

b. Minimum Frontage: 60 feet

c. Minimum Yard Setbacks:

1. Front: N/A
2. Side: N/A
3. Rear: 15 feet

d. Maximum Front Yard Setback: 20 feet

e. Lot Width: 60 feet

f. Building & Use Intensity

1. Max. Height (Feet): 45 feet
2. Maximum Number of Stories: 3 stories
3. Maximum Lot Coverage: 85%
4. Maximum Building Coverage: 20%
5. Maximum Floor Area Ratio: .60
6. Minimum Open Space % Lot Area: 15%

3.6. North Shirley Village Business District ***(revised 06/08/2009)***

The purposes of the North Shirley Business District are to encourage a limited range of small-scale, low-impact commercial uses that serve a predominantly local clientele, to protect an environmentally sensitive area, to avoid the appearance and hazards of a strip commercial area, to discourage "big-box" development, and to encourage small businesses to locate and stay in Shirley.

3.6.1. Use Regulations

a. Permitted Commercial Uses:

1. Retail store
2. Business Service Establishment
3. Retail sale of baked goods and manufacture of same for sale on the premises

4. Personal service, such as a barber and beauty shop, shoe and hat repair, dressmaking, tailor shop where no work is done on the premises for retail outlets elsewhere

5. Banking or Automated Teller Machine, where public access is available only from within a building and is operated in connection with other uses in the same building

6. Shop for custom work involving the manufacture of articles to be sold on premises; or shop and display area of an upholsterer, cabinet-maker or similar craftsperson receiving customers on the premises

7. Professional or business office

8. Bed and breakfast

9. Accessory uses customarily incidental to a permitted commercial use, in accordance with Section 2.5

10. Bank

11. Restaurant for the serving of food or beverages inside the premises or outside but on the premises, such as at tables on an adjoining deck or patio, but not including drive-through service

12. Take-out food establishment or delicatessen where food is prepared and sold at retail but not consumed on the premises, but not including drive-through service

13. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter, cabinet maker, general appliance repair person, or of a person engaged in a similar occupation

b. Permitted Residential and Accessory Uses

1. Dwelling combined with a permitted commercial use

2. Conversion of an existing single-family dwelling to a two-family

3. Conversion of an existing single-family dwelling to a multi-family dwelling of three units

4. Home professional office, home personal service, subject to Section 4.6

5. Home business workshop, subject to Section 4.6

6. Home specialty retail, subject to Section 4.6

c. Uses Allowed by Special Permit from the Planning Board

1. Permitted or Special Permitted commercial uses or mixed-uses in more than one principal building on the same lot

2. More than one dwelling unit in a building occupied principally by commercial uses

3. Detached single-family dwelling

4. Two-family detached dwelling, provided its appearance is not significantly different from that of a single-family dwelling

5. Accessory uses customarily incidental to a Special Permitted commercial or residential use, in accordance with Section 2.5

6. Grocery store or supermarket, not exceeding 80,000 sf.

7. Dry cleaning and pressing or tailor shop

8. Auto filling stations, service stations and repair shops (not including junkyards) provided that there shall be no storage of automobiles on the premises other than those in the process of or awaiting repair or awaiting delivery or pickup after repair

9. Contractor's yard

10. Sale of automobiles and trucks, accessories, farm equipment, aircraft, motorcycles, and camping trailers

3.6.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1.	Single-family	20,000 square feet
2.	Two-family	25,000 square feet
3.	Multi-family	Subject to Section 4.1
4.	Other uses	20,000 square feet

b. Minimum Frontage: 100 feet

c. Minimum Yard Setbacks:

1.	Front:	20 feet
2.	Side:	15 feet
3.	Opposite Side:	30 feet
4.	Rear:	50 feet

d. Maximum Front Yard Setback: 40 feet

e. Lot Width: 100 feet

f. Building & Use Intensity

1.	Max. Height (Feet):	35 feet
2.	Maximum Number of Stories:	2.5 stories
3.	Maximum Lot Coverage:	65%
4.	Maximum Building Coverage:	18%
5.	Maximum Floor Area Ratio:	.45
6.	Minimum Open Space % Lot Area:	35%

3.7. Great Road West Mixed-Use District ***(revised 06/08/2009)***

The purposes of the Great Road-West Mixed-Use District are to encourage the development of a small, economically viable village node with low-impact uses, to provide a limited mix of goods and services to local residents, and to protect an environmentally sensitive area.

3.7.1. Use Regulations

a. Permitted Commercial Uses:

1. Retail store

2. Retail sale of baked goods and manufacture of same for sale on the premises

3. Personal service, such as a barber and beauty shop, shoe and hat repair, dressmaking, tailor shop where no work is done on the premises for retail outlets elsewhere

4. Restaurant for the serving of food or beverages inside the premises or outside but on the premises, such as at tables on an adjoining deck or patio, excluding drive-through service

5. Shop for custom work involving the manufacture of articles to be sold on premises; or shop and display area of an upholsterer, cabinet-maker or similar craftsperson receiving customers on the premises

6. Banking or Automated Teller Machine, where public access is available only from within a building and is operated in connection with other uses in the same building

7. Professional or business office

8. Accessory uses customarily incidental to a permitted commercial use, in accordance with Section 2.5

9. Business Service Establishment

10. Take-out food establishment or delicatessen where food is prepared and sold at retail but not consumed on the premises, but not including drive-through service

11. Shop of an electrician, painter, paper hanger, plumber, upholsterer, carpenter, cabinet maker, general appliance repair person, or of a person engaged in a similar occupation

12. Bank

b. Permitted Residential and Accessory Uses

1. Dwelling combined with a permitted commercial use

2. Up to two dwelling units above the ground floor of a building occupied principally by permitted commercial uses

3. Home professional office, home personal service, subject to Section 4.6

4. Bed and breakfast

c. Uses Allowed by Special Permit from the Planning Board

1. Permitted or Special Permitted commercial uses or mixed-uses in more than one principal building on the same lot

2. Multi-family housing, subject to Section 4.1

3. A grocery store or supermarket, not exceeding 80,000 square feet of net floor area

4. Assisted living facility

5. Detached single-family dwelling

6. Accessory uses customarily incidental to a Special Permitted commercial or residential use, in accordance with Section 2.5

7. Private and commercial communication towers and antennas for radio, television, and/or wireless telecommunications, subject to Section 4.15

8. Dry cleaning and pressing or tailor shop

9. Sale of automobiles and trucks, accessories, farm equipment, aircraft, motorcycles, and camping trailers

10. Auto filling stations, service stations and repair shops (not including junkyards) provided that there shall be no storage of automobiles on the premises other than those in the process of or awaiting repair or awaiting delivery or pickup after repair

11. Contractor's yard

3.7.2. Density and Dimensional Regulations

a. Minimum Lot Area:

1. Single-family 20,000 square feet

2. Two-family 30,000 square feet

3. Multi-family Subject to Section 4.1

4. Other uses 40,000 square feet

b. Minimum Frontage: 100 feet

c. Minimum Yard Setbacks:

1. Front: 20 feet

2. Side: 15 feet

3. Opposite Side: 30 feet

4. Rear: 50 feet

d. Maximum Front Yard Setback: 40 feet

e. Lot Width: 100 feet

f. Building & Use Intensity

1.	Max. Height (Feet):	35 feet
2.	Maximum Number of Stories:	2.5 stories
3.	Maximum Lot Coverage:	60%
4.	Maximum Building Coverage:	20%
5.	Maximum Floor Area Ratio:	.45
6.	Minimum Open Space % Lot Area:	40%

3.8 Mixed Use District

The purposes of the District are: to allow a diversity of land uses in close proximity, within a limited area; to promote a balance of land uses; to facilitate development proposals responsive to current and future market conditions; to facilitate integrated physical design; and to encourage interaction among activities located within the District. The Town of Shirley through this provision plans to promote and carefully expand controlled development of a small, economically viable commercial areas with low-impact uses, to provide a limited mix of goods and services to local residents to protect open space, residential and any environmentally sensitive areas.

The regulations listed below are subject to other requirements of this By-Law, including section 2.8 (Protective Overlay Districts), section 4.12 (Flood Plain Protection Overlay District) and section 4.13 (Water Supply and Wellhead Protection Overlay District) of this By-Law, which may be more restrictive.

3.8.1 Use Regulations

a. Permitted Commercial Uses:

1. Retail store
2. Retail sale of baked goods and manufacture of same for sale on the premises
3. Personal service, such as a barber and beauty shop, shoe and hat repair, dressmaking, tailor shop where no work is done on the premises for retail outlets elsewhere.
4. Restaurant for the serving of food or beverages inside the premises or outside but on the premises, such as at tables on an adjoining deck or patio.
5. Shop for custom work involving the manufacture of articles to be sold on premises; or shop and display area of an upholsterer, cabinet-maker or similar craftsperson receiving customers on the premises
6. Banking or Automated Teller Machine, where public access is available only from within a building and is operated in connection with other uses in the same building.
7. Professional or business office

8. Accessory uses customarily incidental to a permitted commercial use, in accordance with Section 2.5

9. Business Service Establishment

10. Take-out food establishment or delicatessen where food is prepared and sold at retail but not consumed on the premises.

11. Shop of an electrician, painter, paper hanger, plumber, upholsterer, carpenter, cabinet maker, general appliance repair person, or of a person engaged in a similar occupation.

12. Bank

b. Permitted Residential and Accessory Uses

1. Dwelling combined with a permitted commercial use

2. Up to two dwelling units above the ground floor of a building occupied principally by permitted commercial uses.

3. Home professional office, home personal service, subject to Section 4.6

4. Bed and breakfast

c. Uses Allowed by Special Permit from the Planning Board

1. Permitted or Special Permitted commercial uses or mixed-uses in more than one principal building on the same lot

2. Multi-family housing, subject to Section 4.1

3. A grocery store or supermarket, not exceeding 100,000 square feet of net floor area

4. Assisted living facility

5. Detached single-family dwelling

6. Accessory uses customarily incidental to a Special Permitted commercial or residential use, in accordance with Section 2.5

7. Private and commercial communication towers and antennas for radio, television, and/or wireless telecommunications, subject to Section 4.15

8. Dry cleaning and pressing or tailor shop, where work is done on premises for retail outlets elsewhere.

9. Sale of automobiles and trucks, accessories, farm equipment, aircraft, motorcycles, and camping trailers

10. Auto filling stations, service stations and repair shops (not including junkyards) provided that there shall be no storage of automobiles on the premises other than those in the process of or awaiting repair or awaiting delivery or pickup after repair.

11. Contractor's yard

12. Drive through for any permitted use

3.8.2 Density and Dimensional Regulations

a. Minimum Lot Area:

1. Single-family 20,000 square feet

2. Two-family 30,000 square feet

3. Multi-family Subject to Section 4.1

4. Other uses 40,000 square feet

b. Minimum Frontage: 100 feet

c. Minimum Yard Setbacks: see section 2.10.07 of this By-Law "Building Setback; Modifications"

1. Front: 20 feet

2. Side: 15 feet

3. Opposite Side: 30 feet

4. Rear: 50 feet

d. Maximum Front Yard Setback: Not Applicable

e. Lot Width: 100 feet

f. Building & Use Intensity

1. Max. Height (Feet): 35 feet

2. Maximum Number of Stories: 2.5 stories

3. Maximum Lot Coverage: 65%

4. Maximum Building Coverage: 20%

5. Maximum Floor Area to Total Lot Area Ratio: .45

6. Minimum Open Space % Lot Area: 35%

3.8.3 Open Space Requirements

For purposes of this Section, open space shall mean a portion of a lot or other area of land associated with a building or group of buildings in relation to which it serves to provide light and air, or scenic, recreational or

similar purposes. Such space shall, in general, be available for entry and use by the occupants of the building(s) with which it is associated, and at times to the general public, but may include a limited proportion of space so located and treated as to enhance the amenity of development by providing landscaping features, screening or buffering for the occupants or neighbors or a general appearance of openness. Open space may include parks, plazas, lawns, landscaped areas, decorative plantings, pedestrian ways, and active and passive recreational areas. Minimum open space requirements will be establish by the Planning Board for each development location during site plan review and with special consideration given to potential residential abutters. Refer to section 3.7.2 f.

For any conflict of this section and other sections in the by-law, the more restrictive regulations shall apply in order to adequately protect the rights of abutters

3.8.4 Vehicular Access, Parking and Loading

a. Access.

Buildings erected in the Mixed-Use Districts need not be located on lots which have frontage on a street. However, provisions for access to all buildings by emergency and service vehicles in lieu of public street access shall be made possible by the layout and design of driveways, interior service roads, or pedestrian and bicycle circulation corridors not normally open to vehicular traffic to the reasonable satisfaction of the Town of Shirley Fire Department and any related entities having jurisdiction. Access to parcels in any Great Road Mixed-Use area(s) shall only be from Great Road.

b. Parking.

Each development shall provide enough parking spaces either on or off the lot within the District to satisfy the requirements as outlined in section 5 of this by-law and Planning Board determination of need.

c. Loading Requirements.

It is the intent of this section that sufficient off-street loading facilities be constructed within the District to meet the needs of users located therein. Loading space(s) should not interfere with traffic flow. The specific number of loading spaces and requirements shall be determined by section 5 of this by-law and the Planning Board or other entity having jurisdiction, during site plan review.

d. For any conflict of this section and other sections in the by-law, the more restrictive regulations shall apply in order to adequately protect the rights of abutters

3.8.5 Landscaping, Buffering, Lighting

a. In Shopping Centers and Office Parks, landscaping shall be provided and maintained in accordance with planting approved by the Planning Board and incorporated as part of the plans on which the Permit is based.

b. Landscaping shall be provided and maintained in front and side yards abutting public ways for aesthetic reasons to break up lines of buildings and for screening accessory facilities under the requirements discussed below. Specifically, landscape screening shall be provided adjacent to

1. Abutting existing residential properties where a side or rear lot line of a development adjoins a residential district or an existing residential use within the same district the following buffer requirements shall apply:

a. A strip of land not less than fifty (50) feet from such side or rear lot lines shall be provided.

b. Such strip shall contain a continuous screen of planting of vertical habit in the center of the strip not less than three (3) feet in width and six (6) feet in height at the time of occupancy so as to maintain a dense screen year round.

c. At least 50% of the plantings shall consist of evergreens and shall be evenly spaced along the length of the buffer strip.

d. In lieu of continuous planting, a solid brick, stone or wood fence of a design approved by the Planning Board, or a planted earthen berm of a design approved by the Planning Board may be established and maintained with plantings in an amount no less than 20 % of the amount required above.

2. Abutting limited access highways, in addition to the landscaping in front and side yards mentioned above, the following shall apply:

   Landscape screening shall consist of planting, including evergreens, the plantings to be of such height and depth as is needed and as determined by the Planning Board during site plan review to screen adequately from view from abutting area any unshielded light source, either inside or outside.

3. In the designated Mixed-Use areas, outdoor lighting including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over the neighboring properties. Except for low level intensity pedestrian lighting, other lighting shall be designed and located so that:

   a. The luminaire (LED) has an angle of cutoff less than 76 degrees;

   b. A line drawn from the height of the luminaire (LED) along the angle of cutoff intersects the ground at a point within the development site;

   c. 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.

   d. Lighting shall be directional to preclude light pollution of neighbors or the night sky. Dark Sky lighting is required. Refer to Town of Shirley Lighting By-law.

4. For any conflict of this section and other sections in the by-law, the more restrictive regulations shall apply in order to adequately protect the rights of abutters

3.9 Lancaster Road Commercial District (revised 06/08/2009)

The purposes of the Lancaster Road Commercial District are to provide for a broad mix of retail, service and light industrial uses in the southern end of town, including businesses that serve highway travelers and commuters.

3.9.1 Use Regulations

a. Permitted Commercial Uses:

1. Retail store

2. Professional or business office

3. Restaurant, take-out food service establishment or delicatessen, excluding drive-through service

4 Barber or beauty shop

5. Bank

6. Business service establishment

7. Banking machine, as a stand-alone structure, or where public access is available only via a drive-up windows or from outside a building

8. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter, cabinet maker, general appliance repair person, or of a person engaged in a similar occupation

9. Shop for custom work involving the manufacture of articles to be sold on premises; or shop and display area of an upholsterer, cabinet-maker or similar craftsperson receiving customers on the premises

10. Accessory uses customarily incidental to a permitted commercial use, in accordance with Section 2.5 of this Bylaw

11. Restaurant for the serving of food or beverages inside the premises or outside but on the premises, such as at tables on an adjoining deck or patio, but not including drive-through service

12. Take-out food establishment or delicatessen where food is prepared and sold at retail but not consumed on the premises, but not including drive-through service

13. Personal service, such as barber and beauty shop, laundry agency, shoe and hat repair, bicycle and household appliance repair, dressmaking, dry cleaning and pressing or tailor shop where no work is done on the premises for retail stores elsewhere

b. Uses Allowed by Special Permit from the Planning Board

1. Hotel, inn

2. Sale of automobiles and trucks, accessories, farm equipment, aircraft, motorcycles, and camping trailers

3. Veterinary clinic or animal hospital

4. Drive-through for restaurant or food-service establishment

5. Laundromat

6. Commercial parking lot

7. Commercial sports or recreation facility, indoor or outdoor

8. Contractor’s yard

9. Accessory uses customarily incidental to a Special Permitted commercial use, in accordance with Section 2.5 of this Bylaw

10. Private and commercial communication towers and antennas for radio, television, and/or wireless telecommunications, subject to Section 4.15

11. Grocery store or supermarket, not exceeding 80,000sf.

12. Dry cleaning and pressing or tailor shop

13. Auto filling stations, service stations and repair shops (not including junkyards) provided that there shall be no storage of automobiles on the premises other than those in the process of or awaiting repair or awaiting delivery or pickup after repair.

14. Assembly, fabrication, processing, printing, wholesaling and distribution, warehousing and interior storage

3.9.2 Density and Dimensional Regulations

a. Minimum Lot Area (All Uses): 20,000 square feet

b. Minimum Frontage: 100 feet

c. Minimum Yard Setbacks:

1. Front: 20 feet

2. Side: 15 feet

3. Opposite Side: 30 feet

4. Rear: 25 feet

d. Maximum Front Yard Setback: 40 feet

e. Lot Width: 100 feet

f. Building & Use Intensity

1. Maximum Height: 45 feet

2. Maximum Number of Stories: 3 stories

3. Maximum Lot Coverage: 75%

4. Maximum Building Coverage: 25%

5. Maximum Floor Area Ratio: .60

6. Minimum Open Space % Lot Area: 25%

3.10. Industrial District (revised 06/08/2009)

3.10.1 Use Regulations

a. Permitted Industrial Uses:

1. Research, experimental and testing lab

2. Light manufacturing and manufacturing which is incidental to research, experimental and testing laboratories, whether enclosed or otherwise

3. Enclosed manufacturing

4. Exterior storage, as an accessory use, exclusive of junk cars or other junk items, provided that the exterior storage is screened from view, by a fence or appropriate landscaping, from abutting streets or properties

5. Beverage bottling or food packaging plant, but not including meat and fish processing

6. Plant for dry cleaning, cold storage or freezing

7. Above-ground storage of gas and petroleum products

8. Commercial parking lot

9. Professional or business office

10. Gasoline service stations and automobile repair shops (not including junkyards) providing that there shall be no storage of automobiles on the premises other than those in the process of or awaiting repair or awaiting delivery or pickup after repair

11. Public utility

12. Accessory industrial uses

13. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter, cabinet maker, general appliance repair person, or of a person engaged in a similar occupation

b. Uses Allowed by Special Permit from the Planning Board

1. Private and commercial communication towers and antennas for radio, television, and/or wireless telecommunications, subject to Section 4.15

2. Assembly, fabrication, processing ,printing, wholesaling and distribution, warehousing and interior storage

3. Contractor's yard

4. Sale of automobiles and trucks, accessories, farm equipment, aircraft, motorcycles, and camping trailers

c. Uses Allowed by Special Permit from the Board of Appeals

1. Commercial sports or recreation facility, indoor or outdoor

3.10.2 Density and Dimensional Regulations

a. Minimum Lot Area: 60,000 square feet

b. Minimum Frontage: 100 feet

c. Minimum Yard Setbacks:

1.	Front:	30 feet
2.	Side:	15 feet
3.	Rear:	50 feet
4.	Lot Width:	100 feet

d. Building & Use Intensity

1.	Max. Height (Feet):	45 feet
2.	Maximum Number of Stories:	3 stories
3.	Maximum Lot Coverage:	75%
4.	Maximum Building Coverage:	30%
5.	Maximum Floor Area Ratio:	.90
6.	Minimum Open Space % Lot Area:	25%

4. SPECIAL REGULATIONS

4.1. Multi-Family Housing *(Revised 11-01-05)*

In any district where multi-family housing is a permitted or special permitted use, it shall be subject to the following requirements, except that multi-family units in an Low Impact Development shall comply with the regulations in Section 4.2A of this Bylaw.

4.1.1. Site Plan Review
Multi-family housing is subject to Site Plan Review under Section 7 of this Bylaw.

4.1.2. Maximum Density

a. Where conversion of an existing single-family dwelling to three multi-family units is a permitted use or a use allowed by special permit, the minimum lot area shall be at least 1.5 times that of the applicable minimum lot area for a single-family dwelling.

b. For multi-family housing of four (4) units or more, the maximum density is as follows:

District	Maximum Density
R-3	20,000sf for the first unit plus 10,000sf for each additional dwelling unit, up to a maximum of 24 units
Village Business, Mixed-Use, or Commercial District	20,000sf for the first unit plus 10,000sf for each additional dwelling unit, up to a maximum of 36 units

c. More than one principal building may be permitted on a single lot by Special Permit from the Planning Board. No principal building may contain less than three (3) units nor more than six (6) units unless waived by the Planning Board.

4.1.3. Affordable Housing Requirement

a. To qualify for a Special Permit for multi-family housing of four or more units, the applicant must include housing affordable to low- or moderate-income households as defined in this Bylaw, as follows: the seventh unit and every sixth unit thereafter shall be a low- or moderate-income housing unit. Nothing in this section shall preclude an applicant from providing more low- or moderate-income housing units than the minimum required by this Bylaw.

b. All low- and moderate-income affordable units shall be subject to an affordable housing restriction pursuant to M.G.L. c.184.

c. The Building Inspector shall not issue an occupancy permit to the applicant without receipt of evidence that the use restriction approved by the Planning Board prior to the issuance of a Special Permit has been recorded at the Registry of Deeds.

4.1.4. Minimum Design Standards

a. A multi-family building shall contain no less than three and no more than six units unless waived by the Planning Board, and shall not exceed a building height of 35 feet and two and one half stories.

b. Multi-family housing shall avoid monotonous, look-alike designs and promote high standards of exterior quality and appearance.

c. Applicants shall comply with Section 5, Parking and Loading, for number of off-street parking spaces per unit. At least one space shall be located so as to provide convenient access to its assigned dwelling unit. Parking garages will be permitted as a parking space if located and designed so as to complement the building design and site layout.

d. All residential buildings shall be oriented toward the street or the interior road that provides access to them, with parking spaces located to the rear of a building or on the side, provided that no parking is located within 20 feet of the front façade of the building.

e. Setbacks.

    1. Multi-family housing shall provide a rear setback of at least 50 feet to an abutting single-family residence. If the Planning Board finds that a setback of lesser width would be sufficient to screen and/or separate the development from adjacent property, the setback may be reduced. In its discretion, the Planning Board may require no-cut easements, conservation restrictions or the like where the setback has been reduced. The Planning Board may also reduce the rear yard setback for multi-family housing of five or fewer units if the building is architecturally similar to single-family residences in the same general area.

    2. The front yard shall be landscaped with indigenous, non-invasive plantings, subject to a landscaping plan approved by the Planning Board.

    3. Buildings shall be located at least 20 feet from interior roadways and driveways that are not considered streets or public roads.

f. Distance between Structures. The distance between structures shall be no less than the average height of the two structures or 35 feet, whichever is greater. Such distance shall include any garages or other accessory structures.

g. Road construction. Roads that serve multi-family housing shall be constructed in accordance with the standards of the Subdivision Rules and Regulations of the Town of Shirley with the exception of width, which shall be determined by the Planning Board. Inspection of the roads during construction shall be in accordance with the procedures contained in the Subdivision Rules and Regulations and the inspection process shall be administered by the Planning Board. Such procedure shall include the payment of any fees or deposits for the inspections as required by the Subdivision Rules and Regulations at the time of site plan submittal.

h. Special Permit Granting Criteria. The Planning Board shall consider the following criteria prior to issuing a Special Permit for multi-family housing:

    1. Consistency with the Shirley Master Plan.

    2. Consistency with the requirements of this section of the Bylaw.

    3. Desirability of architectural design.

    4. Desirability of the number and mix of units proposed, and the provision of housing units accessible to persons with disabilities.

    5. Protection of adjoining premises against detrimental or offensive uses on the site.

    6. Adequacy of space for vehicular access to the site and off-street parking and loading/unloading on the site.

    7. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways and land.

8. Adequacy of water supplies and distribution for domestic use fire protection.

9. Adequacy of the methods of disposal of sanitary sewage, storage and disposal of refuse and solid wastes resulting from the uses permitted on the site, and drainage and retention of surface water.

4.1.5. Procedures.

The procedures for submission, referral, review, public hearing and approval or denial shall conform to Section 8.5, Special Permits.

4.2 Cluster Residential Housing - Special Permit *(Deleted 3/21/05 STM)*

4.2A Low Impact Development *(Added 3/21/05 STM)*

4.2A.1. Purpose and Intent. The purposes of Low Impact Development (LID) Bylaw are to:

a. Preserve and enhance the Town's character.

b. Encourage creative, environmentally sensitive design in residential developments.

c. Encourage a more efficient form of development that consumes less open land and protects existing topography and natural features better than a conventional or grid subdivision.

d. Protect open space, forestry land, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources, in a manner consistent with the goals of the Shirley Master Plan.

e. Minimize the total amount of disturbance on the site.

4.2A.2. Applicability

a. For a parcel of ten (10) or more acres of land, or contiguous parcels in common ownership together containing ten (10) or more acres of land on the effective date of this Bylaw, located in the Rural Residential (RR), R-1 or R-2 Districts, the following shall require a Low Impact Development Special Permit from the Planning Board subject to the provisions of this Bylaw:

1. Any subdivision or division into six (6) or more lots of a tract of land, whether comprised of single parcel or of contiguous parcels held in common ownership on effective date of this Bylaw or any time thereafter. Developments may not be segmented to avoid compliance with this Bylaw. Accordingly, divisions that would cumulatively result in an increase by six (6) or more residential lots above the number existing twenty-four months earlier shall be subject to the requirements established herein. For purposes of this section, a subdivision or division of land shall mean any division of land subject to G.L. c. 41, Sections 81K-81GG.

2. Any development of six (6) or more dwelling units, except when the development is limited to the conversion of an existing structure and no new construction is proposed.

b. The Planning Board shall determine whether the proposed location is suitable for a LID under the terms and provisions of this Bylaw. If the Planning Board determines that the proposed location is suitable for a LID, any further division, subdivision or development of the land shall be accomplished only through the provisions of this Bylaw. Under Section 4.2A.16, Planning Board Decision, the Planning Board may determine that the location is best suited for development as a conventional division or subdivision of land. In such a case, the applicant may then proceed to design and submit a conventional plan in accordance with the Town of Shirley Subdivision Rules & Regulations.

c. Nothing in this Bylaw shall prohibit application to do a LID on a parcel or contiguous parcels consisting of less than ten (10) acres in size, or resulting in a division of land into fewer than six lots (6) or consisting of fewer than six (6) new dwelling units.

4.2A.3. Authorizing a LID.

A LID is authorized in two steps.

a. LID Concept Special Permit. In accordance with the provisions of this Bylaw, the Planning Board may issue a LID Concept Special Permit approving a schematic representation of the proposed development.

b. LID Definitive Plan Approval. Approval of a LID Definitive Plan by the Planning Board is required following approval of the LID Concept Special Permit. The LID Definitive Plan shall include fully engineered plans for the development and shall be designed in conformance with the approved LID Concept Special Permit. For applications that also require approval under the Subdivision Control Law, the Planning Board shall make every effort to consolidate Definitive Subdivision Approval under G.L. c.41, Sections 81K and 81G, with LID Definitive Plan approval pursuant to this Bylaw.

4.2A.4. Relationship to Subdivision Control.

A subdivision plan is not required for a LID, but an applicant who proposes a subdivision plan shall submit the same to the Planning Board in accordance with the Town of Shirley Subdivision Rules & Regulations following approval of a LID Concept Special Permit.

4.2A.5. Planning Board Regulations.

The Planning Board shall adopt LID Definitive Plan and Design Regulations to implement this Bylaw. These regulations may include but are not limited to submission requirements, basic site standards, considerations for the placement of common open space, and standards for building placement, architectural design, walkways, landscaping, common or shared driveways, and other elements of the LID Definitive Plan.

4.2A.6. Future Subdivision.

The common open space in a LID may not be further subdivided, and a notation to this effect shall be placed on the plan of record, which shall be recorded at the Registry of Deeds.

4.2A.7. Permitted Uses.

A LID may include the following uses:

a. Single-family detached dwellings.

b. Townhouse dwellings, not to exceed four dwelling units in a single building.

c. Multi-family buildings, not to exceed six dwelling units in a single multi-family building.

d. Open space and conservation areas.

e. Passive recreation, including trails for walking, hiking, cross-country skiing, horseback riding, and areas for other low-impact activities such as picnicking and wildlife observation.

f. Accessory recreational uses, such as a tennis court or playground.

4.2A8. Common Open Space; Use, Shape, Location.

A LID must provide at least 35% of the total land area as permanently protected open space. The open space shall have no structures, parking, private yards, patios, or gardens. The following additional performance standards apply to the minimum required common open space in a LID:

a. The open space shall be undisturbed and left in its natural condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation or recreation area and serve as a visual and natural amenity for the development and the Town.

b. At least 50% of the required common open space shall be contiguous and linked as a unit, with links no less than sixty (60) feet wide. Access to this largest piece of open space shall be provided to the residents of the Town of Shirley.

c. The location(s) of the common open space shall be subject to approval by the Planning Board.

d. Not more than 35% of the required common open space in a LID shall consist of marginal or unbuildable areas, flood plain, or wetlands as defined in G.L. c.131, Section 40.

e. Existing rights of way and utility easements may not be counted as common open space.

4.2A.9. Ownership of Common Open Space.

The common open space shall be conveyed in one or more of the following ways, subject to approval by the Planning Board:

a. To a corporation or trust comprising a homeowners association whose membership includes the owners of all lots or units contained in the development.

b. The developer shall include in the deed to owners beneficial rights in said open land, and shall grant a perpetual Conservation Restriction to the Shirley Conservation Commission or a non-profit corporation or organization over such land to insure that it be kept in an open state and not be built upon for residential use, or developed for accessory uses such as parking or roadways. 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 open space as the Planning Board may deem appropriate, subject to the approval of the Conservation Commission and the Board of Selectmen under the provisions of M.G.L. Ch. 184.

c. To a non-profit organization, the principal purpose of which is the conservation of open space. The developer or non-profit organization shall grant a Conservation Restriction as set forth above.

d. To the Town for open space, a park or water supply use, subject to the approval of the Board of Selectmen for management by the Conservation Commission, with a clause insuring that it be maintained as open space.

4.2A.10. Dimensional Standards.

To maximize the amount of open space, reduce site disturbance and protect significant farmland or scenic landscapes, the Planning Board may waive the minimum requirements for lot area, frontage, yard setbacks, building coverage and other dimensional requirements that would normally apply to land in the applicable zoning district, except as provided below.

a. Irregular lot shapes and shared driveways are permitted in a LID when, in the opinion of the Planning Board, they further the purposes of the bylaw.

b. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the LID.

c. The minimum distance between clusters of townhouse or multiple-unit dwellings shall be fifty (50) feet.

d. The maximum height of proposed buildings shall be thirty-five (35) feet and shall not exceed two and one-half (2½) stories.

e. Rear yard setbacks shall not be waived on lots adjacent to existing residential development.

f. Except as permitted in this Bylaw, any lot in a LID shall comply with all other density and dimensional requirements of the zoning district in which it is located.

4.2A.11.Base Maximum Density; Determination of Development Capacity.

The Basic Maximum Density shall be based on a Yield Analysis that shows the maximum number of single family lots that reasonably could be placed on the site under a conventional subdivision. The maximum number of lots that could be achieved in a conventional subdivision is the Base Maximum Density for a LID. The Yield Analysis shall be prepared and submitted to the Planning Board in accordance with Section 4.2A.14, Application Procedures.

4.2A.12 .Pre-Submission Conference.

Applicants seeking a LID Special Permit should request a pre-submission conference or conferences with the Planning Board, and other Boards as appropriate, to review the scope of the project and the site for which it is proposed. Additional pre-submission meetings may be held by mutual agreement of the Boards and the applicant. At a minimum, the intent of these pre-submission conferences shall be to:

a. Identify the key natural features of the proposed development site.

b. Identify historic or culturally important features of the site.

c. Identify any safety, traffic, or infrastructure issues directly related to the site.

d. Identify existing trails on the site or on abutting parcels, and connections thereto.

e. Identify areas that the Town prefers to see preserved for open space, view shed, wildlife habitat, agricultural or buffer purposes.

f. Discuss the proposed plan and any issues relative to the Concept Special Permit review criteria.

g. Discuss any issues relevant to LID requirements and the Planning Board's LID Definitive Plan and Design Regulations.

h. Assist the developer in understanding all related permitting issues required for the project.

i. Set a timetable for submittal of a formal application

4.2A.13 .LID Design Process.

At the time of the application for a LID Concept Special Permit, the applicant must demonstrate to the Planning Board that the layout of open space, roads and dwelling units in the Concept is based on a design analysis performed by a Registered Landscape Architect according to the following sequence of steps:

a. Identification of preservation areas. The first step in the design process requires identification and prioritization of possible preservation areas on the site, including wetlands, riverfront areas, and floodplains regulated by state or federal law; unprotected natural landscape features such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and wildlife corridors or connections thereto; and cultural features such as historic and archeological sites and scenic views.

To the maximum extent feasible, preservation areas shall include those areas identified during the pre-submission conferences. Every effort shall be made to preserve and improve existing trail networks.

b. Identification and delineation of the proposed development area. The second step in the design process is to define and delineate the proposed development area, i.e., the area that will contain buildings, roadways, other site improvements and amenities for residents of the development. To the maximum extent feasible, the proposed development area shall consist of land outside the identified preservation areas.

c. Location of dwelling units. The third step in the design process is to identify and delineate the approximate location of dwelling units in the proposed development area. The location of dwelling units should account for proximity to common open space and other amenities, including community buildings for use by residents of the development. Toward this end, the number of dwelling units with direct access to the amenities of the development should be maximized.

d. Roads and trails. The fourth step in the design process is to identify and delineate the approximate location of roads and trails. Roads should be aligned to access the dwelling units. The layout of new trails should anticipate internal and external connections to existing and/or potential future roads, trails and sidewalks.

e. Lotting. The final step in the design process is to identify the approximate location of lot lines if the LID will require a definitive subdivision plan.

4.2A.14 .Application Procedures.

An application for a LID Concept Special Permit shall include a Sketch Plan and a Yield Analysis. The size, form, number and contents of the Sketch Plan and Yield analysis shall be set forth in LID Definitive Plan and Design Regulations adopted by the Planning Board and filed with the Town Clerk.

a. Minimum Required Information for the Sketch Plan. The principle component of the Sketch Plan is a schematic representation of the proposed development, with sufficient detail about existing and proposed conditions to enable the Planning Board and the public to understand what is being proposed and to be able to respond to the applicant's proposals in an informed manner. The Sketch Plan shall include scaled drawings prepared by a Registered Landscape Architect or by a multidisciplinary team under the supervision of a Registered Landscape Architect. The Sketch Plan shall clearly reflect the design process outlined in Section 4.2A.13: LID Design Process when determining a proposed design for the development. At minimum, a Sketch Plan shall provide the following information:

1. The location of the proposed development.

2. The size of the site in acres.

3. Description of the design process that resulted in this Sketch Plan, showing how this process conforms to the one outlined in Section 4.2A.13: LID Design Process.

4. An existing conditions inventory and description of preservation areas identified during the LID Design Process.

5. The total number and approximate locations of the proposed buildings, dwelling units and/or lots, and the approximate size of each in square feet.

6. The acreage and proposed use(s) of permanent open space.

7. A statement on the disposition or manner of ownership of the proposed open space.

8. The areas or approximate delineation of lots that will be used as building areas, and the areas or approximate delineation of lots that are to remain as permanent open space.

9. A general description of how drainage will be handled, including a soils statement (soil conservation survey is acceptable) and the general area of the site to be used for stormwater management facilities.

10. Sufficient detail of proposed built and natural features to enable the Planning Board to make the required determinations of Section 4.2A.16 of this bylaw, Planning Board Decision.

11. Appropriate documentation demonstrating the applicant's right to develop the property and showing compliance with Section 4.2A.13: Payment of Taxes or Assessments of the Town of Shirley Bylaws.

b. Required Information for the Yield Analysis. The purpose of a Yield Analysis is to determine the maximum number of lots that could reasonably be achieved in a conventional subdivision layout, given the presence of natural building constraints on the site such as wetlands, floodplains, and steep slopes, as identified on the Sketch Plan. The Yield Analysis may rely on existing data sources, including but not limited to those provided on the Sketch Plan. The applicant shall have the burden of proof with regard to the Basic Maximum Number of lots or dwelling units resulting from the design specifications and assumptions shown on the Yield Analysis.

c. Sources of Data for the LID Sketch Plan and Yield Analysis. These components of the LID Concept Special Permit Application may be prepared from deed information, USGS topographical maps, FEMA floodplain maps, assessor's maps, ortho photographs, soil maps, Department of Environmental Protection (DEP) Wetlands Conservancy Program maps, and other existing data. The locations of wetlands, streams and forest limits or locations will not be verified during the LID Concept Special Permit process unless the applicant has delineated the same in the field and applies to the Shirley Conservation Commission for review and determination under G.L. c.131 Section 40. For the LID Concept Special Permit application, it is not necessary to verify these constraints, but the applicant must be aware that these locations should be as accurate as possible in order to avoid significant changes to the LID Concept.

After a LID Concept Special Permit application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the site until the LID Definitive Plan has been approved as provided by these regulations and the perimeter of the open space has been surveyed and staked in the field.

4.2A.15 .Review Process.

Whenever an application for a LID Concept Special Permit is filed with the Planning Board, the Planning Board shall, within five working days of the filing of a complete application, distribute copies of the application, accompanying development plan, list of suggested dates and times for site visits, and other documentation, to the Board of Selectmen, Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and any other board or department deemed appropriate for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt by the reviewing parties of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.

a. The Planning Board shall hold a public hearing on the application in accordance with the requirements of G.L. c.40A, Sections 9 and 11 and applicable sections of the Town of Shirley Protective Zoning Bylaw. The public hearing shall be held within sixty-five (65) days of the filing of a complete application.

b. Site Visit. The Planning Board and/or its designee(s) along with members from all interested Boards, Commissions and departments shall conduct a site visit prior to or during the public hearing. At the site visit, the Planning Board and/or its designee(s) shall be accompanied by the applicant and/or its agent(s). With the applicant's permission, interested members of the public shall be made welcome at the site visit.

c. Other Information. The submittals and permits of this section shall be in addition to any other applicable requirements of the Town of Shirley Subdivision Rules & Regulations or any other provisions of the Town of Shirley Protective Zoning Bylaw.

4.2A.16 .Planning Board Decision; Approval Criteria.

After notice and a public hearing in accordance with G.L. c.40A Sections 9 and 11, and after following the procedures outlined in this Bylaw, the Planning Board shall take one of the following actions within 30 days following the close of the public hearing:

a. The Planning Board may approve a LID Concept Special Permit with any conditions, safeguards, and limitations, considering the following criteria:

1. The degree to which the design and layout of the proposed LID is better than a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient provision of streets, utilities and other public services, and providing a high degree of design quality.

2. The degree to which the LID promotes permanent preservation of open space, natural landscapes and vistas, agricultural land, forestry land, existing and proposed trails, other natural resources including water bodies and wetlands, and historical and archeological resources.

3. The degree to which the LID achieves sustainable design through a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision.

4. The degree to which the LID reduces the total amount of disturbance on the site.

5. The degree to which the LID furthers the goals and policies of the Shirley Master Plan, as determined by the Planning Board.

6. The degree to which the LID facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner.

7. The degree to which the LID Concept and its supporting documentation comply with all sections of this Bylaw.

b. The Planning Board may deny a LID Special Permit upon finding that the application does not comply with the provisions of this Bylaw.

c. The Planning Board may find that the location is best suited for a conventional division of land, and authorize the applicant to submit a conventional subdivision plan or a plan for a division of land for five or more lots in accordance with G.L. c.41, Sections 81K to 81GG, inclusive, and the Town of Shirley Subdivision Rules & Regulations.

4.2A.17 .Effect of Special Permit Approval.

Approval of a Concept Special Permit application does not constitute approval of any construction. This approval is a preliminary approval, intended to give guidance to the applicant for the development of a Definitive Plan as required by this Bylaw and a definitive subdivision plan where applicable, and to

determine whether the proposed concept meets the objectives of the Town, as described in Section 4.2A.16 above.

4.2A.18 .Duration of Special Permit.

A LID Concept Special Permit shall remain effective for a period of two years from the date of its approval. In its sole discretion, the Planning Board may grant extensions for good cause shown.

4.2A.19 .LID Definitive Plan Approval.

The issuance of a LID Concept Special Permit allows the applicant to submit a LID Definitive Plan to the Planning Board for review and approval in accordance with this bylaw and the LID Definitive Plan and Design Regulations. Any LID Concept Special Permit issued by the Planning Board shall specifically state that the LID Definitive Plan shall substantially comply with the Concept and the Planning Board's LID Definitive Plan and Design Regulations. A LID Definitive Plan is not a definitive subdivision plan under the Subdivision Control Law.

a. No LID Definitive Plan Approval Application may be submitted unless a LID Concept Special Permit has been approved and is currently in effect. The LID Definitive Plan shall be designed to be in conformance with the approved LID Concept Special Permit and the LID Definitive Plan and Design Regulations. If the Planning Board determines that there is a substantial variation between the LID Concept Special Permit and the Definitive Plan, it shall hold a public hearing on the modifications to the LID Concept Special Permit.

b. The size, form, number and contents of the LID Definitive Plan Approval Application, together with application or filing fees, are set forth in the LID Definitive Plan and Design Regulations.

c. Within five (5) days after receipt of the complete application, the Planning Board shall distribute copies of the application and plans to the Board of Selectmen, Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and any other board or department deemed appropriate. These departments and officials shall transmit their recommendations and comments, if any, to the Planning Board within 35 days of receipt of the plans.

d. The Board shall hold a public hearing within 45 days of the receipt of the complete application. Notice of the time, place and subject matter of the public hearing shall be given by the Planning Board, at the expense of the applicant, by advertisement in a newspaper of general circulation in the town, once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing, posted with the Town Clerk, and by mailing a copy of such advertisement to the applicant and to all owners of land abutting the land included in such plan as appearing on the most recent tax list, by certified mail at the expense of the applicant.

e. The Board shall make its decision within 30 days following the date of the close of the public hearing. If no action is taken within 30 days, the application shall be deemed approved as submitted.

f. A LID Definitive Plan will be considered not to comply substantially with the LID Concept Special Permit if the Planning Board determines that any of the following conditions exist:

1. an increase in the number of building lots or dwelling units;

2. a significant decrease in the open space acreage;

3. a significant change in the lot layout;

4. a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;

5. a significant change to the storm water management facilities;

6. a significant change in the wastewater management systems; and/or

7. a significant change in the wetland delineation.

g. The Planning Board may conditionally approve a LID Definitive Plan that does not substantially comply with the LID Concept Special Permit. However, such conditional approval must identify where the LID Definitive Plan does not substantially comply with the LID Concept Special Permit and require that the LID Concept Special Permit be amended to be in compliance with the significant changes identified by the Planning Board.

h. No building permit shall be granted for any building in a LID until all documents required, including, but not limited to, the LID Concept Special Permit, LID Definitive Plan, and LID Subdivision Plan, if any, prepared deeds, easements, covenants, and restrictions have been submitted to and approved by the Planning Board. Two building permits or 25% of the total for the project (rounded up), whichever is greater, shall be held by the Planning Board and shall not be granted until all documents, including any easements, covenants, and restrictions, have been recorded in the Registry of Deeds and proof of the recordation's furnished to the Planning Board.

4.2A.20 .Relationship Between the LID Concept and LID Subdivision Plan.

There is no presumption that subdivision of the tract will be required to realize the LID Concept, but it is allowed. The issuance of a Concept Special Permit allows the applicant to submit a LID Subdivision Plan to the Planning Board for approval under the Subdivision Control Law. Any Concept Special Permit issued by the Planning Board shall specifically state that the LID Subdivision Plan shall substantially comply with the Concept.

a. The requirements for submitting a LID Subdivision Plan shall be in accordance with the Planning Board Subdivision Regulations and LID Definitive Plan and Design Regulations adopted by the Planning Board and filed with the Town Clerk.

b. A LID Subdivision Plan will be considered not to comply substantially with the Concept if the Planning Board determines that any of the conditions listed in Section 4.2A.19.f exist.

c. If the Planning Board determines that the LID Subdivision Plan does not substantially comply with the Concept, the Board may disapprove the LID Subdivision Plan for failure to comply with the condition of the special permit requiring that the LID Definitive Plan substantially comply with the Concept.

4.3 Hammerhead Lots - Special Permit

Parcels located in residential districts with frontage on a public way which was in existence at the time of the original adoption of this Section 4.3, may be divided into hammerhead lots for use by single family dwellings only under alternative lot area and frontage regulations as approved by the Planning Board.
Special Permit approval will be granted by the Planning Board if it finds that:

1. The standards described in this section have been met;

2. The hammerhead development will carry out the goals of the Shirley Master Plan;

3. Efficient current and future use of land will be encouraged;

4. The scenic and natural resources of Shirley will be protected; and,

5. Adequate access to the lot is provided and the public safety, including that of the lot inhabitants, is protected.

Once approved as a hammerhead lot, such lot shall not subsequently be approved for other than single family use by variance or Special Permit nor be subdivided.

4.3.1 Development Standards

It is the intent to allow for optional limited development of deep back-land lots subject to the following standards for individual lots:

a. Land area minimums of five (5) acres in the R-R District, three (3) acres in the R-1 District and two (2) acres in the R-2 and R-3 Districts;

b. Access frontage of at least fifty (50) ft. suitable for an access driveway;

c. Access corridor width of at least thirty-five (35) ft.;

d. Lot width at the building of at least 400 ft. in the R-R District, 300 ft. in the R-1 District and 200 ft. in the R-2 and R-3 Districts;

e. Distance between any two (2) principal dwellings not less than the lot width under (d) above; and,

f. A shape capable of containing a circle having a diameter equal at least to the minimum required lot width within which any building shall be located set back at least sixty (60) ft. from any property boundaries.

4.3.2 Spacing

It is the intent of this section to discourage continuous double or triple layers of lots comprised of standard lots along the street and parallel lines of hammerhead lots. In order to provide for a proper spacing of hammerhead lots the following standards shall apply:

a. Each access drive serving one hammerhead lot shall not be closer to any other hammerhead lot access drive (measured at and along a street line) than 900 ft. in the R-R District, 525 ft. in the R-1 District and 450 ft. in the R-2 and R-3 Districts;

b. Each access drive serving two (2) hammerhead lots shall not be closer to any other hammerhead lot access drive (measured at and along a street line) than 1,800 ft. in the R-R District, 1,050 ft. in the R-1 District and 900 ft. in the R-2 and R-3 Districts; and,

c. Where the hammerhead lot is located in two (2) districts the measurement required for the more restrictive district shall apply in a. and b. above.

4.3.3 Access Driveways

Access driveways serving hammerhead lots shall meet the following minimum standards:

a. Width of at least twelve (12) ft., but shall be cleared to a width of at least eighteen (18) ft.;

b. Maximum grade of ten percent (10%);

c. Centerline radius of at least eighty (80) ft.;

d. A length such that the distance along the driveway centerline to each principal building on the premises will not exceed 1,000 ft., from the street sideline;

e. Passing turnouts providing a total width of at least fifteen (15) ft. along a distance of at least twenty-five (25) ft., spaced with no more than 300 ft. between turnouts and with the first such passing turnout at the driveway connection to the street;

f. Provision for turnaround space available for use in all seasons capable of serving all vehicles including moving vans, ambulances, fire engines and police vehicles;

g. At most three (3) lots may be connected to or otherwise share the same access driveway, of which no more than two (2) may be hammerhead lots;

h. A recorded clear provision for all shared driveways and running with the land establishing clear responsibilities for maintenance and snow removal; and,

i. A location entirely within the lot or lots being served.

4.3.4 Driveway Site Plan Approval

A Building Permit for a single-family residence located on a hammerhead lot shall be issued only upon receipt of a written statement from the Planning Board indicating a satisfactory driveway and turnaround consistent with the standards of Section 4.3 has received site plan approval.
The driveway site plan shall be prepared in accordance with provisions adopted by the Planning Board.
The Planning Board may consider the construction of a driveway or its extension "satisfactory" for the purpose of said written statement if it has approved a site plan for the construction of the driveway and if drainage, utilities, erosion control measures, base gravel and the first course of any bituminous concrete that may be required are all in place.
A driveway site plan approval shall expire if the work there under is not begun within two (2) years after issuance and diligently pursued to completion.

4.3.5 Occupancy Permit

No Occupancy Permit for a residence constructed on a hammerhead lot shall be issued until the Planning Board certifies in writing that the access driveway, including permanent turnarounds, has been completed in accordance with the standards specified in the driveway site plan approval.

4.4 Mobile Homes

Mobile homes or similar mobile structures shall not be parked, stored, or occupied for living or business purposes, except:

4.4.1 If granted a temporary permit by the Building Inspector, a mobile home or mobile structure may be occupied incidental to construction or rebuilding of a permanent structure on the premises for a period not to exceed twelve (12) months. Any such mobile home or mobile structure shall be subject to the provisions of the state sanitary codes.

4.5 Accessory Apartments - Special Permit

An owner or owners of a one family dwelling may apply for a Special Permit from the Board of Appeals for the construction and occupancy of one accessory apartment in such one family dwelling provided such one family dwelling was constructed at least ten (10) years prior to the date of application. It is not the intent of this Bylaw to permit or encourage the building of new dwellings which are large enough to contain apartments.
In accordance with the procedures of Section 9.2.3, the Board of Appeals may grant such Special Permit provided that:

4.5.1. Due consideration has been given to the reports and recommendations of the Planning Board and Board of Health;

4.5.2. Adequate provision has been made for the disposal of sewage generated by the occupancy of such apartment in accordance with the requirements of the Board of Health;

4.5.3. No more than minimum exterior alterations are proposed. In general, any new entrances shall be located on the side or rear of the building, and any additions shall not increase the square footage of the one family house by more than ten percent (10%);

4.5.4. The design and size of the apartment conforms to all applicable standards in the health, building and other codes;

4.5.5. The owner(s) of the residence in which the accessory unit is created shall occupy at least one of the dwelling units in the premise, except for bonafide temporary absences;

4.5.6. Parking must conform to the requirements of this Bylaw.

4.6 Home Occupations *(Revised 11-01-05)*

4.6.1. Types of Home Occupations
In this Bylaw, home occupations are regulated according to the following use categories:

a. Home professional office: office for the practice of a profession involving a high degree of training in the humanities, science or arts, such as medicine, law, engineering or fine arts.

b. Home personal service: personal services, such as insurance, notary public, real estate broker, beauty care, clerical services; studio for the teaching of fine, performing or domestic arts and crafts; home care or therapy (for pay) for not more than three patients or children.

c. Home business workshop: the business or shop of a painter, carpenter, electrician or similar trade.

d. Home specialty retail: the sale of specialty products made on the premises, such as dressmaking, home baking or catering, or arts and crafts; or collector's items, such as antiques, stamps, coins. Home specialty retail does not include the sale of products raised and grown on the premises of an agricultural use on more than five acres of land.

4.6.2. Permitted Home Occupations

In any zoning district, home occupations listed as a permitted use do not require a Special Permit if they comply with the following requirements:

a. The occupation must be operated by a person residing on the premises, and it shall employ on those premises not more than three (3) persons not resident thereon;

b. There shall be no evidence of the occupation through persistent or excessive sound, or through vibration, smell, or sight discernable at the boundaries of the premises, except for a sign that conforms to the requirements of Section 6 of this Bylaw;

c. Any exterior storage of materials or equipment or business-related parking shall be so located and screened, through location, grade or landscaping, from adjacent properties;

d. Not more than two (2) vehicles requiring registration as taxis, buses, or commercial vehicles shall be regularly parked outdoors on the premises. Such vehicles shall not weigh more than 15,000 lbs. or have more than two (2) axles;

e. Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from residential development considering volume, type, hours and other traffic characteristics; and

f The occupation shall be conducted within a dwelling or accessory structure and occupy not more than twenty-five percent (25%) of the combined total floor area unless the Board of Appeals authorizes a larger percentage by Special Permit.

4.6.3. Home Occupations by Special Permit

a. A Special Permit from the Board of Appeals is required for any home occupation that does not comply with the requirements of Section 4.6.2 or that is otherwise listed as a special permitted

home occupation in the use regulations of a zoning district. The Board of Appeals may grant a Special Permit only upon determining that the use will not create hazard, disturbance to any abutter, or injury to the neighborhood, and will not create unsightliness visible from any public way or neighboring property.

b. In its discretion, the Board of Appeals may impose conditions and limitations as necessary to protect abutting properties and the public, including that a home occupation authorized by the Special Permit may not be transferred to a different operator without a new Special Permit, that the occupation shall be subject to compliance review by the Building Inspector at periods specified in the Special Permit, and that such permit may be revoked by a majority vote of the Board of Appeals at any time after notice and hearing, upon the Board's determination that the terms of the Special Permit are being violated.

4.6.4. Enforcement

Home occupation uses shall be enforced as follows:

a. A certificate of Use and Occupancy must be obtained from the Building Inspector indicating compliance with these requirements prior to initiation of a home occupation.

b. The Building Inspector shall enforce these provisions and any person may request enforcement where a violation is believed to exist, as provided in M.G.L. c. 40A, Section 7, and if dissatisfied with the outcome, such person may bring an appeal to the Board of Appeals for hearing and action as provided in M.G.L. c.40A, Section 8.

4.7. Home Occupation – Special Permit *(Deleted 11-01-05 moved to 4.6)*

4.8. Home Occupation – Enforcement *(Deleted 11-01-05 moved to 4.6)*

4.9. Accessory Uses *(Deleted 11-01-05 moved to 2.5)*

4.10. In-law Apartment No Special Permit *(Added 4-28-03; Revised 03-21-05)*

4.10.1. General

It is the intent of this Section to provide for the use of a portion of a single-family residence as a so-called “In-law apartment”, which use will be solely for the benefit of a family member related either by blood, marriage or law. The In-law section of the residence shall be attached to the existing residence and shall share access to common areas by means of doorways or openings. It is the further intent of this Section that the structural changes, if any, necessary to affect the In-law apartment use shall be sufficiently modest that such use can be terminated and a single family occupancy of the entire premises restored without substantial hardship in reconstruction.
A Building Permit for an In-law apartment shall be issued only upon meeting all the requirements of this Section.

4.10.2. Approval by the Board of Health

Evidence verified in writing by the Board of Health (or its qualified agent) that there is available on the lot an adequate supply of drinking water and adequate provision for sewage disposal shall be submitted with, and as part of the application for Building Permit.

4.10.3. Maximum Allowable Size *(rev. 3/21/05 STM)*

The gross floor area of the In-law Apartment shall not exceed 500 square feet or 25% of the finished habitable living space in the existing residence prior to approval of the Building Permit, whichever is greater. Any addition to the existing structure for the In-law use shall not exceed 500 square feet.

4.10.4. Criteria for Approval

Prior to the granting of a Building Permit for an In-law apartment, all of the following requirements must be met. Documentation must be submitted to the Building Inspector at the time of the application for a Building Permit. No exceptions or variances will be granted from these requirements.

a. Adequate off street parking shall be provided for the user of the In-law apartment. There shall be a minimum of one additional space for the In-law use.

b. All utilities associated with the existing single-family residence shall be shared with the In-law use including gas, electric, sewer, septic, water and heating.

c. The owner of the single-family residence must occupy one of the living areas.

d. The maximum number of persons to occupy an In-law apartment shall be limited to two (2).

e. The outside appearance of the premises shall remain that of a single-family residence.

f. All applicable Federal, State and Local Building and Health codes must be satisfied.

g. Only one In-law apartment shall be allowed per single-family residence.

h. An In-law apartment shall be limited to one (1) bedroom.

i. An In-law apartment may only be created in a dwelling which would otherwise be classified as a single-family dwelling located on its own lot, in the R-R, R-1, R-2 and R-3 zoning districts.

j. All construction shall meet set back requirements of the zoning district where the building is located.

4.10.5. Inspection for Compliance

The Building Inspector may order an inspection of the premises for compliance hereunder at any time upon reasonable written notice to the homeowner.

4.10.6. Termination of Use

Should an In-law apartment which was created under the terms of this Section fail at any time to meet the conditions above, the occupancy shall cease and the premises shall revert to those of a single-family residence. It is not the intent of this Section to have any In-law apartment created become rental property in the future.

4.11. Mining, Quarrying, and Removal of Loam, Sand, and Gravel *(Revised 10-02-00)*

Mining and quarrying and the removal of loam, sand, and gravel or other earth products is permitted in all districts only in accordance with permits issued by the Board of Selectmen under Article XI of the Town Bylaws.

It is the intention of this Bylaw that the removal of earth materials from any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the removal of material from the premises, even through in connection with the construction of streets shown on the plan.

4.12 Flood Plain Protection Overlay District (*Revised 6-07-10)*

4.12.1. Purpose

The purposes of the Flood Plain District are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood

control characteristics, and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

4.12.2. District Delineation

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Shirley designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Shirley are panel numbers 25017C0068E, 25017C0069E, 25017C0181E, 25017C0182E, 25017C0183E, 25017C0184E, 25017C0191E, 25017C0192E, 25017C0193E, 25017C0194E, 25017C0203E and 25017C0211E dated June 4, 2010. 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 Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Planning Board Office.

4.12.3. Use Regulations

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

a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

Permitted Use - The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

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

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

Notification of Watercourse Alteration - In a riverine situation The Shirley Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

a. Adjacent Communities
b. NFIP State Coordinator
   Massachusetts Department of Conservation and Recreation
   251 Causeway Street, Suite 600-700
   Boston, MA 02114-2104

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

4.12.4. Special Permits

No structure or building shall be erected, constructed, substantially improved, or otherwise created or moved; no earth or other materials stored, dumped, filled, excavated, or transferred, unless a Special Permit is granted by the Board of Appeals. Said Board may issue a Special Permit hereunder (subject to other applicable provisions of this Bylaw) if the application is complaint with the following provisions:

a. The proposed use shall comply in all respects with the provisions of the underlying Districts;

b. Within ten (10) days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Building Inspector and Zoning Enforcing Officer. Final action shall not be taken until reports have been received from the above Boards or until thirty-five (35) days have elapsed;

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

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

e. A determination has been made that the use will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws; and,

f. The applicant has established that the land is not unsuitable for the proposed use, based on hydrological/topographic data supplied by a registered professional engineer.

Nothing contained in this section shall excuse compliance with the Wetlands Protection statutes, MGL, Ch. 131, Sec. 40 and 40A or any other laws of the Commonwealth of Massachusetts.

4.12.5. Excluded Uses (The following uses shall not be allowed:)

a. Dumping of refuse or solid waste including but not limited to tires, refrigerators, and motor vehicles or parts of any of the foregoing;

b. Storage, either permanent or temporary, of any hazardous, toxic, radioactive, or de-icing material.

4.12.6. Definitions: For the purposes of this section, the following terms shall be defined as follows:

Flood Plain Protection District - An area subject to periodic flooding, the limits of which are defined by the 100 year flood contour elevation.

Flood - A temporary rise in river, stream, or brook flow that results in water overtopping the banks and inundating over bank areas adjacent to the channel.

Floodwater Storage Capacity - The quantity of water which can be held within the Flood Plain.
100 Year Flood Elevation - The elevation of a flood which has a one percent (1%) probability of occurring in any given year.

4.12.7 Limit of Authority

Nothing contained in this amendment to the Zoning Bylaw of the Town of Shirley shall otherwise limit the lawful authority of other agencies of government within the Town of Shirley.

4.13 Water Supply and Wellhead Protection Overlay District *(Revised 4-28-03; 11-01-05; 6-07-10)*

4.13.1. Purpose

The purpose of the Water Supply and Wellhead Protection Overlay District is to protect, preserve, and maintain present and potential sources of groundwater supply within the Town for public health, safety, and welfare.

4.13.2. District Delineation *(Revised 11-01-05)*

The general boundaries of the Water Supply and Wellhead Protection District are shown as Zone I and II to indicate the different protection areas on the map entitled "Town of Shirley, MA, Zoning Map – Overlay Districts", dated November 1, 2005. Elements of the district include present and proposed wells of the Shirley Water District and aquifers and recharge areas in the Town as determined by the hydrological study performed for the Town in 1978 by IEP, Inc. Northboro, Massachusetts and any additional wellhead delineation studies performed for or by the Shirley Water District. The exact boundaries of the District are defined in Section 4.13.6, as amended, in which elevations, road edges, distances on the ground, and other features delineating the boundaries are described. The map is hereby made a part of the District and of the Zoning Bylaws. As delineated on the amended map, the District comprises the following zones:

Zone I: Present and proposed public well sites, together with a surrounding protective circle of 800 feet in radius (measured horizontally) around the Catacunemaug Well, and 1,000 feet in radius (measured horizontally) around the Patterson Well and Walker Road, Squannacook, Cook Farm, and Bow Brook/Trophet Well sites, comprising all or part of the zones of influence.

Zone II: Aquifer and primary recharge areas supplying the Patterson and Catacunemaug Wells, and identified future well sites. These primary recharge areas have been determined by hydrological study of the geology of the area and are intended to include the aquifer recharge areas which contribute water to the wells under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of continuous pumping at safe yield with no recharge from precipitation) as defined in Massachusetts Department of Environmental Protection ("DEP") regulation 10 CMR 22.00.

4.13.3. Definitions: For the purpose of section 4.13, the terms listed below shall be defined as follows:

Aquifer: Geological formation consisting of unconsolidated sands and gravel that contains significant amounts of potentially recoverable potable water.

Groundwater: All the water present beneath the surface of the ground. In this Bylaw the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

Recharge Areas: Areas composed of permeable, porous materials that collect precipitation or surface water and transmit it to the aquifers or zones of influence.

Toxic or Hazardous Materials: Any substance or mixture of physical, chemical or infectious characteristics defined as toxic or hazardous under MGL, Chapter 21C, 21E, and 310 CMR 30.00.

Zone of Influence: The Area, which experiences drawdown by a pumping well.

Impermeable Area: [Impervious Surface]: An area on which material or a structure on, above, or below the ground does not allow precipitation or surface water to penetrate directly into the soil.

4.13.4. Use Regulations:

a. The District is established as an overlay zone to all other districts. Any use permitted in the portions so overlaid shall be permitted subject to all the provisions of this Section and provided that all necessary permits, orders, or approvals required by local, state or federal law have been obtained. The portion of any lot delineated as being within the District may be used to meet any lot dimension requirements for the District in which the remainder of the lot is located.

b. Permitted Uses, All Water Supply Protection Zones: The following uses characterized as having low potential for groundwater contamination and reduction in natural groundwater recharge shall be allowed in all District Zones provided they are permitted in the underlying district:

1. Outdoor recreation, nature study, boating, hunting, and fishing where otherwise legally permitted.

2. Boardwalks, landings, foot, bicycle, and/or horse paths and bridges.

3. Proper operation and maintenance of dams, splash boards, and other water control, supply and conservation devices.

4. All ordinary and customary uses associated with the maintenance and upkeep of existing buildings and grounds, including paving of existing residential driveways and sidewalks, and the replacement of structures destroyed by fire or other catastrophe, provided there is no increase in impervious cover apart from that which may be associated with paving of existing residential driveways and sidewalks.

5. Necessary public utilities designed so as to prevent contamination of groundwater.

c. Permitted Uses Zone II: The following uses with low potential for groundwater contamination and reduction of natural recharge shall be allowed within Zone II, provided they are permitted in the derlying district:

1. Residential development on a minimum lot size of 80,000 square feet per unit, provided that no more than 25% of the lot may be covered with impervious surfaces.

2. Expansion of impermeable area of existing buildings and grounds in addition to that which may be associated with paving of residential driveways and sidewalks, provided that the total impervious coverage shall not exceed 25% of the lot

d. Special Permit, Zone I: The following uses with a higher potential for groundwater contamination or reduction in natural recharge shall be allowed within Zone I upon issuance of a Special Permit, provided said uses are permitted in the underlying district:

1. Expansion of impermeable area of existing buildings and grounds, provided that the total impervious coverage shall not exceed 25% of the lot.

e. Special Permit, Zone II: The following uses with a higher potential for groundwater contamination or reduction in natural recharge shall be allowed within Zone II upon issuance of a Special Permit, provided said uses are permitted in the underlying district:

1. Expansion of impermeable areas of existing buildings and grounds such that the total impervious coverage exceeds 25% of the lot.

2. The handling and storage of toxic or hazardous materials in quantities greater than those associated with normal, one-family household use provided that the storage is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the containers' total storage capacity.

3. Commercial, industrial, institutional or multi-family uses which are allowed in the underlying district and which are not prohibited by Section 4.13.4.g.

4. Enlargement or alteration of existing buildings and/or uses that do not conform to the Water Supply and Wellhead Protection Zone II.

f. Prohibited Uses, Zone I: The following uses with a high potential for groundwater contamination

or reduction of natural recharge shall be prohibited within Zone I of the District:

1. All uses not expressly permitted in Section 4.13.4.b or 4.13.4.d.

g. Prohibited Uses, Zone II: The following uses with a high potential for groundwater contamination or reduction of natural recharge shall be prohibited within Zone II of the District:

1. Mining of gravel, soil, loam, sand or other minerals, except for excavating or grading for buildings, foundations, roads, or utility works.

2. Golf courses.

3. All uses set forth in 310 CMR 22.21 (2)(a) and 310 CMR 22.21 (2)(b) unless designed in accordance with the performance standards specified therein.

4.13.5. Special Permits

a. Special Permit Granting Authority: For the purpose of this Section, the Planning Board shall be the Special Permit Granting Authority ("SPGA"). The SPGA shall follow procedural requirements contained in Section 9.2.3.c of this Zoning Bylaw in processing applications for Special Permits hereunder except that copies of such applications shall also be transmitted to the Board of Selectmen, Department of Public Works, and the Shirley Water District. Such Special Permit shall be granted only if the SPGA determines after review of all recommendations, that the intent of this Section, as well as its criteria are met. The SPGA shall not grant a Special Permit under this Section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section.

b. Special Permit Criteria

1. Special Permits shall be granted only if the SPGA determines that the owner and/or the applicant have demonstrated through presentation of engineering and scientific data that the natural recharge of groundwater shall not be reduced on the premises and that the groundwater quality resulting from on-site operations, natural recharge, and background water quality will not fall below the standards established by the DEP in the Drinking Water Standards of Massachusetts 310 CMR 22.00, or if standards are not established water quality will not be degraded below background levels, at the property line.

2. In reviewing applications for Special Permits and in imposing conditions thereon, the SPGA shall consider the effects of chemicals, pesticides, fuel, toxic materials, hazardous materials, on-site septic systems, stormwater run-off, and fertilizers used in conjunction with the proposed activity on the quality and quantity of surface and groundwater. The SPGA shall request recommendations in writing from the Conservation Commission, Board of Health, Department of Public Works and Shirley Water District in regard to all the above considerations.

3. Pursuant to this Section, the SPGA may impose, on a case-by-case basis, specific design and/or performance standards necessary to ensure that the proposed use is in harmony with the stated purpose of this Section.

4. Periodic monitoring may be required by the SPGA as a condition of the Special Permit. Such monitoring may include sampling of the groundwater disposed to on-site systems or drywells and sampling from groundwater monitoring wells to be located and constructed as specified in the Special Permit. Reports shall be submitted to the SPGA and to the Board of Health, and the costs shall be borne by the owner of the premises.

5. In the Water Supply and Wellhead Protection District, the SPGA may, upon application, permit any use or structure complying in all respects with the provisions of the underlying

district(s) within which the land is located if the land is proven by the applicant not to be over an aquifer or primary recharge area, based on hydrological modeling and data supplied by a professional hydrogeologist or other qualified agent.

4.13.6. Boundaries of Zone I and Zone II Districts

a. **Zone I** consists of six (6) separate well protection areas defined as follows:

1. Catacunemaug Well: All land within 800 horizontal feet of the Catacunemaug Well.

2. Patterson Well: All land within 1,000 horizontal feet of the Patterson Well.

3. Walker Road Site: All land within 1,000 horizontal feet of the DEP-approved, pump-tested, Shirley Water District Well off Walker Road.

4. Cook Farm Site: All land within 1,000 horizontal feet of Shirley Water District Test Well #12 located at an elevation of 290 feet on the north side of a small hill approximately 750 feet down a cart road due south of Groton Road (Route. 225) 0.47 miles east of the junction of Groton Road and Route 2A (Great Road).

5. Squannacook Site: All land within 1,000 horizontal feet of the potential well site in the Massachusetts Division of Fisheries and Wildlife property marked with an iron pipe located at an elevation of 260 feet, approximately 0.26 miles north of Pumpkin Brook, at a point located at 71° 39' W, 42° 37' 28" N.

6. Bow Brook/Trophet Site: All land within 1,000 horizontal feet of the potential well site in the southwest corner of the Town marked with an iron pipe located at an elevation of 350 feet at the northwest corner of the ridge approximately 0.21 miles east of the Town's western boundary and approximately 0.26 miles north of the Town's southern boundary.

b. **Zone II** consists of aquifer and primary recharge areas to the Patterson and Catacunemaug Wells, and to the Cook Farm, Squannacook, Walker Road, Bow Brook/Tophet future well sites. With the exception of the Zone I sites within the area, Zone II includes all land within the following boundaries:

1. Patterson Well and Walker Road Well Site: Starting at the Town bound just above the Dam in the Nashua River for the towns of Ayer, Harvard and Shirley and going northwest over Walker Road and the railroad tracks to the High Tension Power Line Easement. Thence westerly following along the south side of the High Tension Power Line Easement to the east side of Clark Road. Thence up the east side of Clark Road to the 280 foot contour in a northerly direction over Patterson, Hazen and Horsepond Road to Route 2A. Thence east on Route 2A to Walker Road thence southeast to Devens bound on the east side of Hazen Road, which is approximately 600 feet northeast from the Walker Road intersection. Thence from the Devens bound on Hazen Road a distance back from the road on the east side and parallel to Hazen Road for 300 feet going southeast on Hazen Road to the Walker Road intersection. Thence a 300 foot distance back from and parallel to Walker Road going in a southerly direction to Walker Brook on the east side of Walker Road. Thence east along Walker Brook to the Nashua River then south up the Nashua River to point of origin to the bound just above the Dam.

2. Cook Farm Site: From the western Town line 500 feet north of the north side of Whitney Road, easterly 500 feet north of and parallel to the north side of Whitney Road to a point 2,250 feet due east of the western Town line. Thence north a distance of 2,250 feet from the western Town line and parallel to it, to and across Route 2A. Thence easterly along the north side of Route 2A to a point 3,750 feet east of the western town line, and thence north at a distance of 3,750 feet east of the western Town line and parallel to it approximately 1,700 feet to the south side of a dirt road. Thence westerly along the south side of the dirt road approximately 750 feet to the 300 foot contour. Thence due north approximately 400 feet to the 350 foot contour. Thence west and north following the 350 foot contour round Deacon Hill and to the north side

of Route 225 (Groton Road). Thence east along the north side of Route 225 to the west side of Townsend Road. Thence northerly 2,000 feet along the west side of Townsend Road, and from there, due west approximately 2,150 feet to the 350 foot contour. Thence following the 350 foot contour southwesterly to the Town line, and down the Town line to point of origin 500 feet north of Whitney Road.

3. Squannacook Site: From the north side of Trap Swamp Brook at the east side of Townsend Road, northerly up the east side of Townsend Road approximately 5,000 feet to a dirt road on the east side. Thence along the south side of the dirt road approximately 800 feet to the 300 foot contour, and along the 300 foot contour northerly to the Town line. Thence north on the Town line to the Squannacook River, and down the south bank of the river south easterly to the north side of Trap Swamp Brook. Thence westerly along the north bank of Trap Swamp Brook to point of origin at Townsend Road.

4. Bow Brook/Tophet Site: Starting at the southwest corner of the Town boundary with Lancaster/Lunenburg, east along the southern Town line to the west side of Lancaster Road. Thence north up the west side of Lancaster Road approximately 2500 feet to the south side of a gravel road on the west side of Lancaster Road opposite Deerbrook Park. Thence westerly along the gravel road to the east side of the High Tension Power Line Easement. Thence north along the east side of the High Tension Power Line Easement to the north side of Leominster Road. Thence west on Leominster Road to the intersection with Catacunemaug Road, thence west along Catacunemaug Road to the intersection with Mt. Henry Road. Thence up Mt. Henry Road to the railroad tracks. Thence west along the railroad tracks to the Town line. Thence south along the Town line to point of origin at Town of Shirley's southwest corner.

5. Catacunemaug Well: Starting at the railroad bridge south of the Catacunemaug Well and going southwest to the intersection of Catacunemaug and Mt. Henry Road. Thence following Mt. Henry Road west to the railroad tracks and west on the railroad tracks being the interpreted ground water divide north of Trophet the south side of Holden Road across the entrance to the Ronchetti Conservation Land due Swamp to the southernmost extension of Lake Shirley.

   Thence following the eastern shore of Lake Shirley north to an interpreted groundwater divide at the north end of Long Swamp. Thence picking up the 350 foot contour and extending south along the aquifer just east of Long Swamp. The contour turns east then north and northwest near the entrance to Ronchetti Conservation Land on Holden Road. Thence from the 350 foot contour on north across Holden Road to the 350 foot contour on the south side of Chaplin Hill. Thence east on the 350 foot contour around Chaplin Hill north to 200 feet south of Whitney Road. Thence east 200 feet in on the south side of Whitney Road to the 350 foot contour. Thence south on said contour to the Valley Farm Road at 110 Center Road. Thence from the 350 foot contour going westerly down said road to the 320 foot contour. Thence south on said contour to an intermittent stream 100 feet off Center Road at the High Tension Power Line Easement. Thence south across the intermittent stream to the 320 foot contour at the base of Majors Hill. Thence west around Majors Hill to the High Tension Power Line Easement at the railroad tracks. Thence west to the railroad bridge point of beginning**.**

4.14 Intentionally Left Blank *(IPOD terminated prior to 3-22-96)*

4.15 Wireless Telecommunications Towers and Facilities *(Added 9-11-00, Revised 6-8-2009))*

4.15.1. Purpose

The purpose of this Bylaw is to establish general guidelines for the siting of wireless telecommunication towers for private or commercial use, antenna(s), satellite dishes greater than three (3) feet in diameter, and appurtenant structures. The intent of this Bylaw is to:

a. require the location of the towers on land in areas where the adverse impact on the community is minimal,

b. minimize the number and overall height of towers in Shirley,

c. require the co-location of different telecommunication companies' antenna(s) on towers as much as possible,

d. encourage the siting of towers and appurtenances to minimize their visibility to the public, including if possible location of antenna(s) in or on existing buildings,

e. enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently, and

f. to encourage the co-location of municipal use on wireless telecommunication towers and facilities by local municipal agencies use upon request.

4.15.2 Definitions

"Wireless Telecommunications Tower and Facilities" (hereinafter also referred to as the "facility or facilities") shall include towers, antenna(s), panels, and appurtenant structures designed to facilitate the following services: radio and television tower, cellular telephone service, personal communications services, and enhanced mobile radio service. For the purposes of this Bylaw, wireless telecommunication facilities shall also include any satellite dish greater than three (3) feet in diameter.

References to "this Bylaw" herein shall be taken to mean the Protective Zoning Bylaw of the Town of Shirley, or more specifically, and as the context requires, Section 4.15 of same as defined herein.

'Tower Height" shall mean the height of the tower or any component including antenna(s), as measured vertically from the extreme highest point of the tower to the lowest point of natural grade within a perimeter circle extending ten (10) feet outside the bounds of the smallest circle containing all the supporting legs of the tower.

4.15.3. General Requirements

a. No wireless telecommunications facility, which shall include towers of any type greater than five (5) feet in height, satellite dishes over three (3) feet in diameter, antenna(s), panels, and appurtenant structures, shall be erected or installed except in compliance with the provisions of this Section. The foregoing provision shall also apply to antennas to be added to an existing tower, which specific antennas were not previously approved during a Special Permit process. In all cases, a Special Permit is required from the Shirley Planning Board in accordance with the requirements set forth herein. Granting of a Special Permit is required prior to the approval of a Site Plan by the Planning Board.

b. Only free-standing towers not requiring guy wires for support are allowed.

c. Tower height shall be limited to the minimum height necessary, as determined from objective technical evidence presented by the applicant. The tower shall not exceed seventy-five (75) feet above the average grade of the existing terrain at the tower base, or its base structure, unless the applicant demonstrates to the satisfaction of the Planning Board that a taller tower will permit multiple users without impact on the viewshed, and that the applicant will be unable to provide service with a shorter tower. In all cases, tower height shall be limited to the Federal Aviation Administration height limit beyond which lighting would be required for the particular siting area proposed, or 125 feet whichever is less.

d. Wireless telecommunications facilities shall be suitably screened from abutters and residential neighborhoods and located only in commercially zoned property. Towers may be allowed on a lot as an accessory use to a main building, however no more than one (1) tower may be sited on any parcel of land.

e. There shall be a presumption by the Special Permit Granting Authority (SPGA) that the applicant's service can be provided by location of antenna(s) in or on existing buildings or structures. This presumption may be rebutted by hard evidence to the contrary that such location is not feasible.

f. When utilizing existing buildings or structures for antenna(s) location, antenna(s) shall, be enclosed within an existing structure such as a church steeple or clock tower. Antenna(s) may only be placed on the exterior of existing buildings or structures upon the determination by the SPGA that placement within existing buildings or structures is not feasible, and that the placement of such antenna(s) does not materially detract from the historic value or traditional view of buildings or structures in the vicinity. The height limit imposed by Section 4.15.3.c above shall also apply to antenna(s) placed on existing buildings and structures, and shall be measured from the lowest ground elevation adjacent to the existing building or structure.

g. There shall be a presumption by the SPGA that co-location of multiple service providers now seeking, or anticipated to be seeking a tower location within the next three (3) years and within a two (2) mile radius of the proposed site, is possible, however each shall require a separate Special Permit This presumption may be rebutted by substantial evidence to the contrary that such co-location is not feasible.

h. Facilities shall be removed upon cessation of use, at the sole expense of the owner(s) of the facility defined in Section 4.15.6.a below. Use of the facility shall be determined to have ceased when it has not been in use for a period of twelve (12) continuous months, of for a total of eighteen (18) out of the last thirty (30) months. Records shall be submitted to the SPGA annually indicating the usage of the facility over the previous twelve (12) months, and its current operational status. Such information shall be a condition of the Special Permit.

i. All wireless telecommunications facilities shall comply with all applicable standards and regulations of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), the American National Standards Institute, the Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health. The SPGA may require annual certification demonstrating continuing compliance with regulations and requirements of any or all of the above regulatory agencies as a condition of the Special Permit.

j. If the SPGA determines that independent review of the Special Permit is required, it may require the applicant to pay a review fee consisting of reasonable costs to be incurred by the SPGA for the employment of outside consultants pursuant to rules adopted by the SPGA as authorized by M.G.L. Chapter 44, Section 530.

4.15.4. Special Permit *(revised 6/8/2009)*

a. The Shirley Planning Board is hereby designated the Special Permit Granting Authority (SPGA) to grant Special Permits for wireless telecommunications facilities. Special Permits shall be administered according to Section 10.3 "Issuance of Special Permits" of the Shirley Protective Zoning Bylaw.

b. Expiration/Renewal

1. A Special Permit granted under this Bylaw shall expire within two (2) years of the date of issuance of the permit. Prior to the expiration of the Special Permit, the applicant shall make application to the SPGA for renewal of the Special Permit for an additional two (2) year period. Said renewal shall not require the technical submissions of the original application, provided that conditions of the site and facility have not changed materially from the original application. A certification by a Structural Engineer licensed in the Commonwealth of Massachusetts as to the condition and structural integrity of the tower and its antennas shall accompany every application for renewal.

2. Any transfer of licenses or equipment, shall require the new owner to re-apply for a Special Permit under the requirements of this Bylaw. Special Permits shall not be transferable under

this Bylaw.

c. Application

All applications for a Special Permit for a wireless telecommunications facility shall be submitted on forms provided by the SPGA and shall include at a minimum the following supporting information:

1. A locus plan at a scale of l inch=1000 feet which shall show all property lines, the exact location of the proposed structure(s), streets, topography in a general manner including significant landscape features, residential dwellings and neighborhoods within 1000 feet of the site, all buildings within 500 feet of the proposed facility, and all other wireless telecommunications towers within two (2) miles of the proposed site.

2. A color photograph of the proposed site from the five (5) clearest vantage points with a scale rendition of the appropriate view of the proposed tower superimposed over the photographs.

3. Ten (10) copies of a plan conforming to requirements for a Site Plan set out in Section 7 of the Protective Zoning Bylaw and in the Site Plan Review Regulations adopted by the Shirley Planning Board.

4. Documentation consisting of a Technical Report prepared by a Professional Engineer registered in the Commonwealth of Massachusetts containing supporting calculations and technical details and criteria in support of the application and including at a minimum:

   a. Certification that the tower, antenna(s) and appurtenant structures comply with all standards of the Federal and State regulatory agencies cited in Section 4.15.3.i of this Bylaw**.**

   b. A listing of the pertinent specifications of the proposed facility relating to the square footage and plan view dimensions of the tower base and any appurtenant structures, heights of the tower and of appurtenant structures, depth of footings, height and construction of fencing, and detailed diagrams of the size, type and configuration of antenna(s) arrays proposed now, and anticipated in the future.

   c. An analysis of the capacity of the proposed tower to accommodate multiple antenna(s) arrays from different wireless telecommunication companies, including type(s) of technology planned for and types and number of antenna(s) and/or transmitters/receivers. Also a timetable for expected occupation of each of the available slots on the tower, to include expected type of technology and antenna(s).

   d. An analysis justifying the location, height and design of the facility with respect to technical, economic and competitive factors, as balanced against the expected neighborhood and environmental impacts.

   e. An analysis of the coverage area of the proposed tower showing neighboring streets and intensity of signal reception along each of the main streets within two (2) miles of the proposed facility. For comparison, a similar analysis of any alternative sites available or potentially available, or being considered for tower siting which could potentially serve substantially the same or a similar area.

5. A Marketing Report conducted by a recognized authority in the field of telecommunications services describing current demand for space on tower facilities and project demand for such space within the Town of Shirley for the next ten (10) years. Said report shall include data, calculations and projections in support of the project's conclusions.

6. Written evidence of ownership or of long term control (e.g. a long term lease) of the property upon which the tower is to be erected. Long term as used herein shall mean a period of time

equivalent to at least three (3) terms of the Special Permit.

d. The SPGA may require the applicant to perform an on-site demonstration of the visibility of the proposed tower by means of colored four (4) foot minimum diameter weather balloon held in place at the proposed site and maximum height of the tower. This demonstration shall take place after the application for Special Permit has been made, but prior to the close of the public hearing on said Special Permit. The applicant shall take care to advertise the date of the demonstration in a newspaper widely circulated in the neighborhood of the proposed site and notice of said public hearing shall be mailed to direct abutters and all abutters within a three hundred (300) foot radius of the proposed tower location. Failure, in the opinion of the SPGA, to adequately advertise and notify abutters of this demonstration may be cause for the SPGA to require another, properly advertised demonstration.

e. Approval Criteria

The SPGA shall grant the Special permit only upon finding that the wireless telecommunications facility proposed:

1. Has been adequately described and justified to the SPGA by the applicant's compliance with the requirements of Sections 4.l5.4.a and 4.15.4.d, above.

2. Will not be detrimental or injurious, in the opinion of the SPGA to the neighborhood in which it is to be located.

3. Is sited and designed to have the minimum visual, economic and aesthetic impact possible on abutters. When considering an application for such a facility, the SPGA shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences.

4. Is designed to be the minimum height necessary for the wireless telecommunications service required.

5. Is designed to accommodate the facilities of wireless telecommunications companies operating in the area to the maximum extent possible, and shall incorporate a tower capable of accommodating a minimum of three (3) separate antenna arrays (although appurtenant buildings may be constructed for only those users identified in the application for Special Permit); this requirement may be waived by the SPGA only upon a finding that for the particular site in question, said requirement is contrary to the public interest.

6. Due to technical requirements, topography or other unique constraints, the facility cannot be located at any other available site that would be less visible to the general public.

7. Has been demonstrated by technical data to be necessary due to the inability of existing facilities in the same or similar service area to accommodate the further antenna arrays required at the time of the application.

8. That it has been demonstrated by technical evidence that, if so requested by the Town, and not offered, co-location of lease space on the tower for the Town's emergency services personnel (Fire, Police and Ambulance) is not feasible.

9. In reviewing an application for a private antenna brought by a federally licensed amateur radio operator, the SPGA shall proceed within the constraints of MGL Chapter 40A, section 3, and the memorandum and order of the Federal Communications Commission in 101 FCC 2d 952 (1985) (PRB-1)

4.15.5. Design Requirements

a. All towers shall be designed to have sufficient structural capacity to support antenna arrays for a

minimum of two (2) separate wireless telecommunications companies. It shall be a condition of the Special Permit that all towers and facilities applications allow consideration for an option to lease tower space by the Town's emergency services personnel (Fire, Police, and Ambulance) to be discussed within the public hearing process.

b. Any tower shall be set back from any lot line by a minimum distance equal to the height of the tower above the lowest surrounding grade, but in no case less than the minimum required setbacks for the district in which it is situated. Appurtenant structures shall also conform to the minimum required set backs for the district in which the facility is located.

c. Notwithstanding the provisions of Section 4.l5.5.b, facilities shall be sited such that, at a minimum, a fifty (50) foot naturally vegetated buffer zone is provided between the nearest edge of the fencing surrounding the facility and any abutting property line.

d. Lighting at all wireless telecommunications facilities shall be limited to low-intensity lighting intended for security purposes and installed at or near ground level. The source for such lighting shall not be directly visible from any residential property in the area of the site.

e. Fencing shall be provided to control unauthorized access to the tower. Such fencing shall not be of the barbed wire or razor wire type, but shall be a minimum of eight (8) feet in height with an added section of anti-climber returning to the exterior. Said fencing shall be appropriately screened and colored to blend in with the surrounding landscape.

f. Towers shall be colored so as to blend in with surrounding landscape, including the possibility of different colors to cause the structure(s) to blend with the landscape below the tree-line horizon, and the sky above the tree-line horizon. The SPGA may impose reasonable conditions to ensure the facility will have the minimal impact on the surrounding neighborhood, visually and from noise generated by it. Conditions may include grading, screening by plantings and otherwise, and painting, as well as increased setbacks if noise from the facility is a concern, and in the sole opinion of the SPGA, is not adequately addressed by the applicant.

g. Access to the tower site shall be provided by a driveway designed to cause only minimal disturbance to the natural terrain, and provide emergency access at all times, the adequacy of which shall be determined by emergency services personnel and the SPGA. Wherever beneficial in the opinion of the SPGA, said access driveway shall be laid out so as to have sufficient turns to prevent passers-by from having direct line-of-site visibility to the facility.

h. There shall be no signs, except for no trespassing signs discreetly placed, and a required sign giving a phone number where the owner or legal operator of the facility can be reached on a 24-hour basis. All signs shall conform with the sign requirements of the Shirley Protective Zoning Bylaws, and shall be the minimum size necessary in the opinion of the SPGA to accomplish the purpose of the sign.

i. The height of satellite dishes (greater than three (3) feet in diameter as regulated under this Bylaw) located on property abutting property(s) upon which residential structures are sited, shall not exceed the height of the tree-line on the lot or an adjacent tree-line area, whichever is more conducive, and shall not be visible from any street.

j. There shall be one parking space only for each tower site to be used solely in connection with maintenance of the facility, and not to be used for the permanent storage of vehicles or other equipment.

k. There shall be only one building allowed to be constructed at the base of the tower, and it shall be for the purpose of housing the necessary support equipment for the tower transmission and receiving antenna(s). Said building shall be no higher than twelve (12) feet above the surrounding grade to its highest point, shall have a peaked roof (minimum six (6) Vertical: twelve (12) Horizontal pitch) and architectural features consistent with the zoning district and with surrounding existing buildings, shall have a maximum footprint of 400 square feet, and shall be screened from

abutting properties as much as is feasible in the opinion of the SPGA. Multiple story buildings are permitted only if additional stories are below grade.

l. All network interconnections and other support equipment required to be sheltered shall be contained within the single support building allowed at the base of the tower. Other equipment shall be shown on the site plan, and may be subject to conditions or being placed within the support building. This determination shall be made by the SPGA based upon individual site conditions and the ability of the exterior equipment to be screened from abutting properties. The intent is to minimize visible clutter at the base of the tower to the maximum extent possible.

m. All electrical, telephone, and other utility wires servicing the facility, tower, dish or support structures for the said facility, shall be placed below ground, unless the SPGA determines that such placement is not feasible or is not in the best interest of the Town of Shirley. The construction standards for electrical service lines and appurtenances shall be designed according to specifications of Massachusetts Electric and Verizon Communications or applicable local telephone service carrier.

4.15.6. Performance Guarantees

a. It shall be the joint and several responsibility of the Special Permit applicant and any subsequent owners of the facility to completely remove the tower, antenna(s), satellite dish(es), panels, and all appurtenant structures upon cessation of use of the facility, and to restore the site to its pre-construction condition. An initial cash bond shall be posted in a passbook account in a reasonable amount set and approved by the SPGA to assure timely and complete removal of all above ground structures associated with the facility when the use of the facility is discontinued. The tower and appurtenances shall be removed within ninety (90) days of written request from the SPGA to the current facility owner, beyond which time the SPGA may utilize the posted bond to effect the removal of all above ground structures associated with the facility, and the restoration of the site to its original grades with a permanently stable landscaped surface.

b. The applicant shall submit a bid for the removal of the facility from three (3) qualified contractors at the time of initial Special Permit Application. The SPGA may use these bids at its discretion to set the removal bond amount.

c. It shall be the responsibility of the current owner of the facility to maintain the entire facility and its access road and screening in a condition equivalent to that when construction was initially completed to the satisfaction of the SPGA. Therefore, a maintenance agreement between the applicant, or a designated operator, and the SPGA, shall be executed which defines the terms of and responsibility for the maintenance as required by the SPGA. Said agreement shall constitute a condition of the Special Permit. An additional bond shall be posted, in the form of a separate passbook account in an amount to be set and approved by the SPGA, to be utilized for maintenance of the facility and its access road and screening in the event the maintenance agreement to be executed between the SPGA and the applicant is not complied with to the on-going satisfaction of the SPGA.

4.15.7. Site Plan Approval

a. Site Plan Approval by the Planning Board is required for the siting and construction of all wireless telecommunication facilities as defined above in Section 4.15.2 of this Bylaw. If modification of a previously issued Special Permit is sought, the Planning Board may require approval of a new site plan.

b. Site Plan review by the Planning Board may be conducted concurrently with the proceedings and public.hearings of the Special Permit application as defined in Section 4.15.4 of this Bylaw.

c. Site Plan applications shall be made in conformance with the Site Plan Section (Section 7) of this Protective Zoning Bylaw, and in conformance with the Site Plan Review Regulations adopted by the Shirley Planning Board.

4.16 Infill Residential Uses ***(Added 11-01-05)***

Where Infill Residential Uses are allowed by Special Permit from the Planning Board, the following additional requirements shall apply.

4.16.1. Affordable Housing Requirement. The Planning Board may issue a Special Permit to authorize the construction of a single-family dwelling or a two-family dwelling on a lot which does not meet the minimum lot area or frontage requirement, provided that the single-family dwelling or one unit in a two-family dwelling is affordable housing as defined in this Bylaw.

4.16.2. Affordable Housing Use Restriction. Prior to obtaining a building permit, the applicant shall record an affordable housing restriction or regulatory agreement at the Registry of Deeds. The form and content of the affordable housing restriction shall be approved by the Planning Board prior to the issuance of a Special Permit. At minimum, the restriction shall provide for annual monitoring and certification procedures to verify that an Infill Residential Use unit is occupied by a low- or moderate-income tenant, or in the case of a homeownership unit, it shall provide mechanisms to assure that the unit remains affordable upon resale, including a right of first refusal for the Town to acquire the unit in order to preserve its affordability.

4.16.3. Conversions. An Infill Residential Use may never be converted to a multi-family dwelling of three or more units, and it may never be altered to include an accessory apartment. All infill residential uses shall be connected to the municipal sewer system.

4.16.4 Procedures. Application, review and decision procedures shall be in accordance with Section 8 of this Bylaw.

4.16.5. Special Permit Standards for Reduced Frontage or Lot Area. The Planning Board may issue a Special Permit for Infill Residential Uses on a lot that does not meet the minimum frontage or lot area requirement, provided that:

a. The lot has a minimum continuous street frontage of not less than fifty (50) feet.

b. The lot has at least one area suitable for the construction of a dwelling that can accommodate a circle with a diameter of 60 feet. This area shall be land exclusive of any resource areas as defined by the Wetland Protection Act, Chapter 131, Section 40, and its corresponding regulations, 310 CMR 10.00, as of the adoption of this requirement.

c. The lot must comply with all other dimensional requirements of applicable zoning district.

d. Not more than two Infill Residential Use lots shall abut each other.

e. If required by the Planning Board, two abutting Infill Residential Use lots shall be served by a common driveway.

f. An Infill Residential Use lot shall not interfere with the use and enjoyment of an abutting lot and will not adversely affect the neighborhood.

g. Notwithstanding any other provisions, a lot approved for Infill Residential Use by Special Permit from the Planning Board shall not be further subdivided, or reduced in area, or changed in size or shape, and it may be used only for Infill Residential Uses as defined above. The Planning Board shall require restrictions or covenants as necessary to assure the aforementioned criteria and use limitations.

5. OFF-STREET PARKING AND LOADING (Revised 11-01-05)

5.1. Applicability

5.1.1. No building or structure constructed hereafter shall be used or shall be changed to a greater category of parking demand as described in Section 5.5, Table of Off-Street Parking Requirements, except in compliance with this Bylaw.

5.1.2. Any building, structure or land use with its associated parking, if any, which was existing or lawfully begun or for which a permit was issued prior to November 1, 2005 may continue its permitted operation or may be changed to a use within the same or lesser category of parking demand without having to conform to these Off-Street Parking and Loading Requirements. However, any building or structure or land use which changes its operation to a category of greater parking demand as described in Section 5.5 must comply.

5.1.3. Where an existing building or structure has been damaged or destroyed by fire or other disaster, and reconstructed to the same size or lesser size as previously existed, the parking facilities which serve that building or structure may remain the same size and dimensions as previously existed, and continue, even though they do not conform to the requirements of this section, provided the building is not changed to a category of greater parking demand as listed in Section 5.5.

5.1.4. No existing off-street parking spaces shall be eliminated if their removal would cause the total number of spaces provided on a site to be less than the number required by this Section.

5.2. Compliance with Off-Street Parking and Loading Regulations

The Planning Board shall determine compliance with the Off-Street Parking and Loading requirements during Site Plan Review under Section 7. For projects that are exempt from Site Plan Review, the Building Inspector shall determine whether a site provides sufficient parking for the proposed use(s).

5.3. Design Standards for Off-Street Parking

5.3.1. Parking Space Dimensions

a. For the purpose of this regulation, an off-street parking space or parking stall is an all-weather, surfaced area having a width of not less than nine (9) feet and a length of not less than eighteen (18) feet for angle parking or twenty-two (22) feet for parallel parking. The length required shall be measured on an axis parallel with the vehicle after it is parked. The required areas, other than those serving one- and two-family dwellings, are to be exclusive of driveways and shall be permanently reserved for the temporary parking of one automobile, and shall be connected with a street or public right-of-way by an all-weather surfaced driveway. In the case of single-family and two-family dwellings, all-weather surfaces shall not be required.

b. In parking lots containing more than 35 parking spaces, ten percent (10%) of the required parking spaces may be designed for small-car use. Small-car parking spaces shall be not less than nine feet in width and not less than 16 feet in length, and they shall be grouped in one or more contiguous areas and identified by appropriate signage.

5.3.2. Location of Required Parking Spaces

a. Except as provided hereunder, required parking spaces shall normally be located on the same lot as the building or use they serve. However, the Planning Board may grant a special permit to allow use of parking facilities not on the same lot, provided that the Board determines, in consultation with the Building Inspector and Police Department, that proper provision is made to insure pedestrian and traffic safety and that the purposes of these Off-Street Parking Requirements are served.

b. Land in a residential district shall not be used for off-street parking accessory to or to service a structure or use in a non-residential district.

c. Except for parking within an enclosed structure, e.g., a parking garage, no parking space shall be located within eight feet of a building wall. Loading docks are exempt from this requirement.

d. In the Village Business, Mixed-Use and Commercial Districts, off-street parking for uses other than detached single-family or two-family homes shall be located in the rear and to the side of buildings, except that no side yard parking shall be located within 20 feet of the front elevation of a building. A development involving the renovation or redevelopment of existing buildings will not be required to conform to this requirement if the proposed uses are within the same or lesser category of parking demand. However, any building or structure or land use which changes its operation to a category of greater parking demand, as outlined in Section 5.5, must comply. All new construction must comply.

e. Shared parking is encouraged and shall conform to the most recent Institutes of Traffic Engineers (ITE) standards for shared parking. The Planning Board may authorize a decrease of up to twenty-five-percent in total required parking spaces for developments served by shared parking.

5.3.3. Construction of Parking Spaces. Except for single-family or two-family residences, all required parking spaces shall be marked by painted lines, curbs or other means to indicate individual spaces. Signs or markers painted or provided and maintained in good condition shall be used as necessary to assure efficient traffic flow within the lot.

5.3.4. Loading Spaces. Any use to which or from which outside deliveries of materials or dispatches of materials are to be made by motor transport and totaling 8,000 square feet or more in floor area constructed, reconstructed, or enlarged after the effective date of this section of the Bylaw shall have on the lot one permanently maintained loading space and one additional loading space for each additional 16,000 square feet of floor area or major portion thereof, excluding basements.

5.3.5. Access Driveways

a. Except for single-family and two-family homes, parking areas containing fewer than 5 spaces shall have a minimum width of entrance and exit drives of 10 feet for one-way use and 18 feet for two-way use. For facilities containing five or more spaces, such drives shall be a minimum of 12 feet wide for one-way use and 22 feet wide for two-way use. The minimum curb radius shall be 15 feet. The maximum width of such driveways at the property line shall be 24 feet. The Planning Board may modify these width and radius limitations to facilitate traffic flow and safety.

b. Entrance and exit driveways will be located so as to provide for safe access and egress to the parcel being served and to protect pedestrian and bicycle safety. In addition, evidence that the necessary driveway permits will be issued by either the Shirley Department of Public Works for town-controlled roads or Massachusetts Highway Department for state-controlled roads must be presented before a building permit may be issued.

c. The Town prefers shared access drives serving adjacent non-residential or mixed-use parcels, with shared parking located behind buildings. The Town recognizes that if a Curb Cut Permit is required from the Massachusetts Highway Department, the construction, width and number of driveways must conform to the Massachusetts Highway Department standards. However, the Town expects applicants for Site Plan Review to make every reasonable effort to establish shared driveway access in a manner that will satisfy Massachusetts Highway Department standards.

d. No driveway shall be located closer than twenty-five (25) ft. to any street intersection measured along the street lines. In any non-residential district, no two driveways on the same lot shall be located closer than twenty-five (25) feet to each other at their closest limits.

e. No lot having less than 200 feet of street frontage shall have more than two (2) driveway entrances and/or exits on each street abutting the lot

f. No access aisle, entrance or exit driveway shall be located within five feet of a building

5.3.6. Interior Lanes and Driveways

a. Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, the following being the minimum width permitted.

1. For 90 degree to 61 degree parking, driveway width shall be at least 24 feet.

2. For 60 to 46 degree parking, driveway width shall be at least 18 feet

3. For 45 to 30 degree parking, driveway width shall be at least 15 feet

4. For parallel parking, driveway width shall be at least 15 feet

b. Ninety degree (90 degree) or parallel parking shall be used in all off-street parking lots unless there is positive control of traffic directions. Parking at angles at less than thirty degrees (30 degrees) is prohibited except for parallel parking. The minimum width of any interior driveway serving an off-street parking area shall be fifteen (15) feet.

5.3.7. Pedestrian Walkways

a. Crosswalks shall be provided in appropriate locations and shall be clearly recognizable through the use of raised, textured or color treated surfaces in order to aid pedestrians in crossing traffic within the lot.

b. Any off-street parking area located in front of a building shall be separated from it by a paved walk at least eight (8) feet wide with a seven (7) inch high safety curb located along the front of the building, or other safety devices as the Planning Board may specify.

c. Where an entrance or exit normally used by the public exists along an exterior side or rear wall (except fire doors and loading areas), such entrance or exit shall be provided with a paved walk at least four (4) feet wide with a seven (7) inch high safety curb extending at least six feet along the building on either side of such entrance or exit.

5.3.8. Surface Treatments, Grades and Drainage

a. Off-street parking and loading areas should be surfaced with asphalt, bituminous, cement, or another properly bound pavement so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.

b. Pervious or semi-pervious surfaces such as grass pavers are encouraged wherever possible, particularly in overflow parking areas. However, drainage calculations must assume that all such areas are impervious in order to assure adequacy of drainage design in the event that they are resurfaced with asphalt in the future.

c. Parking areas used for parking and vehicle maneuvering shall have grades not to exceed five (5) percent slope.

d. Driveways used exclusively for ingress or egress or interior parking lot circulation shall have slopes not exceeding twelve (12) percent except within thirty (30) feet of the road, in which case the slope shall not exceed five (5) percent.

5.3.9. Landscaping and Screening Requirements

Any parking lot containing ten (10) or more parking spaces shall include landscaping which, in the opinion of the Planning Board, is located and designed to enhance the visual appearance of the parking or loading facility, to ensure traffic safety and to minimize the adverse effects of the parking or loading facility on the natural environment. Such landscaped areas shall not be less in area than five percent (5%) of the total area of the parking lot and shall be in addition to any minimum open space required under the dimensional and density regulations of the applicable zoning district. The following standards shall be addressed in meeting the minimum landscaping requirement.

a. Buffer areas

1. Any off-street parking or storage area serving a use other than one (1) and two (2) family dwellings and which abuts residentially zoned land shall be separated from the adjoining land by a continuous buffer area of at least twenty-five (25) feet.

(a) The buffer area shall be sufficiently landscaped and maintained with drought-tolerant, indigenous non-invasive species so as to create an effective year-round visual screen at least six (6) feet in height to insulate the residentially zoned land from the off-street parking area.

(b) Trees planted in this buffer area shall be at least six (6) feet in height and not less than two (2) inches in diameter at breast height immediately after planting. By special permit, the Planning Board may allow the use of a fence, wall or other non-living structure to achieve the purpose of this buffer, provided it is determined to be a more effective and suitable buffer than could be provided with living materials.

2. At minimum, all off-street parking and loading areas except those serving one- and two-family dwellings shall be separated from adjacent properties by a four (4) foot buffer strip planted with grass or similar ground cover. However, where adjacent parcels agree to share a common parking area with a common entrance and exit, the Planning Board may approve eliminating the minimum four (4) foot buffer on all common property lines.

3. For vegetated swales located within a buffer area, the Planning Board may approve alternative buffer dimensions and buffer design standards than those specified under (1) and (2) above.

4. The Town prefers that wherever possible, existing natural vegetation and landforms are protected and incorporated into the buffer area. Major trees and outlines of wooded areas shall be shown on the required Site Plan.

b. Interior landscaping

1. Off-street parking areas that cover twenty (20) percent or more of the total site area shall have at least ten (10) square feet of interior landscaping for each parking space. As used herein, “interior landscaping” shall be defined as landscaped islands or areas, exclusive of any other landscaping or buffer areas required elsewhere in these Off-Street Parking Requirements, which are contained within or project into the paved off-street parking area.

(c) Each separate landscaped area shall contain a minimum of one hundred (100) square feet, shall have a minimum dimension of at least five (5) feet, shall be planted with grass or low shrubs, and shall include at least one deciduous tree of not less than two

(2) inches in diameter at breast height and at least six (6) feet in overall height immediately after planting.

(d) Each such island shall have a five (5) inch curb and may be used to locate hydrants within a parking area.

(e) Whenever possible, such interior landscaping shall be located so as to channel pedestrian and vehicular traffic safely and efficiently.

2. For off-street parking areas covering less than 20% of the total site area, interior landscaping shall include at least one deciduous tree for each eight parking spaces, each tree to be not less than two (2) inches in diameter and at least six (6) feet in overall height immediately after planting.

3. The Planning Board may approve modifications to the above requirements for any interior landscaped areas or islands that serve as vegetated swales or bioretention cells. The number, dimensions and landscaping specifications for bioretention cells shall be determined by the Planning Board during its review of a proposed drainage plan under Site Plan Review.

c. Landscaping adjacent to right of way

1. Except for parking that serves single-family and two-family uses, off-street parking areas shall have a continuous landscaped strip adjacent to the right-of-way line of any existing, proposed, paper, public, or private street, or state highway. The landscaped strip shall not be less than ten (10) feet wide.

2. Wherever possible, the landscaped strip should be located between the sidewalk in front of the parcel and the road in order to create a sense of enclosure for pedestrians. In these cases, the Planning Board may approve a reduction in width of the landscaped strip in order to accommodate both a wide sidewalk and landscaping within the front yard setback.

3. Trees to be planted shall be a minimum of 2 1/2 inches in caliper six feet above grade, be of a species common in Shirley, tolerant of future site conditions and reach an ultimate height of at least 30 feet.

5.4. Lighting

Adequate lighting shall be provided in lots of more than ten (10) spaces if off-street parking spaces are to be used at night. However, minimum security lighting must be provided in all lots serving other than one-and two-family residential dwellings. The lighting shall be arranged and installed to minimize glare on adjacent property. If property is not to be used at night, a note to that effect shall be indicated on the plan.

5.5. Table of Off-Street Parking Requirements

USE	REQUIRED NUMBER OF SPACES
Residential Uses	
Detached single-family or two-family dwelling	2 spaces per unit
Multi-family dwelling	1 space per studio unit 1.5 spaces per one-bedroom unit 2 spaces per unit with two or more bedrooms
Assisted living facility	.5 space per unit 1 space per employee on the largest shift

USE	REQUIRED NUMBER OF SPACES
Nursing home	1 space for each 6 patient accommodations, plus 1 space for each 2 employees on the largest shift
Congregate living residence	1 space per unit
Senior residence (over-55) unit	1.5 spaces per unit
Accessory dwelling unit	1 space per unit in addition to spaces required for principal dwelling
Home occupation	As required for the particular occupation and use, in addition to required spaces for the dwelling unit
Commercial & Institutional Uses	
Restaurant, bar	1 space per three seats or 1 space per 50 square feet of public floor area,[1] plus 1 space for every two employees on the largest shift
Retail store	3 spaces per 1,000 square feet for the first 10,000 square feet of gross floor area (GFA) 2.5 spaces per 1,000 square feet for between 10,001-12,500 square feet GFA 2 spaces per 1,000 square feet for GFA over 12,500
Personal or business service establishment	1 space per 250 square feet GFA
Professional or business office	1 space per 400 square feet GFA
Bank, financial institution	1 space per 250 square feet GFA
Hotel or motel	1 space per sleeping room, and 1 space for every 3 employees on the largest shift. For hotel or motel with conference and/or restaurant space, add 1 per 200 square feet of restaurant and function room floor area combined
Place of assembly with fixed seating, such as a church, stadium, assembly hall	1 space for every three seats or, when benches are used, 1 space per eight linear feet of bench
Museum	1 space per 80 square feet of public floor area
All other places of public assembly	1 space for every five occupants as determined by the State Building Code
Theatre, cinema	1 space for every 3 seats for single-screen theaters; for theaters with more than one screen, 1 space for every 5 seats
Library	1 space per 1,000 square feet GFA
Hospital	1 space for each two beds plus 1 space for each 2 employees on the largest shift
Funeral home	1 space per sixty (60) square feet of public area in addition to spaces required for residence, where applicable
Bowling alley	4 spaces per each alley
Other commercial uses	The greater of 1 space per three employees or 1 space per 300 square feet GFA
Industrial Uses	

[1] "Public area" means the area reserved for actual consumption of food and beverages by the general public.

USE	REQUIRED NUMBER OF SPACES
Office for administrative, executive, professional, medical sales and other similar uses, the normal operation of which does not involve retailing activities on the premises	Minimum 1 per 300 square feet GFA. Maximum 1 per 200 square feet GFA.
Laboratory for scientific, industrial research, research & development, or biomedical research & technology	Minimum 1 per 400 square feet GFA Maximum 1 per 300 square feet GFA
Wholesale warehouse, truck freight terminal or storage warehouse	Minimum 1 per 1,500 square feet GFA Maximum 1 per 1,000 square feet GFA
Light industrial use, including manufacturing, storage, processing, fabrication, packaging and assembly	1 per 500 square feet GFA
Printing, publishing, or copying facilities	1 per 500 square feet GFA
Public utility building or structure	1 per 500 square feet GFA

[1] "Public Area" means the area reserved for actual consumption of food and beverages by the general public.

5.5.1. Notes to Table of Off-Street Parking Requirements

a. Interpretation

1. The parking required herein is in addition to space for storage of trucks or other vehicles used in connection with a business, commercial or industrial use.

2. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

3. The parking space requirements for a use not specifically listed in this section shall be as specified by the Building Inspector based on a listed use of similar characteristics of parking demand generation.

4. For mixed uses in an individual building up to 5,000 square feet of gross floor area or a parcel of land used for two or more principal uses that fall into different classes of use, i.e., uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

5. For buildings of more than 5,000 square feet of gross floor area that accommodate several distinct principal uses, such as a small shopping center or a retail building with upper-story offices, the total amount of required parking may be reduced by 25% for each additional 5,000 square feet of floor area.

6. Where a single parking area contains more than 400 adjoining parking spaces intended to serve more than one establishment dedicated to the retail sale of products or services to the general public, the total number of parking spaces required in excess of 400 may be reduced by 25%.

7. As used in Section 5.5, gross floor area (GFA) shall mean the total floor area of all floors, including basements, within the perimeter of the outside walls of the building under consideration, with no deduction for hallways, stairs, closets, thickness of walls, columns or other features. However, where a basement is used only for storage and not accessible to the public only one-fourth of such area need be included in the calculation of gross floor area.

8. In a non-residential district where outside sales or storage space is provided, the square foot area shall be added to the gross floor area for the purpose of calculating the required number of parking spaces.

b. Exceptions for Shirley Village Business District. In the Shirley Village Business District, the Planning Board may grant a Special Permit to reduce the number of parking spaces by up to twenty five (25%) percent of the requirement of Section 5.5 when the Planning Board, with the concurrence of the Building Inspector and Police Department, determines that sufficient public or on-street parking spaces exist within close proximity of such activity to supplement its parking needs. In addition, the Planning Board may waive all or part of these Off-Street Parking and Loading Requirements in the Shirley Village Business District if the Board determines that a reasonable effort has been made to meet the requirements and no additional spaces can be provided on a site.

6. SIGNS

6.1. General Requirements

It is the intention of these sign regulations to promote the public safety, protect property values, create an attractive business climate and enhance the physical appearance of the community.

6.1.1. Maintenance

All signs together with their supports, braces, guys, and anchors shall be kept in good repair and in safe condition. The owner of the premises on which a sign is erected shall be directly responsible for keeping such sign and premises around it in safe, sanitary, neat, and clean condition.

6.1.2. Illumination

Any illumination sign or lighting device shall employ only lights emitting a light of constant intensity and shall be designed, located, erected, and maintained only for the purposes of illuminating the subject sign and/or premises.

6.2. Signs Permitted in All Zones

6.2.1. The following signs are permitted in all zones provided they meet the General Requirements of Section 6.l:

a. One non-illuminated identification sign not to exceed three (3) sq. ft. area nor eight (8) ft. in height, stating the name and address of the occupant;

b. One temporary non-illuminated real estate sign pertaining to the lease, sale, or use of a lot or building on which such sign is placed, not exceeding a total area of six (6) sq. ft.;

c. One sign for identification of professional and home occupations, or of the occupant, not exceeding a total area of three (3) sq. ft.;

d. A marker not to exceed two (2) sq. ft. identifying a historic building;

e. A sign erected by the Town, State, or Federal Government;

f. A sign erected by a public carrier for direct information concerning its service at the location;

g. Signs and displays associated with an approved stand for the retail sale of agricultural or farm produce not exceeding twelve (12) sq. ft. in total area;

h. A sign erected by any fraternal, civic, religious, or service organization or club, merely announcing it presence in the Town of Shirley and the time and place of its regular meeting, provided such sign shall not exceed three (3) ft. in diameter or nine (9) sq. ft. in area;

i. Any flag, badge, insignia, or device of any governmental agency or civic, charitable, religious, patriotic, political, fraternal, or similar non-profit organization when displayed along a line of march of any parade, or in sockets along any street during a fund raising drive;

j. Temporary political signs displayed during election campaigns provided no sign shall exceed four (4) sq. ft. in a residence zone or twenty-four (24) sq. ft. in a business or industrial zone.

6.2.2. A temporary construction sign is permitted in any zone provided the sign is non-illuminated, does not exceed thirty-two (32) sq. ft. in area, identifies an engineer, architect, and/or contractor engaged in the development of land or construction or alteration of buildings, and further provided such sign is set back at least ten (10) ft. from any street line and is removed upon completion of construction.

6.3. Signs Permitted in Residence Zones

The following signs are permitted in all residence zones.

6.3.1. One non-illuminated or indirectly illuminated identification sign for each separate street line of an approved Special Permit Use not to exceed nine (9) sq. ft. in area nor eight (8) ft. in height; and further limited as follows: said sign shall be subject to the applicable side and rear yard requirements for principal buildings and a minimum of fifty percent (50%) of the applicable front yard requirement for principal buildings; the height of such sign shall not be greater than the distance it is located from any lot line; the sq. ft. area of such shall not be greater than one-half (1/2) of the linear foot distance it is located from any lot line.

6.3.2. Other signs shall be limited to directional signs necessary for public safety or convenience and shall be designed and approved as integral part of the Site Plan for an allowable Special Permit Use.

6.4. Signs Permitted in Non-Residential Zones

The following signs are permitted in the Non-Residential Zones provided they meet the general requirements of Section 6.1:

6.4.1. Advertising goods and services available on the premises, not exceeding one sq. ft. for every linear ft. of store frontage and in no case exceeding a total area of thirty-six (36) sq. ft. per lot;

6.4.2. For identification of the business, company, or agency on a wall or parapet of a main building not exceeding thirty (30) sq. ft. for each separate business in a Business District and not exceeding 200 sq. ft. in a Manufacturing District;

6.4.3. For the purposes of identifying the business or manufacturing development or shopping center, one free-standing sign with a total of thirty-six (36) sq. ft. of area for each street on which the business or manufacturing development or shopping center fronts.

6.4.4. A sign attached to a building shall not:

a. Project more than one ft. from the building wall when the building bounds on a lot line;

b. Project into or over the paved portion of a street or a right-of-way;

c. Exceed the height of the building.

6.5. Prohibited Signs

6.5.1. The prohibitions contained in this Section shall apply to all signs, all artificial lighting and all zones, regardless of designation.

a. No permitted sign, including projecting signs, shall be located in any street right-of-way;

b. No sign or advertising device shall be erected, used or maintained which in any way simulates official directional or warning signs erected or maintained by the Federal, State, or Town governments for the protection of the public health and safety;

c. No sign or advertising device shall be erected or maintained in such a manner as to obstruct or interfere with the free and clear vision on any street or driveway;

d. No sign or advertising device shall be erected or maintained with any lighting or control mechanism which may cause radio or television interference;

e. No illuminated sign or lighting device shall be placed or directed on any property in a manner that would permit the light beams and illumination therefrom to be directed or beamed onto a public

street or walkway, or onto adjoining properties so as to cause glare or reflection that might constitute a traffic hazard or public nuisance;

f. No animated sign or advertising device shall be erected;

g. No flashing sign or advertising device which creates intermittent or varying light intensity shall be erected;

h. No projecting sign shall extend more than twelve (12") in. beyond the building walls or parts thereof, except as otherwise provided in these sign regulations;

i. No roof sign shall be erected;

j. No building or part thereof, such as a gable, roof, or wall, shall be outlined by direct illumination for the purpose of commercial advertising;

k. No sign shall be attached to or be erected or maintained in such a manner as to obstruct any fire escape, window, door, or other building opening used for egress and ingress, ventilation or other fire fighting purpose;

l. No commercial advertising sign shall be allowed, except as otherwise provided in Section 6.4 hereof.

7. SITE PLAN REVIEW

7.1. Purposes and Intent

Developments of commercial, industrial, institutional, mixed use or multi-family uses, together with their associated outdoor areas for vehicular movement and parking, accommodate varying degrees of open and continuous use by the general public. Due to their physical and operational characteristics, these developments may affect neighboring properties and adjacent sidewalks and streets. It is in the Town of Shirley's interest to promote functional and aesthetic design, construction, and maintenance of such developments and to minimize any harmful effects on surrounding areas. The intent of Site Plan Review is to regulate rather than prohibit uses through reasonable conditions that may be required by the Planning Board concerning design and location of buildings, signs, open space, landscaping, parking areas, access and egress, drainage, sewage, water supply and fire safety.

7.2. Applicability.

Site Plan Review by the Planning Board is required for any of the following:

7.2.1. All new construction of commercial, industrial, institutional, multi-family, municipal or other non-residential uses.

7.2.2 Any use requiring a Special Permit, except for Hammerhead Lots, Accessory Apartments, Shared Residential Driveway, Low Impact Development, Soil/Gravel Removal, and Infill Residential Uses.

7.2.3 All commercial or industrial additions, alterations or reconstruction exceeding 600 gross square feet or that would require a total of ten (10) or more parking spaces to serve both existing and new development, or any change of use which would require ten (10) or more additional parking spaces based only on new development.

7.2.4. Construction or creation of any new parking lot or the expansion, or redesign of an existing parking lot with ten (10) or more parking spaces, used or to be used for any non-residential purposes.

7.2.5. Conversion of an existing single-family dwelling to a multi-family dwelling of three units, or more, home specialty retail, residential uses in mixed-use building, and a boarding house with more than one boarder.

7.3. Relationship to Other Permits and Approvals

7.3.1 No building permit shall be issued for any development subject to this Section, and no construction or site preparation shall be started, unless a Site Plan has been approved for it by the Planning Board, except as provided hereunder.

7.3.2 No occupancy permit shall be issued for any building subject to this Section unless such building and all its related facilities have been completed according to the approved Site Plan. No activity subject to site plan approval shall be conducted on the site unless, in the opinion of the Building Inspector, the development or approved phase thereof has been substantially completed according to the approved Site Plan, and unless the proposed activity was reviewed by the Planning Board during the Site Plan Review process.

7.3.3 Approval of a Site Plan under this section shall not substitute for the requirement of obtaining a special permit or other permits or approvals required by the Zoning Bylaw and all applicable state and local regulating authorities.

7.3.4. Where Site Plan Review is required because the proposed use requires a Special Permit from the Planning Board, the Special Permit and Site Plan Review applications shall be a combined submission; the public hearing procedures shall be consolidated and conform to the requirements of Section 8.1, Special Permits Issued by the Planning Board; and the Special Permit Decision shall incorporate the Site Plan Review Decision.

7.4. Procedures for the Submission and Approval of Plans

7.4.1 Prior to investing in extensive professional design efforts for Site Plan Review, it will often prove useful to review the proposed development of a parcel of land with the Planning Board in order that general approaches and potential problems can be freely explored. Pencil sketches, which need not be professionally prepared, will assist in the discussion and might show some but not all of the information shown on the Site Plan.

7.4.2 Fifteen (15) copies of the Site Plan shall be submitted, along with Fifteen (15) completed copies of the application for Site Plan Review to the Planning Board at a regularly scheduled meeting, together with the application fee to cover the costs of processing and review. The applicant shall subsequently give written notice to the Town Clerk by delivery or by registered mail, postage pre-paid, that such Site Plan has been submitted, stating the date of such submission of said Site Plan to the Planning Board. Said notice shall include a completed copy of the Site Plan Review Application.

7.4.3 The Planning Board shall distribute one (1) copy of the completed application package to each of the following Town Boards or Departments: Building Inspector, Department of Public Works, Conservation Commission, Board of Health, Water Department, Sewer Commission, Fire Department, Police Department and all other Boards and Departments as deemed necessary.

7.4.4 The Planning Board shall hold a public hearing no later than forty-five (45) days after receiving a complete Site Plan application. The notice, posting, and publication of the public hearing shall be in accordance with the provisions of M.G.L. c.40A, Section 11.

7.4.5 Boards and departments provided with a copy of the Site Plan Application shall report their comments to the Planning Board no later than the time of the public hearing. Failure of these boards and departments to provide a report to the Planning Board for consideration at the public hearing shall constitute a "no negative determination" of the project.

7.4.6 The Planning Board shall issue a written decision, including conditions, if any, to the Building Inspector no later than Thirty (30) days following the date of the close of the public hearing. If no action is taken within Thirty (30) days following the public hearing, the Site Plan Application shall be deemed approved. In this case the Building Inspector shall issue a certificate of constructive approval and file such certificate with the Town Clerk within Fifteen (15) days of the Planning Boards failure to act. Appeals to the Certificate of Constructive Approval may be filed within Thirty (30) days of the date the decision was filed with the Town Clerk as provided in M.G.L. Chapter 40A, Sections 8 and 15. Upon expiration of the statutory appeal period without appeal, the Building Inspector may issue a building permit.

7.4.7 One (1) endorsed copy of the approved Site Plan shall be provided each to the applicant, the Building Inspector, the Highway and Water Departments, Police and Fire Departments, the Conservation Commission and the Board of Health. One (1) copy of the approved Site Plan shall remain in the records of the Planning Board.

7.5. Site Plan Submission Requirements.

A Site Plan Review application package shall include the following materials unless the Planning Board agrees in writing, prior to submittal, to waive any materials not relevant to a proposed development.

7.5.1. A narrative describing:

a. the nature and location of the project and the site, including a legal description of the property; complete dimensions and area;

b. the zoning classification(s) that apply to the property;

c. assessor's map and lot numbers;

d. the proposed building or addition size with a breakdown of proposed use(s);

e. calculation of existing and proposed lot coverage;

f. estimated cost of all site improvements;

g. projected public water demand, if any;

h. projected number of employees, hours of operation and description of shifts, where applicable;

i. projected parking spaces required for the development, based on proposed use(s) or number of employees, as applicable;

j. the name and address of the property owner and the applicant, if different from the property owner, evidence of site control such as a deed, purchase and sales agreement, or lease;

k. and a discussion of how the proposed development conforms to the Shirley Master Plan.

7.5.2. The names and addresses of all abutting property owners within 300 feet, certified by the Board of Assessors.

7.5.3. A Site Plan that contains:

a. A title block showing the name of the site, the date, scale, name(s) of the owner(s) and the signature and seal of the registered professional engineer, architect or landscape architect.

b. North arrow and benchmarks used.

c. A locus plan at a scale of one inch equals 2,000 feet (1”=2,000’).

d. Parcel lot lines for the proposed project and surrounding parcels.

e. Location, footprint, height and use of all existing and proposed buildings or structures, total area of buildings in square feet, streets, ways, drives, driveway openings within 300 feet of the site boundaries, walkways, service areas, parking spaces, loading areas, fences and screening, utilities, waste storage and disposal facilities, wells, and drainage facilities.

f. Proposed surface treatment of paved areas and the location and design of drainage systems with drainage calculations prepared by a registered professional engineer.

g. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other disposal methods, noting applicable approvals, if received.

h. Existing and proposed topographical contours of the property, taken at a minimum contour interval of two feet by a registered professional engineer or registered land surveyor.

i. Vegetation, indicating areas of retained vegetation, the location of any trees of more than eight inches in diameter and specimen trees of more than four inches in diameter, both measured as diameter at breast height (dbh), including trees located in the road right of way, and other unique natural features.

j. The location of wetlands and other areas subject to control under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, Section 40, and the Shirley Wetlands Protection Bylaw, including regulatory buffer zones or setbacks from resource areas, identified through field survey acceptable to the Conservation Commission; Flood Plain and Floodway boundaries; and erosion control measures.

k. Location of all water resource protection areas, if any portion of the site is within 1,000 feet of a DEP Zone II, interim wellhead protection area or any surface water protection zone.

l. Location of the site in relation to any Areas of Critical Environmental Concern (ACEC) designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs.

m. Lighting plan showing the location, height, intensity, and bulb type of all external lighting fixtures, the direction of illumination, and methods to reduce glare onto adjoining properties.

n. Landscaping plan showing the location, name, number and size of plant types, and the locations and elevation and/or height of planting beds, fences, walls, steps, paths and other walkways and or sidewalks.

o. Location and description of all proposed open space.

p. Location, height, materials, and size of all proposed signage.

q. Additional information that may be required by the Planning Board, as reasonably necessary, to make determinations required by this Bylaw.

r. A table of information showing how the plan conforms to the Zoning Bylaw.

7.5.4 Scale and elevations. The site plan shall be at a scale of one inch equals forty feet (1”=40’) or such other scale as the Planning Board may allow to adequately show detail. Profiles of each individual street or service road shall be provided at a vertical scale of one inch equals four feet (1”=4’). Elevations shall refer to the bench mark or datum utilized. Sheet size shall be twenty-four by thirty-six (24 x 36) inches including a one-inch border.

7.5.5 Building design plans that include:

a. In cases involving changes to existing buildings:

1. Photographs of existing buildings showing location of proposed alterations/renovations and of adjacent areas.

2. Drawings showing exterior elevations, outline plans, schedule of exterior materials and colors.

3. Landscaping (site) plan showing all proposed changes and describing all materials including plantings.

4. Manufacturers' brochures with illustrations and specifications for new exterior materials, components or assemblies to be used.

b. In cases involving construction of new buildings:

1. Site plan locating the structure and showing existing and proposed grades.

2. Drawings of exterior elevations.

3. Schematic floor plans.

4. Schedule of all exterior materials and colors.

5. Manufacturer's brochures as described above.

6. Landscaping plan as described above.

7. Photographs of adjacent buildings.

c. Drawings standards. Drawings need not be professionally prepared but must:

1. Be drawn to scale.

2. Show all exterior features completely and accurately.

3. Show finish grades and floor elevations.

4. Indicate all materials, colors and unusual details.

d. Photograph standards. Photographs must be recent. Photographs should be in color and no smaller than 4" x 6". Several different views are necessary, including those of adjacent properties.

e. Samples. Samples, models, mock-ups, etc., may be requested by the Planning Board.

7.5.6. Analysis of environmental impacts. The Applicant shall submit an analysis of existing and expected post-development environmental conditions, including but not limited to measures proposed to prevent pollution of surface and ground water, erosion of soil, excessive runoff of precipitation, excessive raising or lowering of the water table, or flooding of other properties; measures to protect air quality, minimize noise levels, prevent harmful or noxious emissions, and prevent damage or threat to wetlands, flood plain, and the visual environment. Potential smoke, odors, vibration and electromagnetic radiation shall be identified and addressed. Waste disposal and off-site environmental drainage impacts shall be discussed.

7.5.7. Analysis of traffic impacts. The Applicant shall submit estimated average daily traffic and peak hour traffic to be generated by the development. A traffic impact plan shall be required indicating impacts, if any, to surrounding intersections servicing the project site if the proposed development generates more than 250 vehicle trips per day or more than 50 trips at the peak hour according to these estimates or as determined by the most current edition of the Trip Generation Manual published by the Institute of Traffic Engineers (ITE). The Planning Board may, at its discretion, require the Applicant to prepare a traffic study and/or pay for consultants review.

7.5.8. Analysis of community impacts. The Applicant shall submit an assessment of existing and projected demand for municipal services, revenues to the Town and fiscal or economic impacts.

7.5.9. The Site Plan filing fee as determined by the Planning Board's regulations.

7.6 Site Plan Review Criteria.

The Planning Board shall approve a site plan upon its determination that:

7.6.1 For the type and location of the development and the land use(s) involved, the applicant could not reasonably alter the placement of buildings, the design of building form, access and egress points, drainage, grading, and other elements of the plan to:

a. Improve the development's visual compatibility with the surrounding area;

b. Reduce the visual impact of parking on views from the road or from surrounding properties;

c. Improve the convenience and safety of vehicular and pedestrian movement within the site, considering the location of driveway openings in relation to traffic and/or adjacent streets and the adequacy and arrangement of parking and loading spaces;

d. Reduce the volume of cut or fill;

e. Reduce soil erosion;

f. Increase the protection of adjoining premises against detrimental uses by provision of stormwater management, sound and light barriers, preservation of light and air, and preservation of views when possible;

g. Protect or improve water quality;

h. Reduce the number of removed trees of 8" or more in diameter at breast height (dbh);

i. Increase the protection and enhancement of important, existing site features, natural or man-made;

j. Achieve consistency with the Site Development Standards at Section 7.12;

7.6.2. The proposed development:

a. Conforms to the Supplemental Site Development Standards for Business Districts at Section 7.13, as applicable;

b. Is consistent with the Shirley Master Plan.

c. Meets all applicable requirements of the Zoning Bylaw.

7.7. Performance Guarantee.

As a condition of Site Plan Review:

7.7.1. The Planning Board may require that a performance bond, secured by deposit of money or negotiable securities in the form selected by the Planning Board, be posted with the Town to guarantee completion of improvements to be made in compliance with the plans submitted and approved hereunder.

7.7.2. The Planning Board may also require that an amount be included for land restoration not having to do with the construction of improvements. The amount of security shall be determined by an estimate from the applicant's engineer which may be confirmed or increased by the Board.

7.7.3. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Planning Board within two years from the date of approval, or the final date of the last extension of such approval, if any.

7.8. Appeals.

Applicants for a Site Plan Review may appeal conditions imposed by the Planning Board to the Zoning Board of Appeals.

7.9. As-Built Plan.

Upon completion of all work, an As-Built plan and a letter of certification shall be submitted to Building Inspector by a registered professional engineer, registered architect, registered landscape architect or registered land surveyor, as appropriate to the work involved, that all work has been done substantially in compliance with the approved Site Plan.

7.10. Duration of Approval.

Site Plan Review shall become void two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in M.G.L. c.40A, Section 17, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause. In such case a request for extension of the date of completion must be submitted to the Planning Board.

7.11. Regulations and Fees.

The Planning Board shall adopt rules and regulations for Site Plan Review, including submission and review fees assessed to the applicant. Such fee may include a deposit for engineering, architectural or other reviews by a consultant selected by the Town.

7.12. Site Development Standards; General Requirements.

The purpose of site development standards is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety, particularly with regard to abutters, and to the suitability of a proposed use on a site. Before approving any site plan, the Planning Board shall assure that each site plan submitted for review and approval complies in full with the following site design standards:

7.12.1 Stormwater runoff. For all sites, the peak rate of stormwater runoff from the development site shall not exceed either the regulations of the Conservation Commission or the rate existing prior to the new construction based on a twenty-five-year design storm, whichever is more restrictive. The applicant shall provide the analysis, certified by a Massachusetts registered professional engineer, necessary to document the previous and proposed runoff rates. The Planning Board may authorize the use of stormwater drainage facilities located off the development site and designed to serve one (1) or more lots, provided that it finds that:

a. The peak rate of stormwater runoff from such off-site facilities does not exceed the rate existing prior to the new construction based on a one-hundred-year design storm; and

b. The applicant has retained the rights and powers necessary to assure that the off-site stormwater drainage facilities will be properly maintained in good working order.

7.12.2. Erosion control. Slopes in excess of ten percent (10%) shall be protected against erosion, runoff, and unstable soil, trees and rocks. Appropriate measures shall be taken to stabilize the land surface from unnecessary disruption. All stabilization measures shall be the responsibility of the property owner.

7.12.3 Minimum pavement standards

a. All areas designed for vehicular use shall be paved to the standards of section 4.5.6 of the Town of Shirley Subdivision Rules and Regulations with a minimum of either a four inch (4”) bituminous asphalt concrete or other approved surface such as a six-inch (6”) Portland cement concrete pavement, brick, cobblestone or gravel.

b. Pedestrian walkways shall be composed of a raised, color-treated or textured surface clearly distinct from paved areas for vehicular use. The selection of surface treatments for pedestrian walkways shall be approved by the Planning Board in consultation with the Department of Public Works.

c. Outdoor lighting. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and to not shine beyond the perimeter of the site.

d. Common driveway. Wherever possible, the Planning Board encourages shared driveway access to two (2) or more lots used for business or mixed-use development in any business district. A common driveway may not exceed a width of twenty-four (24) feet at any point where it crosses required open space or any required parking setback area.

7.12.4. Placement of buildings and associated improvements. Buildings, structures, fences, lighting, and fixtures on each site shall be placed so as to not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.

7.12.5. Utilities. To the maximum extent practical, as determined by the Planning Board, all utility service transmission systems, including but not limited to water, sewer, natural gas, electrical, telephone and cable, shall be placed underground.

7.12.6. Signs. All signs shall comply with the requirements of Section 6 and, where applicable, Section 7.13.4 of this Bylaw.

7.12.7. Landscaping standards. Landscaping of open space shall be designed to enhance the visual impact of the use upon the lot, adjacent property and views from the road. Where appropriate, existing vegetation shall be retained and used to satisfy the landscaping requirements. Open space areas shall be kept free of encroachment by all buildings, structures, storage areas, parking and interior drives. Open space landscaping shall be maintained as open planted areas and used to ensure buffers between properties; minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights or signs; and minimize the impact of the use of the property on land and water resources.

a. In a business or industrial district where a business or industrial use abuts a residential district, the Planning Board may require a continuous landscaped buffer of at least thirty (30) feet in depth.

b. All parking lots and loading facilities shall be suitably landscaped to minimize their visual impact on the lot and upon adjacent property by the use of existing vegetation, where appropriate, and by the use of trees, shrubs, walls, fences or other landscape elements.

c. Any parking lot containing ten (10) or more parking spaces shall include landscaping which, in the opinion of the Planning Board, is located and designed to enhance the visual appearance of the parking or loading facility, to ensure traffic safety, and to minimize the adverse effects of the parking or loading facility on the natural environment. Such landscaped areas shall not be less in area than five percent (5%) of the total area of the parking lot and shall be in addition to any minimum open space required under Section 3 of this Zoning Bylaw. Any landscaping located at the perimeter of a parking lot which, in the opinion of the Planning Board, is deemed to satisfy the above standard shall be counted as open space but may be included as part or all of the required five percent parking lot landscaping.

7.12.8. Bicycle facilities. Any development in a business district shall be required to provide bicycle racks in one or more appropriate locations on the site as approved by the Planning Board.

7.12.9. Off-Street Parking. All off-street parking shall be designed in accordance with Section 5 of this Zoning Bylaw, except as provided below.

a. Reserve parking spaces. The applicant may request and, where appropriate, the Planning Board may authorize a decrease in the number of off-street parking spaces required in Subsection 5.5, subject to the following conditions:

1. The decrease in the number of parking spaces is no more than thirty percent (30%) of the total number of spaces required under Subsection 5.5. The waived parking spaces shall not be used for building area and shall be labeled as "Reserve Parking" on the site plan.

2. Written approval is given by the Building Inspector, the Police Department and the Department of Public Works.

3. The proposed decrease in the number of required spaces will not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood, and does not derogate the intent and purpose of this Bylaw.

4. The reserve parking spaces shall be properly designed as an integral part of the overall parking development.

5. In no case shall any reserve parking spaces be located within areas counted as buffer, parking setback or open space.

6. If at any time, after one (1) year from the date of issuance of a certificate of occupancy, the Building Inspector and/or Planning Board find that all or any of the increased reserve spaces are needed, the Planning Board may require that all or any portion of the spaces identified as reserved parking spaces on the site plan be constructed within a reasonable time period as specified by the Planning Board. A written notice of such a decision shall be sent to the applicant within seven (7) days before the matter is next discussed at a Planning Board meeting.

7.13. Supplemental Site Development Standards for Village Business, Mixed-Use, and Commercial Districts.

In addition to the standards set forth in Section 7.12, the following design standards apply to site development in these districts. The Planning Board is authorized to adopt rules and regulations to implement this section following a public hearing.

7.13.1 Pedestrian facilities. Unless waived by the Planning Board:

a. Any development of 2,500 square feet or more of gross floor area shall provide pedestrian amenities such as street furniture, trash receptacles, pedestrian-scale lighting and informational signage, which shall be placed between the sidewalk and the building or buildings facing the street.

b. Interior pedestrian walkways shall be directly accessible from the sidewalk along the street and from off-street parking areas serving the development. The interior walkways shall be composed of a raised, color-treated or textured surface clearly identifiable and distinct from paved surfaces used for vehicular circulation.

c. Any development of less than 2,500 square feet of gross floor area shall provide pedestrian facilities appropriate to the scale of the project, such as a patio area with seating or trash receptacles. All such facilities shall be in accordance with the Planning Board's rules and regulations.

7.13.2. Context. Major visual exposure comes not only from the front of a building. Accordingly, applicants should give full attention to the treatment of landscaping, parking areas and the building wall at the rear and sides.

7.13.3. Buildings

a. A lot may have more than one building used principally for commercial purposes, provided that aggregate gross floor area does not exceed the floor area ratio for the zoning district in which the lot is located.

b. Buildings shall face the street or may be oriented around a courtyard or respond in design to a prominent feature, such as a corner location. Buildings and site design should provide an inviting entry orientation.

c. A single building with a width of more than 60 feet facing the street shall be divided visually into sub-elements which, where appropriate, express the functional diversity within the building.

d. Unless waived by the Planning Board, all buildings shall:

1. Provide continuous visual interest, emphasizing design features such as bay windows, recessed doorways, pilasters, columns, horizontal and vertical offsets, material and color variations, decorative cornices, awnings or canopies.

2. Avoid blank walls.

3. Provide windows, displays, murals, secondary entrances, or other architectural features on side or rear walls that are visible to pedestrians or vehicular traffic.

4. Avoid unarticulated and monotonous building facades and window placements, regular spacings, and building placements that will be viewed from the street as continuous walls.

5. Provide human-scale features, especially for pedestrians and at lower levels and from a pedestrian viewing distance.

6. Contribute to a sense of continuity and coherence for all who visit, shop or work in the district. Architectural diversity is encouraged as long as individual design solutions are compatible with the objectives of providing business districts that are pedestrian-oriented, mixed-use areas, each with a strong visual definition.

e. Exterior materials. Appropriate exterior materials include painted clapboard, wood shingles or brick. Neutral or earth-tone colors are appropriate, but brighter colors may be applied to building trim with approval of the Planning Board. Variation in materials, appropriate colors and textures are encouraged when they are visual distinctive and aesthetically appropriate. Rough, imitation or reflective materials such as unpainted wood, field stone, smooth-face concrete, exposed metal, imitation materials, mirror glass, porcelain enamel or polished stone shall not be used unless approved by the Planning Board.

f. Rooflines and roof features

1. Structures in the Shirley Village Business District shall have a simple gable roof with a minimum slope of 8 over 12. A structure that fronts on and faces a side street should have a simple gable roof with a pitch of at least 8 over 12, or a gambrel or a hip roof. The roof trim should have depth and projection of details.

2. A flat or nearly flat roof is generally prohibited on any building facing the street in any Village Business, Mixed-Use or Commercial District. However, the Planning Board may authorize a flat-roof design provided that a flat roof structure shall be capped by an articulated parapet design that acts as a structural expression of the building façade and its materials.

3. For other structures, roofs shall, at a minimum, have articulated parapets concealing flat roofs and rooftop equipment, such as HVAC units which would be visible from adjoining public streets or properties.

7.13.4. Signs

a. To the maximum extent practical, signs should be integrated with the building's architecture and aligned to pedestrians on sidewalks, such as blade signs, single signs hung below canopies, or small signs on canopies or awnings.

b. Sculptural signs, signs that incorporate artwork, or signs with high quality graphics are encouraged.

c. Except for the Shirley Village and North Shirley Village Districts, neon or internally lit signs are permitted if they are incorporated into the design of the building, subject to approval by the Planning Board.

d. Front lighting or down lighting on signs is preferred.

e. There shall be a maximum of one sign per entrance to a development, of a size commensurate to the size and number of establishments in the development, extending not more than 12 feet off the ground.

7.13.5. Landscaping. Visual relief from buildings and hard materials shall be accomplished with landscape treatments such as shrubs, trees, flower boxes and other greenery around buildings or in recessed places.

7.13.6. Lighting. To the maximum extent practical, lighting of walkways shall be from storefronts, canopies or awnings.

7.13.7. Off-street parking

a. Whenever possible, developments on adjacent lots shall be served by shared parking areas under written shared parking agreements.

b. Unless authorized by special permit from the Planning Board for site plan applications to alter or expand an existing structure, no off-street parking shall be located in front of any building. Side parking shall be at least 20 feet from the front of the building facing the street.

7.13.8. Design Review. For all uses requiring site plan review in a Village Business, Mixed-Use or Commercial District, the Planning Board shall consider the following criteria to judge the design merits of a project. The proposed project shall:

a. Be compatible with the built and natural environment and reflect the traditional image of Shirley as a New England agricultural town. Peaked roofs, chimneys, steeples, ornamental cornice work, towers, etc., are recommended to create interesting and varied rooflines. Buildings should acknowledge the uniqueness of their location, such as the corner of a block or end of a vista, with detailing correlating to the prominence of the setting.

b. Preserve and encourage distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site.

c. Be compatible with the authentic features of buildings in the local historic district or National Register Districts and/or surrounding structures of historic significance as determined by the Shirley Historical Commission, and preserve significant historical, architectural or cultural features when altering or adding to existing properties.

d. Provide a favorable business climate and promote economic vitality. Wherever possible and to the extent permitted in the district, designs should provide a mix of commercial, office and residential uses. Each project need not include all these uses, but should be coordinated with adjacent properties to provide complimentary uses and activities.

e. Ensure that site amenities such as seating, walkways, landscaping, fences, walls, light fixtures, etc., are provided, and are designed in order to support the other criteria described herein.

f. Ensure that signage relates in size, scale, color and overall design to the general character of its location and to the specific context in which it is to be placed.

g. Provide aesthetically pleasing, integrated green spaces. Useful, interconnected open spaces, such as greens, squares, arcades, patios and similar gathering spaces, appropriate to the location and scale of the development, should extend into a site in order to promote interaction. These spaces should ideally be linked by walkways to encourage interaction and a sense of community.

h. Improve traffic flow, pedestrian access and circulation to provide adequate parking. Parking and loading areas should be subdivided, screened and landscaped in order to reduce the visual impact of the parking and loading areas. Where possible, parking areas should be combined with and linked to other parking areas in order to make use of shared and complementary uses, which may lessen the total number of parking spaces required. Combined driveways are suggested, where possible, in order to lessen the number of curb cuts and facilitate a better flow of traffic.

7.14. Building and Site Maintenance.

The buildings and site shall be maintained so as to remain as described in the approved application.

8. ADMINISTRATION

8.1. Administration

The provisions of this Bylaw shall be administered and enforced by the Building Inspector, in accordance with the provisions of Ch. 40 A, MGL. On any question of interpretation, the Building Inspector shall consult with the Planning Board.

8.2. Building Permits

8.2.1. Application

Any application for a Building Permit for a new or altered use of land or structure of for the construction, reconstruction, alteration, or relocation of a building shall be accompanied by plans and specifications with a specific reference to the subject lot as recorded in the Registry of Deeds and showing the actual shape and dimensions of the lot to be built upon or to be assigned to the proposed use, the names of all present owners of record, the exact location of all buildings or structures already on the lot, all abutting streets, the lines within which all buildings or structures are to be erected, and such other information as may be necessary to provide for the administration of this Bylaw.

8.2.2. Application Approval

The Building Inspector shall examine such application and, if it conforms in all respects with the requirements of the Building Code and this Zoning Bylaw or with a decision rendered by the Board of Appeals or special permit review agency, shall issue a building permit.

8.2.3. Time Limit on Permit

Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Bylaw unless the use or construction authorized by this permit is commenced within a period of six (6) months after the issuance of the permit and in cases involving construction, unless such construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

8.2.4. Application Files

A record of all such applications, plans, Building Permits and Certificates of Occupancy shall be kept on file by the Building Inspector, together with a record of non conforming uses and buildings or structures.

8.3. Certificate of Occupancy

No Certificate of Occupancy shall be signed by the Building Inspector until the premises, building or structure, and its uses and accessory uses, comply in all respects with this Bylaw.

8.4. Violation and Penalty

Whoever violates any provisions of this Bylaw shall be punished by a fine not exceeding $100 for each offense. Each day or portion thereof that such violation continues shall constitute a separate offense.

8.5. Special Permits Issued by the Planning Board *(Added 11-01-05)*

8.5.1. Authority

The Planning Board may issue a Special Permit for certain uses and structures as authorized in Sections 3 and 4, subject to the conditions and procedures set forth herein and in other applicable sections of this Bylaw, and in accordance with M.G.L. c.40A, Section 9.

8.5.2 Procedures

a. Application for a special permit shall be filed with required number of copies indicated on forms provided by the Planning Board. For uses that require both a Special Permit and Site Plan Review under Section 7, the application for a Special Permit shall be a consolidated submission and the Planning Board's Site Plan Review decision shall be incorporated in the Special Permit Decision.

b. The Planning Board may require additional information as necessary to adequately judge the merits of the request.

c. Applications for special permits shall be distributed to the Board of Health, the Conservation Commission, the Fire Chief, the Police Chief and the Director of Public Works. Reports from the same shall be submitted to the Planning Board within 35 days of filing of the applications.

d. The Planning Board shall evaluate the proposal with regard to the conditions and standards set forth herein.

e. The Planning Board shall hold a public hearing in conformance with the provisions of M.G.L. c.40A, Section 9, and with the provisions of this Bylaw.

f. The public hearing shall be held within 65 days after the filing of the application.

g. Notice shall be given by publication and posting and by first class mailings to parties of interest as defined in M.G.L. c. 40A, Section 11.

h. The Planning Board shall make a decision on the special permit within 90 days following a public hearing for which notice has been given. The time limit for public hearings and taking of action may be extended by written agreement between the petitioner and the Planning Board, with a copy filed with the Town Clerk. With respect to each special permit, the Planning Board shall establish a reasonable period, not to exceed two years, after which, if substantial use or construction permitted by the permit has not been commenced and is not continued, the special permit shall expire. This time period will begin on the date on which the permit is filed with the Town Clerk. The time period shall automatically be extended by the amount of time required to pursue and await the determination of an appeal.

8.5.3. Decision

a. The decision of the Planning Board shall be distributed as follows:

1. Copies of the decision together with the detailed reasons for it shall be filed with the Town Clerk and the Building Inspector;

2. A certified copy of its decision shall be mailed to the owner and to the applicant if other than the owner;

3. A notice of the decision shall be sent to the parties of interest and to persons who requested a notice at the public hearing.

4. In addition, copies of the detailed records of the proceedings indicating the vote of each member and setting forth the reasons for said vote shall be filed at the office of the Town Clerk within 14 days of said decision and all of the above shall be completed within 90 days after the public hearing date.

b. No special permit shall take effect until notice of approval is recorded with the title of the land in question in the Middlesex County Registry of Deeds and until a certified copy of said recording is transmitted to the Planning Board by the Registry. The responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question. A petitioner who seeks approval because of the Planning Board's failure to act must notify the Town Clerk in writing, within 14

days from the expiration of said time limit for a decision, of such approval and that notice be sent by the petitioner to the parties in interest by mail, which notice shall specify that appeals, if any, shall be made pursuant to M.G.L. c. 40A, Section 17 and shall be filed within 20 days after the date of filing the request for approval with the Town Clerk by the petitioner.

8.5.4. Conditions and safeguards

a. The Planning Board shall not grant any special permit unless necessary conditions are satisfied, including but not limited to the following:

1. The proposed use is appropriate in the zone and specific site in question, more particularly to promote the most appropriate use of land throughout the Town in accordance with the Master Plan;

2. Adequate and appropriate facilities will be provided for proper operation of said use;

3. There will be no hazard to pedestrians or vehicles;

4. There will be no nuisance or adverse effect upon the neighborhood;

8.5.5. The Planning Board may require conditions and safeguards deemed necessary to protect the neighborhood or the Town, including but not limited to the following:

a. Requirement of front, side or rear yards greater than the minimum otherwise prescribed by this bylaw;

b. Requirement of screening of service or parking areas or other areas of the site by walls, fences, planting, or other approved means;

c. Limitation of signs or other advertising features;

d. Limitation on hours of operation of a nonresidential use on land abutting a residential zoning district, when necessary to insulate residential uses from the adverse effects of noise, traffic or other activity;

e. Limitations of number or density of occupants, times or nature of operation, size, scale, or other characteristics of use or facilities;

f. Regulation of the number, design and location of access drives or circulation facilities;

g. Requirements of off-street parking, loading or other features beyond the minimum otherwise required by this bylaw;

h. Requirement that developments be done in stages or that appropriate Town or private services and facilities are available prior to the issuance of a building permit for any part of the proposed development.

i. Requirement that adverse effect, if any, to the water table and to the ecology in the vicinity of the proposed development be minimized to the maximum extent possible.

8.5.6. For any special permitted use that requires the provision of affordable housing units or encourages the same through a density bonus, the Planning Board may impose conditions necessary to assure that the affordable units qualify for inclusion on the Chapter 40B Subsidized Housing Inventory as Local Initiative Units.

9. BOARD OF APPEALS

9.1. Membership

A Board of Appeals is hereby established in accordance with Sec. 12 and 14 of Ch. 40A of the MGL, as amended. Said Board shall consist of five (5) Members, each appointed by the Board of Selectmen for a term of five (5) years, provided that only one term shall expire each year; there shall be two (2) Associate Members, each appointed by the Board of Selectmen for a period of four (4) years, one term to expire every second year, to serve on said Board of Appeals in the case of a vacancy, the inability to act, the absence, or personal interest on the part of a member. No member or associate member shall act on any appeal in which he (she) has a personal or financial interest.

9.2. Powers of Board

9.2.l. Rules of Procedure

The Board of Appeals shall adopt such rules governing its procedure and the conduct of its business and shall exercise such powers and duties as are consistent with Ch. 40A, MGL, as may be from time to time amended. Said rules of procedure shall prescribe the size, form, contents, style and number of copies of plans and other documents and number of copies of plans and other documents and shall include provisions for submission of petition in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision, and for notifying the parties at interest, including the Building Inspector and the Planning Board, as to each decision.
Wherever proceedings under this Bylaw require the giving of notice by publication in a newspaper, mailing or service by a civil officer, the costs thereof shall be borne by the applicant. The Board of Appeals shall require estimated costs to be advanced by the applicant in accordance with provisions in the rules.

The powers and duties of the Board of Appeals shall include the power to determine action in the cases set forth in paragraphs 9.2.2, 9.2.3 and 9.2.4 below.
A copy of the rules and procedures shall be filed with the Town Clerk.

9.2.2. Appeals

The Board of Appeals shall hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Inspector acting as enforcement officer under this Bylaw or by any other person otherwise aggrieved by a decision or order of the Building Inspector pursuant to Sec. 8, Ch. 40A, MGL.

9.2.3. Special Permit

The Board of Appeals shall hear and decide only such Special Permits as are specifically authorized by the terms of this Bylaw. The Board may grant Special Permits after a public hearing only where such conditions and safeguards as required by this Bylaw have been made, and only after a determination that such grant would not be detrimental to the public health, safety, welfare, comfort or the convenience of the community and would not be adverse to the Town's economy and environment.
A special permit shall not be granted by the Board of Appeals unless and until:

a. A written application for a Special Permit is submitted indicating the specific section of this Bylaw under which the Special Permit is sought and stating the grounds on which it is requested;

b. The Board of Appeals has made written findings certifying compliance with the specific provisions of this Bylaw governing the exception and that satisfactory provision and arrangement has been made covering the following where applicable, and action taken assuring that the special exception will not have an adverse effect on adjoining properties or properties generally in the district:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience; off-street parking and loading areas where required, traffic flow and control; access in case of fire or catastrophe; and the capability of public roads to support the added traffic safely;

2. The proposed use will not create any danger of pollution to the public or private water facilities, and the methods of drainage at the proposed site, either on-site or public sewage systems wherever necessary are adequate. No excessive demand shall be imposed on the water supply systems. The Board of Appeals may require the applicant to present engineering data showing effects both on and off the site on natural recharge of the groundwater, yield from abutters' wells and quality of surface and groundwater. If required, information on impacts on ground water quality should include data on storm water runoff, recharge, background water quality, on-site septic systems, and other on-site operations, including use of pesticides, fuel, toxic materials, hazardous materials and fertilizers which may be used in conjunction with the proposed development;

3. Signs, if any, proposed exterior lighting with reference to glare, and that no excessive noise, vibration, light, dust, smoke, heat, glare, or odor shall be observable at the lot lines;

4. Refuse collection or disposal and service areas, with particular reference to items in Paragraphs 1 and 2 above;

5. Screening and buffering with reference to type, dimensions and character;

6. Required yards and other open space;

7. Economic effect and general compatibility and harmony with adjacent properties and other property in the district;

8. The comments and recommendations of the Planning Board have been considered where the Special Permit has been submitted to the Planning Board and the Planning Board has submitted its recommendations as required by this Bylaw. Reasons for not accepting any of the comments and recommendations of the Planning Board shall be noted.

c. A Special Permit shall only be issued following a public hearing held within sixty-five (65) days after filing of an application with the Special Permit granting authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.

Within ten (10) days after receipt of the application for a special permit under this section, the Board of Appeals shall transmit copies thereof, together with copies of the accompanying plans to the Board of Health, the Planning Board, and the Conservation Commission. All such boards shall investigate the application and report in writing their recommendations to the Board of Appeals.
The Board of Appeals shall not take final action on such application until it has received a report thereon from the Board of Health, Planning Board and the Conservation Commission or until said Boards have allowed thirty-five (35) days to elapse after receipt of such application without submission of a report. Failure by the permit granting authority to take final action upon the application for a Special Permit within ninety (90) days of date of the public hearing shall be deemed a grant of the permit applied for and the Town Clerk shall certify forthwith.
A Special Permit granted pursuant to this section shall lapse after two (2) years, including such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun by such date except for good cause.

9.2.4. Variances

As provided by statute, the Board of Appeals may authorize with respect to a particular building, structure, or parcel of land, after a duly advertised public hearing, held within sixty-five (65) days after filing of an application with said Board and with the Town Clerk a Variance from any of terms of this

Zoning Bylaw where owing to the circumstances relating to soil condition, shape, or topography of such land or structures, and especially affecting such land or structures, but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the ordinance or Bylaw would involve substantial hardship, financial or otherwise, to the owner of said building or parcel, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such Zoning Bylaw.

Before any Variance is granted, the Board must find all of the following conditions to be present:

a. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district;

b. Strict application of the provisions of this Bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district;

c. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Bylaw;

d. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Bylaw;

e. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

The Board may, in approving a Variance, impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the Variance pertains by the applicant, petitioners or any owner.

Within ten (10) days after receipt of the application for a Variance under this section, the Board of Appeals shall transmit copies thereof, together with copies of the accompanying plans to the Board of Health, the Planning Board and the Conservation Commission. All such Boards shall investigate the application and report in writing their recommendations to the Board of Appeals.

The Board of Appeals shall not take final action on such application until it has received a report thereon from the Board of Health, the Planning Board and the Conservation Commission or until such Boards have allowed thirty-five (35) days to elapse after receipt of such application without submission of a report. Failure of the Board to take final action within seventy-five (75) days of filing of such application shall be deemed to be a granting of the Variance and the Town Clerk shall so certify forthwith.

If the rights authorized by a Variance are not exercised within one year of the date of grant of such variance they shall lapse and may be reestablished only after notice and a new hearing pursuant to Ch. 40A, MGL.

9.2.5. Imposition of Special Conditions

In carrying out the provisions of paragraphs 9.2.3 and 9.2.4 above, the Board may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this Bylaw and such restrictions to be stated in writing by the Board and made a part of the Permit or Variance as the case may be, but no Variance shall be conditioned on the continued ownership of the land or structures to which the Variance pertains by any owner.

9.2.6. Basis for Resubmission

No petition considered under paragraphs 9.2.3 or 9.2.4 above, which has been unfavorably acted upon by the Board of Appeals, shall be again considered on its merits by said Board within two (2) years after the date of such unfavorable action unless the Board of Appeals and Planning Board consent thereto under the provisions of Sec. 16 of Ch. 40A as amended.

10. AMENDMENTS AND PROCEDURAL MATTERS

10.1. Amendments

All amendments to this Bylaw shall be made in accordance with Ch. 40A MGL as amended.
No proposed change in this Bylaw which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change had been recommended in the final report of the Planning Board to the Town Meeting.

10.2. Effective Date of Amendment

The effective date of an amendment to this Bylaw shall be the date on which such amendment was adopted by a favorable two-thirds (2/3) vote of Town Meeting subject to approval by the Attorney General and publication in a town bulletin or pamphlet and posting or its publication in a newspaper, all pursuant to MGL, Ch. 40, Sec. 32.

10.3. Issuance of Special Permits

Special Permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application for the Special Permit with the Board which has the authority to issue the Special Permit; a copy of each such application shall forthwith be filed with the Town Clerk by the applicant.

10.4. Procedural Matters

All matters with respect to the interpretation, administration or enforcement of this Bylaw and the conduct of proceedings of the Board of Appeals and Planning Board hereunder shall be governed by the provisions of Ch. 40A or other applicable provisions of the MGL as well as the provisions of this Bylaw.

10.5 Failure to Act

If the Board of Appeals or the Planning Board shall fail to act within ninety (90) days of the required public hearings on an application for a Special Permit, or the Board of Appeals shall fail to act within seventy-five (75) days of filing of the appeal, application or petition, other than for a Special Permit, then the petition shall be deemed approved subject to the following requirements:

10.5.1. The petitioner, after the expiration of the aforesaid periods, shall file with the Town Clerk a copy of his petition and an affidavit stating the date of the public hearing or filing as the case may be, and the failure of the Board in question to render a decision within the required period;

10.5.2. Upon receipt of the petition and the affidavit, the Town Clerk shall forthwith give notice of the filing to those persons entitled to a notice of the decision under Ch. 40A, Sec. 15. The filing of a petition and affidavit in the office of the Town Clerk shall be deemed the equivalent of the filing of a decision for purposes of judicial appeals provided for under Ch. 40A, Sec. 17;

10.5.3. If no appeal is taken within the required statutory period, then the Town Clerk shall furnish the petitioner with a certified copy of the petition and affidavit together with a certificate that no appeal has been filed, all of which shall be recorded in the manner prescribed under Ch. 40A, Sec. 15, in lieu of the documents required to be recorded under that Section.

10.6 Lapse of Special Permits

Special Permits shall lapse within a period of eighteen (18) months (unless otherwise specified in this Bylaw) plus such time as is required to pursue or await the determination of an appeal referred to in Sec. 17 of Ch. 40A from the date of the grant thereof, if a substantial use has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

10.7. Failure of Board to Respond

The failure of any board or agency to which a petition for a Special Permit is referred for recommendation and/or a report to make such recommendations and/or the report within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

11. DEFINITIONS *(Revised 4-28-03; 11-01-05)*

In this Bylaw the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future.

Abandonment: Cessation of an activity for a period of two years or more, causing the loss of any right to restore a non-conforming use or activity on a given site.

Accessory Apartment: A separate complete dwelling unit that is contained substantially within the structure of a one-family dwelling unit, is served by a separate entry/exit and can be isolated from the principal one-family dwelling unit.

Accessory Use or Building: A use or building which is subordinate and customarily incidental to and located on the same lot with the principal use or building to which it is accessory.

Affordable Housing: Housing occupied by households with incomes at or below 80% of area median income, as determined and published from time to time by the U.S. Department of Housing and Urban Development. Low- and moderate-income housing must meet the requirements of the Local Initiative Program, 760 CMR 45.00, and be approved for inclusion in the Subsidized Housing Inventory under M.G.L. c.40B, Sections 20-23. A housing unit will generally be considered affordable to low- or moderate-income households if its sale or rental price is equal to or less than 30% of gross monthly income for a low- or moderate-income household whose household size is suitable for the proposed dwelling unit. To comply with this Bylaw, a low- or moderate-income housing unit must be protected by an affordable housing restriction that meets the requirements of 760 CMR 45.00 (Local Initiative Program) and qualifies as an affordable housing restriction under M.G.L. c.184.

Agriculture: In accordance with M.G.L. c. 128, Section 1A, the term "agriculture" includes farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market. As provided in M.G.L. c.40A, Section 3, agriculture on land greater than fives acres is an exempt use under this Bylaw.

Alteration: A change in or addition to a building that modifies the location, plan, manner of construction or materials used, or in any way varies the character of its use.

Appeal: An appeal to the Board of Appeals by any person aggrieved by an order or decision of the Building Inspector or other administrative official, pursuant to M.G.L. c. 40A, Section 8.

Assisted Living Facility: One or more dwellings, regardless of structural type (single-family, two-family, multifamily) which are structurally configured to serve the elderly, meeting then-current physical standards for publicly-assisted elderly housing and having no units containing more than two bedrooms; and for which there is publicly-enforceable assurance that each resident household will consist entirely of members at least 55 years old; and for which there is contract assurance of support services, such as meals, housekeeping, social services, health services or transportation.

Automobile Repair Shop: A shop or garage for the repair of motor vehicles, other than a private garage or a gasoline service station.

Auto Filling Station: A structure or lot used for the sale of gasoline and oil and for servicing motor vehicles, other than a private garage.

Basement: A portion of a building partly underground but having less than half of its clear height below the average finished grade of the adjoining ground.

Bed and Breakfast: a private owner occupied residence with one to three guestrooms. The bed and breakfast use shall be subordinate and incidental to the main residential use of the building. Accommodations shall be reserved in advance, and

individual guests are prohibited from staying at a particular bed and breakfast establishment for more than fourteen (14) days in any one-year period.

Bedroom: As defined in 310CMR, Section 15.002.

Building Height: Measured at the vertical distance from the average elevation of the finished lot grade at the front of the building to the highest point of the top story in the case of a flat roof and to the mean height between the plate and the ridge in the case of a pitched roof.

Building: A structure having a roof or cover and forming a shelter for persons, animals, or property.

Child Care (or Day Care) Center: A day care or school age child care program as defined in Section 9 of M.G.L. c.28A.

Common Open Space: a parcel or parcels of land or an area of water, or a combination of land and water within the site designated for a Low-Impact Development, maintained and reserved for open uses.

Contractor's Yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub-assemblies, and parking of wheeled equipment.

Convenience Store: A small retail establishment, often synonymous with "food mart," of less than 2,500 square feet of floor space, primarily engaged in retailing a limited line of fast-moving, high turnover goods that usually include milk, bread, soda, beer, snacks and cigarettes, excluding fuel pumps. A convenience store typically has extended hours of operation for the convenience of customers.

Cooking Facilities: Any facilities (including without limitation a hot plate or portable oven, but not including an outdoor grill) which permits the occupant of a building to prepare or serve hot meals in the building on a regular basis.

Corner Lot: A lot located at the intersection of two or more streets having an angle of intersection of not more than 135 degrees or where the intersection is bounded by a curve having a radius of less than 100 feet.

Coverage. As used in this Bylaw, "coverage" is classified according to the following terms and meanings:

1. Building Coverage: The maximum percentage of a lot in any district which is covered by structures which constitute principal and accessory uses thereof. For the purposes of this section, uncovered swimming pools, tennis courts and decks of one hundred square feet or less shall be exempt from the definition of building coverage. Garages, barns, storage sheds or additions and alterations to the principal residential building occupying the lot shall not be exempt from the definition of building coverage.
2. Lot Coverage: The percentage of a lot in any district which is covered by impervious surfaces, including the principal building and accessory structures on the lot. For the purposes of this section, such impervious surfaces shall include, and not be limited to, paved driveways and parking areas, sidewalks constructed of impervious materials, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious.

Driveway: An improved access (other than a street) connecting between a street and one or more parking or loading spaces.

Dwelling Unit: A portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities, but not including trailers or mobile homes, however mounted, or commercial accommodations offered for periodic occupancy.

Dwelling: A building or part thereof designed, erected and used for continuous and permanent habitation for one or more families or individuals.

Family Day Care: Child care or day care provided in a single-family dwelling, as defined in Section 9 of M.G.L. c.28A. Unless otherwise stated in this Bylaw, family day care shall be considered an accessory use incidental to a residential use.

Farm: Premises containing at least five acres used for gain in raising or growing agricultural products, poultry, and/or dairy products. (See also, Agriculture.)

Farm-Related Business: A business operated on a farm parcel, related to or supportive of agricultural activities, such as blacksmithing, farm implement repair, and/or roadside sale of agricultural products.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land, including but not limited to wire, metal, board, posts, and natural vegetation.

Floor Area: The sum of the horizontal area of the several floors of a dwelling unit measured from the outside, excluding cellar floor areas, basement rooms, garages, porches and open attics or unfinished rooms, and for which a certificate of occupancy has been issued as habitable living quarters. In split-level houses, the first two levels may be counted as one floor, provided that the difference in floor levels is less than five feet.

Gross Floor Area: The sum of the gross horizontal areas of the several floors of a building excluding areas used for accessory garage purposes and such basement and cellar areas as are devoted exclusively to uses accessory to the operation of the building. All dimensions shall be taken from the exterior faces of walls, including the exterior faces of enclosed porches.

Hammerhead Lot: A lot with reduced frontage and special dimensional requirements, as specified in Section 4.3 of this Bylaw.

Home Occupations: An occupation performed within the home, as defined in Section 4.6.

Homeowners Association: A corporation or trust owned or to be owned by the owners of lots or residential units within a tract, which holds the title to land and which is responsible for the costs and maintenance of said land and any facilities to be held in common.

Hotel, Motel or Lodging House: A building or part thereof or a group of buildings on a single lot providing public accommodations, where space is used for sleeping and appurtenant services by more than four (4) persons as paying guests, regular or transient.

Land Use: The purpose for which land or building is occupied or maintained, arranged, designed or intended.

Lot, Corner: A lot or parcel of land abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street having street sidelines or tangents to sidelines forming an interior angle of less than 135 degrees.

Lot: A single area of land in one ownership throughout defined by metes and bounds or boundary lines as shown in a recorded deed or on a recorded plan.

Low Impact Development: An option which permits an applicant to build multi-family dwellings on a lot and single-family dwellings on lots with reduced lot area and frontage requirements so as to create a development in which the buildings and accessory uses are clustered together into one or more groups with adjacent common open land.

Low- or Moderate Income Household: A household with income at or below 80% of area median income, as determined from time to time by the U.S. Department of Housing and Urban Development.

Low- or Moderate Income Housing: A dwelling unit that is affordable to a low- or moderate-income household; see also, Affordable Housing.

Mobile Home Park: Any lot of land upon which three (3) or more mobile homes occupied for dwelling purposes are located, including any buildings, structure, fixtures and equipment used in connection with mobile homes.

Mobile Home: Any vehicle or object on wheels and having no motive power of its own, but which is drawn by or used in connection with, a motor vehicle, and which is so designed, and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation whether resting on wheels, jacks or other foundation, and shall include the type of vehicle commonly known as mobile home.

Municipal Use: Premises used for any operation by the Town government except as elsewhere more specifically defined.

Nonconforming Use: A use of a building or land that does not conform to all the land use regulations of this Bylaw for the district in which it is located, which use was in existence at the time said land use regulations became effective.

Off-Street Parking: That portion of a lot set aside for purposes of parking, including any necessary aisle space in said facility, but not including roadways or drives connecting said off-street parking space or lot with a street or thoroughfare.

Principal Use: The main use of land or structures on a lot, as determined by the Building Inspector/Zoning Enforcement Officer.

Private Garage: Covered space for the housing of motor vehicles, no more than two (2) of which belong to other than the occupants of the lot on which such space is located.

Rooming or Boarding House: A dwelling in which the person resident therein provides sleeping accommodations, with or without meals, for not more than four (4) paying guests who are not provided with separate cooking.

Sanitary Sewer: A sewer that carries wastewater and to which storm, surface and groundwater are not intentionally admitted.

Sign: A sign shall include any lettering, word, numeral, pictorial representation, emblem, trademaker, device, flag or other figure of similar character located outdoors and being a structure of any pert thereof, or attached to, painted on, or in any other manner represented on a building or other structure, and used to announce, direct, attract, advertise or promote, including signs located inside a window only when illuminated or moving and shall not include the display of merchandise visible through such window. Marquees, canopies, awnings, clocks, thermometers and calendars shall be subject to the provisions of this Bylaw only when used to display or support signs as defined above.

Story: The portion of a building between the upper surface of any floor and the upper surface of the floor next above, having more than one-half of its height above the average elevation of the finished grade adjoining the building. Any part of a building between the topmost floor and the roof shall be deemed a half-story.

Street Line: The sideline of a street or way, as determined by deeds and plans recorded at the Registry of Deeds, or a building line laid out under M.G.L., Ch. 82, Sec. 37, where no line is thus legally established, then a line parallel with the twenty-five (25) ft. distant from the center line of a traveled way.

Street: A public way or a private way shown on a plan approved under the provision of the subdivision control law or in existence when the provisions of said subdivision control law became effective in the Town of Shirley having in the opinion of the Planning Board suitable width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of 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.

Structure: A combination of materials to form a construction including among others, buildings, stadiums, tents, reviewing stands, platforms, stagings, observation towers, water tanks, play tower, swimming pools, trestles, sheds, shelters, fences, display signs, courts for tennis or similar games, backstops, backboards; the term "structure" shall be construed as if followed by the words "or portion thereof".

Subsidized Housing Inventory: A listing of low- and moderate-income housing, as defined in M.G.L. c.40B, Section 20, used by the Massachusetts Department of Housing and Community Development (DHCD) to determine whether low or moderate income housing exists in excess of ten per cent of the housing units reported in the latest federal decennial census of each city or Town.

Tower: A monopole or lattice structure that is designed to serve as a mount for wireless communications facilities.

Usable Land: Excludes wetlands and floodplains as defined in M.G.L. c.131, Section 40, and areas with slopes of more than 15%.

Use Restriction: A qualification placed upon any or all parts of a site which shall define the uses permitted on the land.

Variance: Relief from strict enforcement of one or more zoning bylaws granted by the Board of Appeals pursuant to authority under M.G.L. c. 40A, Sections 10 and 14.

Way: Any public way or private way shown in a plan approved under the provisions of the Subdivision Control Law or any way in existence when the provisions of said Subdivision Control Law became effective in the Town, having, in the opinion of the Planning Board, suitable width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of 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.

Wetlands: Area characterized by vegetation as described in M.G.L. Ch. 131, Sec. 40.

Yard: An area open to the sky and free of any storage of materials or manufactured products, located between a street or other property line and any structure or element thereof other than:

1. A fence, wall, other customary yard accessory, or steps or other projections allowed to encroach on building lines by the State Building Code, or
2. In side and rear yards only, a tool shed or similar accessory structure having not more than eighty (80) square feet ground coverage.

Yard, Front: A yard extending between side lot lines across the front of a lot on each street it adjoins, measured perpendicular to a line connecting the foremost points of the side lot lines.

Yard, Rear: A yard abutting a rear property line, that is, typically a line or set of lines approximately parallel to the frontage street, and separating lots whose frontage is established on different streets. Yards on irregularly shaped lots where “side” versus "rear" is indeterminate shall be construed as rear yards.

Yard, Side: A yard abutting a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street, extending between side and rear yards.

12. VALIDITY AND CONFLICT OF LAWS

12.1. Validity and Conflict

Where any provision of this Bylaw imposes a greater restriction upon the development or use of land or structures than is imposed by other Bylaws, the provisions of this Bylaw shall control. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

13. DESCRIPTION OF DISTRICT BOUNDARIES

(Revised 5-23-01; 10-20-03; 11-01-05;06-12-0, 11-07-11, and 11-14-15)

The Residential districts are identified as R-R, R-1, R-2, and R-3.

The R-R (Residential Rural) district occurs in three (3) distinct areas: in north Shirley, west of Center Road, and in the eastern most portion on the Town along Walker and Hazen Roads.

North Shirley: starting at the northern most corner of the Town at the Squannacook River; thence following the Town boundary along the river on the property of the Massachusetts Department of Fisheries and Game to the southeastern most point of said property; thence following said property line in a southwesterly, southeasterly, and again southwesterly direction to Squannacook Road; thence westerly along said road to its crossing over Trap Swamp Brook; thence along the brook in a southwesterly direction to a point where it passes under Townsend Road; thence southerly along Townsend Road to its intersection with Great Road (Rte. 2A); thence westerly along said road to the Great Road West Mixed-Use District described below; thence along the easterly, northerly, and westerly border of said district to Great Road; thence westerly on said road to the town line, thence north to the starting point.

West of Center Road: starting at the Shirley/Lunenburg town line on Whitney Road; thence easterly along said road to its intersection with Center Road; thence southerly along Center Road to the northern edge of the power line easement crossing said road; thence southwesterly along the northern edge of said easement to its intersection with a second such easement; thence following the second such easement along its northern edge in a southwesterly direction to its crossing of Catacunemaug Road; thence northwesterly along said road to the Shirley/Lunenburg town line; thence northerly along said town boundary to the starting point.

Walker and Hazen Roads: starting at the intersection of Hazen and Walker Roads; thence southerly along Walker Road to the intersection of said road with a line representing an extension of the northern boundary of the east/west power line easement; thence westerly along said line and said easement to its intersection with a second power easement near Peabody Road; thence north along said second easement to its crossing of Patterson Road; thence northerly in a straight line to a point on Hazen Road 1,070 ft. east of the center line of Clark Road; thence northeasterly along Hazen Road to the starting point.

The R-1 (Residential 1) district occurs in six (6) distinct areas: in north central Shirley; in the eastern most section of Town mostly within Fort Devens; in the southern section of Town within Fort Devens and the Massachusetts Correctional Institution; in the southwest section; a small area along the Lunenburg line; and a small section along Munson Avenue.

North Central Shirley: starting at the Shirley/Lunenburg town line at Great Road (Rte. 2A); thence southeasterly along said road to the commercial district described below; thence southwest, south, east, and north around said district and continuing beyond it to the juncture with Townsend Road; thence northerly along Townsend Road to Trap Swamp Brook, northeasterly along said brook, southeasterly along Squannacook Road and northeasterly, northwesterly, and northeasterly to the Shirley/Groton town line at the Squannacook River, being the boundary of the above described R-R district; thence southeasterly along the Town's Squannacook River boundary to the northern edge of the power line easement; thence westerly along said easement to a point at western most boundary of Assessors' Parcel 83-A-6.2 as shown on the Assessors' Map updated to January 1, 2011; thence southerly along the boundary of Parcel 84-A-1, and northwesterly to the most westerly boundary of Parcel 83-A-6.1, thence southerly along the most westerly boundary of Parcel 83-A-6.1 to Old Great Road; thence southwesterly along Old Great Road along the southerly boundaries of parcels 83A6, 83A5 and 82C5 to the junction of Great Road, thence westerly along Great Road to the point of Crossing of Mulpus Brook; thence westerly along Mulpus Brook to a point of closest proximity to said road; thence crossing Great Road at 90º to a point 400 ft. southwesterly of said road; thence southerly to Hazen Road at a point 60.95 ft. east of the culvert of a brook under Hazen road and approximately 1,070 ft. east of the intersection of Clark and Hazen Roads; thence continuing in a straight line to a juncture with the power line easement; thence following northern edge of said easement in a southwesterly direction to its intersection with Center Road; thence northerly along Center Road to its juncture with Whitney Road, being the easterly boundary of the above described R-R district; thence westerly along Whitney Road to the Shirley/Lunenburg line; thence northerly along said line to the starting point at Great Road (Rte. 2A); excluding that area designated as the North Shirley Village Business District." *(revised 11-14-2015)*

East Central Shirley: the entire area of Fort Devens east of Walker Road to the Shirley/Ayer town line plus the corner of land forming an area bounded successively by the southern boundary of fort Devens, Walker Road, and the Shirley town line.

Southern Shirley: all the land lying within the boundaries of Fort Devens and the Massachusetts Correctional Institution.

Southwest Shirley: starting at the Shirley/Lunenburg line on Leominster Road; thence easterly along said road to the crossing of the power line easement; thence southerly along said easement to a point 200 ft. from Leominster Road; thence easterly the same distance from said road to 200 ft. westerly of Morin Street; thence southerly the same distance from said street; thence easterly again the same distance from said street; thence southerly on a line 600 ft. westerly of Lancaster Road to a point opposite a line at a 90° angle from the culvert on Lancaster Road; thence easterly to Lancaster Road to the point where it crosses the culvert; thence southerly on Lancaster Road for a distance of 700 ft.; thence southeasterly to the angle of the MCI boundary; thence southwesterly along said boundary for a distance of 1,600 ft.; thence at a 90° angle northwesterly to a point of intersection with the back property line of Deer Avenue; thence following the side property line to Lancaster Road; thence southerly along Lancaster Road to a property line some 775 ft. northerly from the Shirley/Lancaster town line; thence southerly on Lancaster Road ft., thence westerly 608 ft., northerly 202 ft., and again westerly along said property line and its extension on a straight line to the Shirley/Lunenburg line; thence northerly along the town line to the starting point.

Lunenburg Line: starting at the Shirley/Lunenburg town line at the railway right-of-way; thence easterly along said right-of-way to a point opposite the northwest corner of Dead Pond at a 90° angle to said right-of-way; thence from said northwest corner northeasterly to an old woods road; thence northwesterly parallel to Catacunemaug Road to the Lake Shirley loop road; thence westerly to the Shirley/Lunenburg town line at the edge of the lake; thence southerly along said town line to the starting point.

Munson Avenue: starting at the juncture of the railway right-of-way and the power line easement northeasterly to a point 200 ft. westerly of Center Road; thence southerly parallel to Center Road at the same distance to a point 200 ft. north of Munson Avenue; thence westerly parallel to Munson Avenue at the same distance to a point 600 ft. from Center Road; thence southerly to the railway right-of-way at a 90° angle to it; thence westerly along said right-of-way to the starting point.

The R-2 (Residential 2) district occurs in three (3) locations: east central Shirley; central Shirley; and southern Shirley.

East Central Shirley: starting at the Shirley/Ayer town line on the Nashua River at the crossing of Great Road (Rte. 2A); thence following said road in a westerly direction to its crossing over the Mulpus Brook; thence westerly along the course of said brook forming the boundary with the R-1 district above; thence southwesterly from said brook and southerly along the same boundary to Hazen Road; thence easterly along Hazen Road to the Fort Devens boundary; thence following said boundary easterly to the Shirley/Ayer town line; thence northeasterly along the Town line to the starting point.

Central Shirley: starting with the juncture of the power line easement and the western boundary of the R-R district south of Hazen Road; thence following said easement southwest along its northern edge to a point 200 ft. west of Center Road; thence southerly parallel to Center Road at the same distance to the northern edge of the second power line easement; thence easterly and northeasterly along said easement to a point 400 ft. westerly from Clark Road; thence northerly parallel to Clark Road at the same distance to a point 1,600 ft. northerly from the juncture of Peabody and Clark Roads; thence easterly to the power line easement; thence northerly along the westerly boundary of the Walker/Hazen Roads R-R district to the starting point.

Southern Shirley: starting at the juncture of Harvard and Shaker Roads at the MCI boundary; thence northeasterly on Shaker Road to its junction with Wilde Road; thence southerly on Wilde Road to the Fort Devens Boundary; thence northeasterly along the Fort Devens boundary to the northern boundary of the cemetery; thence westerly along said boundary and crossing Shaker Road to a point 200 ft. beyond it; thence northerly at the same distance parallel to said road to a point opposite Rodman Avenue; thence westerly to

Shaker Road; thence northerly along said road to the center line of Catacunemaug Brook; thence westerly along said brook to the northern cemetery boundary; thence southwesterly along said boundary to Harvard Road; thence northwesterly along said road to a point 200 ft. north of South Street; thence westerly at the same distance from South Street to the boundary of the R-1 District above; thence following said boundary south and southeast to its juncture with the boundary of MCI; thence easterly and northeasterly along said MCI boundary to the starting point.

The R-3 (Residential 3) district occurs in three (3) distinct areas; the Ayer Road area; the Catacunemaug-Village area; and the Shaker Road area.

Ayer Road: starting at the town line at the intersection of Ayer Road and the railroad right-of-way; thence southwesterly along the Fort Devens boundary to the crossing of a power line; thence northeasterly along said power line to the Trout Brook; thence westerly along Trout Brook to a point l,000 ft. east of Benjamin Road; thence southerly to a point 200 ft. north of Ayer Road; thence westerly parallel to said road at the same distance to a point 200 ft. east of Center Road; thence southerly the same distance from Center Road to the railway right-of-way; thence westerly to the boundary of the R-1 district above; thence following the boundaries of the R-1, R-2, and R-R districts above to Patterson Road; thence southerly to the starting point at the Shirley Town Line.

Catacunemaug-Village: starting at the Shirley/Lunenburg town line on Catacunemaug Road; thence southeasterly along said road to its intersection with the railway right-of-way; thence along said right-of-way easterly to the property line of the George Frost Co.; thence southerly along said property line to Leominster Road; thence easterly along said road to its intersection with Lancaster Road at the crossing of Catacunemaug Brook; thence southeasterly along said brook to the northern most point of the Town's Fredonian recreation area; thence northeasterly at 90° across Fredonian Street to a point 200 ft. beyond said street; thence southeasterly parallel to said street to a center line between Page and Chapel Streets to a point 200 ft. east of Mill Street; thence northerly at the same distance from Mill Street to the center line between Front and Chapel Streets; thence easterly along this line to the Fort Devens boundary; thence southerly along said boundary to the northern property line of Phoenix Pond Industrial Park; thence westerly and southerly along said property line to its crossing of Catacunemaug Brook; thence westerly and northwesterly along the north boundary of R-2 and east boundary of R-1 to Leominster Road; thence southwesterly on said road to the center line of a dirt road on the south side of Leominster Road approximately 2,500 ft. from the Shirley/Lunenburg town line; thence northerly on a straight line to the R-1 boundary at the northern end of Dead Pond; thence along the northeastern boundary of said district to the Shirley/Lunenburg town line; thence northerly to the starting point.

Shaker Road: starting at the Fort Devens line at the cemetery; thence following the R-2 boundary northwest, northeast, north, and northeast to the property line of Phoenix Pond Industrial Park; thence easterly along said property line to the Fort Devens border; thence southerly and westerly along said border to the starting point at the Fort Devens boundary.

The Commercial district occurs in four (4) areas and they are identified as: Shirley Village Business District, North Shirley Village Business District, Great Road West Mixed-Use District, Lancaster Road Commercial District

Shirley Village Business District: starting at the Fort Devens boundary; thence westerly following the northern boundary of the R-3 district to the juncture of Leominster and Lancaster Roads; thence northerly on a line 100 ft. westerly of Center Road to the railway intersection; thence easterly following the line of the R-3 district to a point opposite the intersection of Clark and Ayer Roads; thence southerly to the starting point at the Fort Devens boundary.

North Shirley Village Business: starting at a point 200 ft. southeast of Longley Road on the course of the Mulpus Brook; thence south 47° 58" 14' west, crossing Great Road and continuing southwest of Great Road 200 ft.; thence northwesterly parallel with Great Road to Parker Road; thence southwesterly along Parker Road to a point 328 ft. southwesterly of Great Road at an existing property line; thence 266 ft. northwesterly to a corner of a property line; thence northeasterly along said property line to a point on the southwest side of Great Road; thence along a line perpendicular to Great Road to Mulpus Brook; thence along said brook southeasterly to the point of beginning. Then starting at Great Road 900 ft. southeast of the intersection of Longley and Great Roads; thence southeast along said road to a point l,850 ft. from said intersection; thence at a 90° angle northeasterly to the course of the Mulpus Brook; thence northwesterly along said brook to a point at a 90° angle opposite the

starting point at Great Road; thence southwesterly to the starting point. In addition, this district shall also include Assessors' Parcels 72-A-5, 72-A-6.1, 72-A-6 as shown on the Assessors' Maps dated January 1, 2005 and the remainder of the following parcels not included in the above description: Parcels 72-A-1.3, 72-A-1.4, 72-A-4.11, and 79-A-6 as identified on the Assessors' Maps dated January 1, 2005.

Great Road West Mixed-Use District: starting on the northerly side of Great Road (Rte. 2A) at the juncture with Going Road; thence northerly along the western property line of Assessors' Parcel 77-A-5.1 as shown on the Assessors' Maps dated January 1, 2005; thence southerly to the rear property line of Parcel 78-A-2; thence easterly along Parcel 78-A-2 and 78-A-3; thence southerly along property line of Parcel 78-A-3 to the center line of Great Road (Rt 2A); thence easterly to the eastern most property line of Parcel 73-A-4; thence southerly along the property lines of Parcel 73-A-4, 73-A-1; thence westerly along the property line of Parcel 73-A-1 73-A-1.2 to the AT&T easement, then westerly along the southern most property line of Parcel 76-B-3.1 until said line comes to the eastern most property line of 75-A-3.1; thence northeasterly along the property line of Parcel 75-A-3.1 to Going Road; thence easterly along Going Road to the starting point at the juncture of Great and Going Roads. *(Description amended to include Parcel 77-A-5.1 06-12-06)*

Lancaster Road Commercial District: starting at the easterly side of Lancaster Road at the Shirley/Lancaster town line; thence following Lancaster Road along the Industrial and R-1 district boundaries; thence easterly along the R-1 district boundary; thence southeasterly along said boundary to the MCI property line; thence southwesterly along said boundary to the Shirley/Lancaster town line; thence westerly along said line to the point of beginning.

The MXD (Mixed Use) district occurs in one (1) area identified as Great Road East Mixed Use District;

Great Road East Mixed-Use District: consists of the following parcels 83-B-1, 83-B-2, 83-B-2.1, 83-B-2.2, 83-B-2.3, 83-B-3 as shown on the Assessors maps dated January 1, 2014, where on the northerly portions of said parcels, the district boundary will run to the centerline of Old Great Road. On the southerly portion of said parcels the district will run to the centerline of Great Road. On the easterly portion of parcel 83-B-1 the district boundary will run to the centerline of Kittredge Road. *(Added 11-14-2015)*

The I (Industrial) district occurs in seven (7) areas: Great Road East; Ayer Road east; Shirley Village East; Shirley Village West; Phoenix Pond Industrial Area; Leominster Road; and Lancaster Road.

Great Road East: starting on Great Road (Rte. 2A) at the Shirley/Ayer line; thence westerly along said road to the western most boundary of Assessor's Parcel 83-A-6.1 as shown on the Assessor's Maps updated to January 1, 2011; thence northerly along the boundary of Parcel 83-A-6.1, and easterly along the northern boundary of Parcel 83-A-6.1 to Parcel 84-A-1, thence northerly along Parcel 84-A-1 to the northern edge of the power line easement; thence easterly along the town line to the starting point. *(revised 11-07-11)*

Ayer Road East: starting on the west side of Walker Road at the point of intersection of a line representing an extension of the northern boundary of the east/west power line easement; thence westerly along said line and power line easement to Patterson Road; thence southerly parallel to said road at the same distance to the town line; thence northeasterly along the town line and Walker Road to the starting point.

Shirley Village East: starting at the Fort Devens boundary at the southeast corner of the district at the power line; thence north, west, and south along the southern boundary of the R-3 district above to the northern boundary of the Shirley Village Business District; thence easterly along said boundary; thence southerly along said boundary to the Fort Devens line; thence northeasterly along the Fort Devens line to the starting point.

Phoenix Pond Industrial Area: starting at the intersection of the northern boundary of the Shaker Road R-3 area and Fort Devens; thence following said line northeast, east, northeast, north, and west; thence following the boundary of the Village R-3 district west and south, and R-2 district along Shaker Road to the first R-3 district; thence westerly along the northern boundary of the R-3 district to the starting point.

Shirley Village West: starting at the western most boundary of the Shirley Village Business District at its intersection with the railway right-of-way; thence south along said boundary to the northern boundary of the R-3 Catacunemaug-Village area; thence westerly and northerly along said boundary to the railway right-of-way; thence easterly along the right-of-way to the starting point.

Leominster Road: starting at the Lunenburg/Shirley town line on the Leominster Road; thence following Leominster Road easterly to the southwest corner of the R-3 district; thence northerly along the western edge of the said R-3 district to its crossing of the railway right-of-way; thence westerly along said right-of-way to the Shirley/Lunenburg town line; thence southerly along said town line to the starting point.

Lancaster Road: starting at Lancaster Road on the Shirley/Lancaster town line; thence northerly along Lancaster Road to the R-1 district boundary; thence westerly along said R-1 district boundary for a distance of 608 ft.; thence northerly along said R-1 district a distance of 202 ft., thence westerly along a property line, and its extension, on a straight line to the Shirley/Lunenburg town lines; thence southerly along said town line to the intersection of the Shirley/Lunenburg/Lancaster town lines, thence easterly along the Shirley/Lancaster town line to the place of beginning.

14. MIXED-USE ZONING OVERLAY DISTRICT

(Added 4-28-03; Revised 6-16-03; Deleted 11-01-05)

15. SHARED RESIDENTIAL DRIVEWAY *(Added 4-28-03; Rev. 3-21-05)*

15.1. General *(revised 3-21-05)*

It is the intent of this Section to provide for an optional, minor, exclusively residential development of three (3) lots or less, as an alternative or complement to conventional subdivision development, suitable for some backland lots, while preserving the rural quality of the area through the reduction in access ways, increase in front yard setbacks and the maintenance of existing vegetative and topographic conditions. Any land granted a Special Permit under this Section shall not be further divided or extended except in conformance with the requirements of this Section.

15.2. Permitting Authority

The Planning Board may grant a Special Permit and approval for construction of a Shared Residential Driveway to serve no more than three (3) residential lots in accordance with Section 15 of the Town of Shirley Zoning Bylaw.

15.3. Applicant Requirements

Applicants requesting Special Permits under this Section shall submit to the Planning Board, all documents as required by this Section. In addition, every applicant must furnish proof of ownership of the property regarding the application. If the application for a permit involves land under more than one ownership, each owner of the land included in the plans shall be party to the application, and upon approval, subject to its provisions. Signatures of all parties shall be required to process the application.

15.4. Submittal Requirements

The final plans shall be prepared by a Registered Professional Engineer and/or Professional Land Surveyor using modern drafting techniques through the use of CAD or shall be clearly and legibly drawn in black India ink upon tracing cloth or mylar 24 inches by 36 inches. The plans shall be to a scale not less than one (1) inch equals forty (40) feet or other scale, as the Board shall prescribe to show details clearly and adequately. Profiles of the proposed Shared Residential Driveway shall be drawn to the same horizontal scale as the plan and with vertical scale ten (10) times larger unless otherwise authorized. The plans shall be clearly designated “Plan for Shared Residential Driveway Development”. Such final plans shall include the following information:

15.4.1. A title block shall be located at the lower right corner and shall contain the project name, the engineer’s and/or surveyor’s name and seal, the name of the owner and/or applicant and the date.

15.4.2. Suitable space shall be reserved for recording the action of the Board, the date of such action and the signatures of the members of the Board.

15.4.3. Boundary lines of bordering adjacent land or of land across an adjoining street or way from the property being developed and the names of the owners of such abutting land, as determined from the Town’s most recent tax list.

15.4.4. Location, direction, name and present widths of streets, easements and public or private ways, bounding, approaching or within a reasonable proximity of the development.

15.4.5. Location and outline of all existing buildings and site features such as existing stone walls, fences, large trees or wooded areas, rock ridges and outcroppings, swamps, floodplain areas, water bodies and water courses.

15.4.6. Acreage of the property and lot lines, bearings and dimensions, thereof in conformity with the Zoning Bylaw.

15.4.7. Location and purpose of all existing and proposed easements within the development area.

15.4.8. Whenever uncertainty exists regarding areas claimed to be buildable or upon request of the Board of Health or Conservation Commission the plan shall also contain the approximate proposed location of the main building or buildings on the property in question, such location to comply with the Zoning Bylaw.

15.4.9. Depiction of the building envelope in conformity with the Zoning Bylaw.

15.4.10. Location of all off street parking areas and turn arounds as required by the Zoning Bylaw.

15.4.11. Certified abutters list from the Town's most recent tax list.

15.4.12. Statement of compliance with Section 13 of the Zoning Bylaws.

15.5. Timetable for Action

Upon submittal of fifteen (15) copies of the plans for a Shared Residential Driveway Development, the Planning Board shall distribute the plans and request comments from other Town boards within thirty-five (35) days. After such time, and within sixty-five (65) days of submittal, the Planning Board shall hold a Public Hearing and shall render a final decision within ninety (90) days of the close of the Public Hearing.

15.6. Design Standards *(revised. 3-21-05)*

15.6.1. Any land being considered for a Shared Residential Driveway Development shall have at least the minimum amount of frontage on a public way as required by the zoning district in which the land is located, for a single residential lot. In addition, the size of the lots being developed shall equal no less than 150% of the minimum lot size per the zoning district, exclusive of wetlands.

15.6.2. The minimum distance between any two Shared Residential Driveway Developments shall be no less than 900 feet measured from the centerline of the driveway at the intersection of the Town right of way.

15.6.3 The maximum length of any Shared Residential Driveway shall be no greater than 1000 feet measured from its intersection with the public way to the most distant point of the Shared Residential Driveway.

15.6.4. The minimum width of the Shared Residential Driveway shall be no less than sixteen (16) feet of traveled surface with two (2) foot shoulders on each side.

15.6.5. The maximum grade shall be ten percent (10%). The minimum grade shall be one percent (1%).

15.6.6. The Shared Residential Driveway may be either pavement or gravel. Whether the wearing surface is pavement or gravel, the driveway shall be constructed to the standards of Section 4.5.6.4 of the Town of Shirley Subdivision Rules and Regulations. All necessary inspections by the Public Works Director shall be required.

15.6.7. The first thirty (30) feet from a public way shall be paved as required by the Department of Public Works.

15.6.8. All distribution systems must be provided underground, including but not limited to, water, sewer, electric, gas and cable television.

15.6.9. Turn-arounds shall be constructed at the ends of all Shared Residential Driveways to accommodate the turning of an SU-30 class vehicle. Turn arounds shall be located a minimum distance from the intersection of the Town way and the Shared Residential Driveway as follows: R-1, R-2, R-3 = 150 feet RR = 200 feet.

15.6.10. A permanent marker, approved by the Board, of engraved granite not greater than six (6) square feet nor less than three (3) square feet in area and no less than forty-eight (48) inches in height shall be placed at the end of the driveway, on private property, where it meets the public way, with a diagram listing the addresses of the properties as assigned by the Building Inspector. Shared Residential Driveways shall

not be named. A similar marker shall be placed where the Shared Residential Driveway meets each individual lot driveway, listing the address of the property. Should the Shared Residential Driveway split; permanent markers must also be placed at the intersections indicating which homes are located on either side of the split.

15.6.11. Adequate drainage shall be provided. The drainage design and appurtenances shall prevent washout and excessive erosion and shall prevent drainage runoff from entering the public way, prevent runoff from the public way from entering the Shared Residential Driveway and prevent runoff from flowing across the driveway.

15.6.12. The applicant shall pay all engineering and/or legal review costs of the Town's consulting engineer or attorney.

15.6.13. All land area requirements shall be exclusive of wetlands as approved by the Town of Shirley Conservation Commission.

15.7. Deed Requirements

All deeds of ownership of lots served by a Shared Residential Driveway shall require that the owners of said lots must be members of a maintenance association, whose purpose is to provide for the maintenance of the Shared Residential Driveway. Each lot served by the Shared Residential Driveway must have permanent access to the drive by easements recorded in the Middlesex County Registry of Deeds. Such easement shall include the right to use the Shared Residential Driveway for all purposes for which private driveways are customarily used, including the right to install, maintain and repair drains, culverts and utilities located under, across or along the Shared Residential Driveway. The deed restriction, maintenance agreement and access easement shall be submitted to the Planning Board for review and approval prior to the granting of the Special Permit.

15.8. Maintenance Association Agreement

The Maintenance Association Agreement must impose upon the members the obligation of repair, maintenance and snow removal so as to cause the driveway, including the drainage serving the driveway, utilities located under, across or along the Shared Residential Driveway and the sightlines to the intersecting public way, to be repaired or maintained and snow to be removed in such a manner as to ensure the continuous year-round access to each lot by fire, police, ambulance and other vehicles, the adequate delivery of public utilities to the lots served by the driveway and the maintenance and preservation of the initial specifications of the Shared Residential Driveway.

15.9. Requirement of Enforceability

Each and every owner of a lot served by the Shared Residential Driveway shall have the right to enforce the obligation of other owners of the lots so served to repair and maintain the driveway in accordance with the association agreement and the applicable easements. No Certificate of Occupancy shall be approved by the Building Inspector until all the documents required by this Bylaw have been recorded and a copy of all documents and proof of such recording has been given to the Planning Board.

15.10. Completion of Roadway

No Building Permit may be issued with respect to a lot served by a Shared Residential Driveway, until such driveway is completed to the specifications of the Special Permit.

15.11. Acceptance as a Public Way

If all of the homeowners who share the Residential Driveway petition the Town for acceptance of the Shared Residential Driveway as a public way, the driveway must be brought up to the standards of the Town of Shirley Subdivision Rules and Regulations for the construction and laying out of ways prior to Town Meeting. The cost of such improvements shall be at the expense of the homeowners and the scope of work shall be approved by the Public Works Department.

15.12. Lapse of Special Permit

A Special Permit granted under this Section shall lapse 24 months after the date the Shared Residential Driveway permit decision is filed with the Town Clerk's office unless substantial construction (as determined by the Board) has begun, except for good cause shown and approved by the Planning Board. Substantial construction shall consist of at least one of the following: lot clearing, installation of utilities or installation of foundation.

16. FENCES *(Added 4-28-03)*

16.1. General

In the interest of public safety, the installation of any permanent manmade or vegetative fencing or wall within twenty five feet (25') of a street right of way or pavement shall require the issuance of a Fence Permit and/or Building Permit as prescribed by the State Building Code and required by the Building Inspector. Any fence erected for the protection of public safety and associated with an approved construction project, demolition project or a temporary event (an event not lasting more than 30 consecutive days) shall not require the issuance of a Fence Permit. All applications for a Fence Permit shall be to the Building Inspector and shall include a plot plan drawn to scale showing the location of roadways and property lines. The Building Inspector shall enforce this Section.

16.2. Setbacks

All fences shall be set back a minimum of five (5) feet from the street right of way and at least five (5) feet from the edge of pavement. All vegetative fencing located on the front property lines or within the site triangle as described in Section 16.3, shall be placed far enough back from the lines so as to maintain the required set backs at mature growth.

16.3. Site Triangles

The site triangle is that area at the intersection of street right of ways or pavement with other streets, driveways or walkways, formed by the side lines of street right of ways or pavement, driveways or walkways and a line joining points on such lines twenty five (25) feet distant from their point of intersection. In the case of a rounded corner, from the point of intersection of their tangents. No fence, wall or landscape plantings shall be located within such a site triangle so as to obstruct visibility between a height of three and one half (3-1/2) feet and a height of eight (8) feet above the plane through their curb grades.

16.4. Recreational and Athletic Facilities

Fences required as part of athletic facilities such as, but not limited to, softball diamond or tennis courts may be permitted at heights in conformance with the established recreation standards.

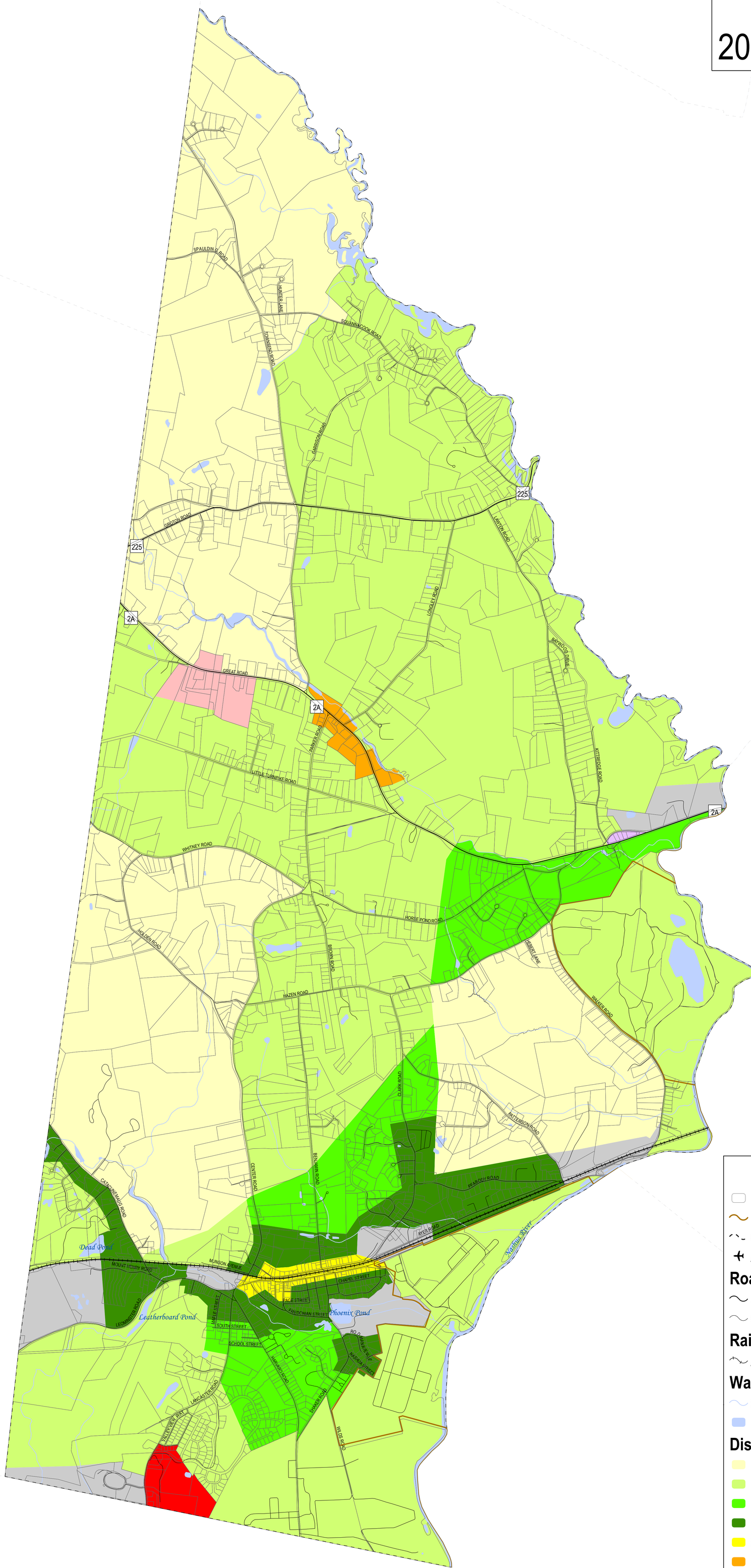
16.5. Finished sides

The finished side of all fences shall be erected outward to abutting properties. Exceptions due to site layout and abutting properties may be allowed as approved by the Building Inspector.

16.6. Maintenance

All fences, walls and vegetated barriers shall be properly maintained. Any fence, wall or vegetated barrier in disrepair shall be promptly repaired or removed.

Shirley, MA: 2015 Zoning Map



Legend

- Parcel Boundaries
- Devens Boundary
- Community Boundaries
- Airports

Roadways

- US & State Routes
- Other Roads

RailLines

- Active RailLines

Water

- Streams & Rivers
- Lakes, Ponds & Reservoirs

Districts:

- Rural Residential District
- R-1 District
- R-2 District
- R-3 District
- Shirley Village Business District
- North Shirley Village Business District
- Great Road-West Mixed-Use District
- Mixed-Use District
- Lancaster Road Commercial District
- Industrial District

0 0.5 1 2 Miles

DATA SOURCES: MassGIS, MassDOT, the Town of Shirley and the MRPC. **DISCLAIMER: The information depicted on this map is for planning purposes only. All data are representational and are not adequate for boundary definition, regulatory interpretation, or parcel-based analysis. For a more complete description of Zoning District boundaries refer to Section 13 of the Town of Shirley Protective Zoning Bylaw, 2015, amended.**

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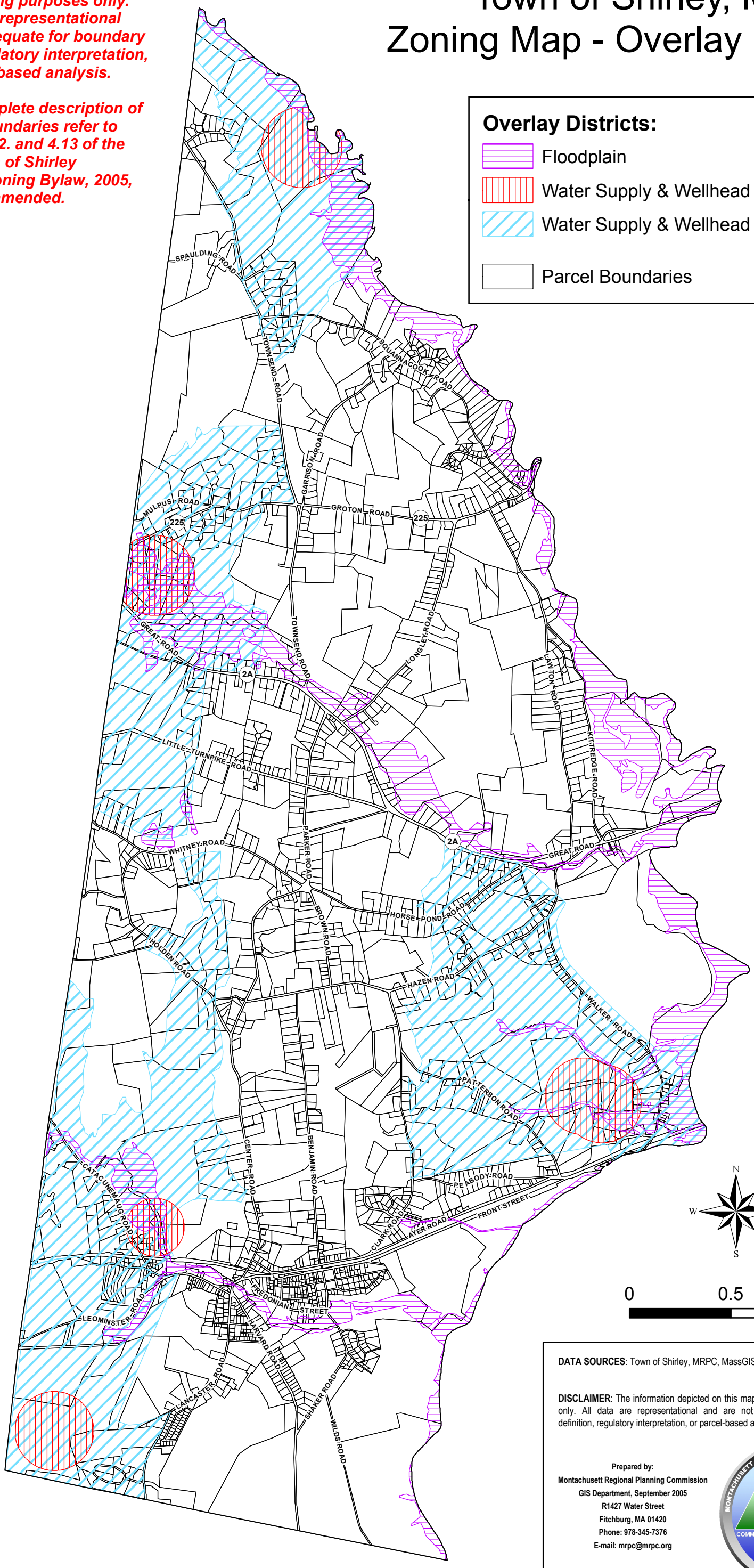
Commonwealth of Massachusetts

/Shirley_ZoningUpdate_2015/Shirley_ZoningUpdate2015_30x40P_v2.mxd [1:13,500] 12_14_15

The information depicted on this map is for planning purposes only. All data are representational and are not adequate for boundary definition, regulatory interpretation, or parcel-based analysis.

For more complete description of district boundaries refer to Sections 4.12. and 4.13 of the Town of Shirley Protective Zoning Bylaw, 2005, as amended.

Town of Shirley, MA
Zoning Map - Overlay Districts



DATA SOURCES: Town of Shirley, MRPC, MassGIS

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1968