

# Chapter 15

## Zoning

**State law reference**—G.L. c. 40A (“The Zoning Act”)

**Cross references**—Buildings, Ch. 4, Electricity, Ch. 5. Personnel, Inspection Department, Secs. 10-102, et seq. Planning Board regulations, Ch. 17. Board of Appeals regulations, Ch. 18.

**Editor’s Note**—Unless otherwise indicated, all zoning bylaws were adopted on October 21, 1985 and have not been amended since that date.

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## Section

### 1.0 PURPOSES AND AUTHORITY

- 1.1 *Purpose:* This Chapter is created for the purpose of promoting the health, safety, convenience, morals and welfare of the inhabitants of the Town, as provided by Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended, by regulating and restricting the height, number of stories and the size of buildings and structures, the size and width of lots, the percentage of lots that may be occupied, the size of yards, the density of population and the location and use of buildings, structures and land for trade, industry, residence and other purposes, thereby:

- (a) Encouraging the most appropriate use of land,
- (b) Preventing overcrowding of land,
- (c) Conserving the value of land and buildings,
- (d) Lessening congestion of traffic,
- (e) Preventing undue concentration of traffic,
- (f) Providing adequate light and air,
- (g) Reducing hazards from fire and other danger,
- (h) Assisting in the economical provision of transportation, water, sewerage, schools, parks and other public facilities,
- (i) Encouraging the provision of housing for persons of all income levels, and
- (j) Preserving and increasing the amenities of the Town.

1.2 *Authority:* This bylaw is adopted under the authority provided by and in accordance with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended.

## 2.0 DEFINITIONS

2.1 *Definitions:* For the purposes of this bylaw certain terms and words are herein defined as follows: Words used in the present tense include the future; words used in the singular number include the plural and words used in the plural number include the singular; the word "shall" is mandatory and not directory; the word "lot" includes the word "plot;" the word "land" includes the words "marsh" and "water."

2.1.1 *Accessory use of structure:* A use of structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

2.1.2 *Adult theater:* An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 727, Sec. 31. (5-2-94, Art. 5)

2.1.2.1 *Adult bookstore:* An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matters which are distinguished as characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31. (5-3-94, Art. 5)

2.1.2.2 *Adult video store:* An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or

sexual excitement, as defined in said section thirty-one of said chapter two hundred and seventy-two, G.L. c. 272, Sec. 31. (5-2-94, Art. 5; 12-2-96, Art. 4)

- 2.1.2.3 *Adult dance club:* An establishment having as a substantial or significant portion of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in G.L. c. 272, Sec. 31. (5-2-94, Art. 5)
- 2.1.2.4 *Adult motion picture theatre:* An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31. (12-2-96, Art. 4)
- 2.1.2.5 *Adult paraphernalia store:* An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including, sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31. (12-2-96, Art. 4)
- 2.1.2.6 *Establishment which displays live nudity for its patrons:* Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in G.L. c. 272, Sec. 31. (12-2-96, Art. 4)
- 2.1.2.7 *Substantial or significant portion:* The term “substantial and significant portion” as used with respect to adult uses shall mean any of the following:
- (a) Twenty percent (20%) or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time; or
  - (b) Twenty percent (20%) or more of the annual number of gross sales, rentals or other business transactions; or
  - (c) Twenty percent (20%) or more of the annual gross business revenue; or
  - (d) Twenty percent (20%) or more of the hours during which the establishment is open. (12-2-96, Art. 4)
- 2.1.3 *Animal or Veterinary Hospital:* Commercial facilities for keeping animals to be treated, in treatment or recovering from treatment, in accord with normal veterinary practice as established by the Massachusetts Board of Registration of Veterinary Medicine.
- 2.1.4 *Apartment building:* A dwelling designed to accommodate three or more dwelling units; multi-family.
- 2.1.5 *Automobile repair, sales, filling station, storage:* See Filling Station, Garage, Private, Garage Public and Gasoline Station.
- 2.1.6 *Boarding house:* A building or premise other than a hotel, inn, motel, tourist house or lodging house, where rooms are let and where meals may be regularly served by

prearrangement for compensation; not open to transient guests in contrast to hotels, restaurants, and tourist homes, open to transients.

2.1.7 *Body Art:* The practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, braiding and scarification. The definition does not include practices that are considered medical procedures by the Board of Registration in Medicine. (4-03-011, Art. 9)

2.1.8 *Buildings:* A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

2.1.8.1 *Building, attached:*

- (a) A building having any portion of one or more walls in common with adjoining buildings; or
- (b) A building separated from another building by a contiguous wall or walls without any side yards; or
- (c) A building having any connecting or separation materials between it and another building. (10-26-87, Art. 6)

2.1.8.2 *Building, detached:* A building having open space on all sides from the ground up and having no direct or indirect physical connection with another building or structure. (10-26-87, Art. 6)

2.1.9 *Building coverage:* The aggregate ground floor area of all buildings on the lot, including accessory buildings but excluding unroofed porches and steps and cornices, eaves, chimneys, or gutters projecting not more than thirty (30) inches, expressed as a percentage of the lot.

2.1.10 *Building height:* The vertical distance from the average elevation of the finished lot grade at the front (containing the primary entranceway) 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; except that in instances where the topography is extremely irregular or there is frontage on two streets, the following will apply:

No structure shall exceed the specified height in feet listed in Table One Dimensional Requirements (Section 5.2.1) except for lots with a slope variance greater than seven (7) feet at the structure. In no case shall the height of any exposed portion of a structure be greater than the allowable height in Table I plus seven (7) feet for all sloped lots with a slope variance greater than seven (7) feet, or the average variance, whichever is less,

as determined by the Building Inspector. (10-21-85, Art. 15; 10-30-89)

- 2.1.11 *Building Inspector:* The Inspector of Buildings appointed by the Town Administrator and charged with the enforcement of this ordinance, or his duly authorized representative.
- 2.1.12 *Certificate of Occupancy and Compliance:* A statement signed by the Building Inspector setting forth either that a building or structure complies with the provisions of this Chapter or that a building, structure or parcel of land may lawfully be used for specified uses, or both.
- 2.1.13 *Church or other place of worship:* A church, temple, synagogue, mosque or other similar place of worship.
- 2.1.14 *Club:* A building or portion thereof, or an area, which is used to meet the social and recreational needs of a non-profit group or organization to which membership is limited or controlled.
- 2.1.15 *Condominium:* A system of real estate ownership in which a person or persons, partnership or corporation own one or more units or parcels in a multi-unit structure or parcel of land plus an undivided interest in elements and/or components owned jointly by all of the unit owners, or as defined in Chapter 183A of the General Laws of Massachusetts, as amended.
- 2.1.16 *Congregate housing:* A non-profit group living arrangement for elderly persons, 59 years of age or older, who cannot easily maintain their own housing, financially or otherwise, who do not need nursing home care. The persons living together may care for themselves or may have some support services.
- 2.1.17 *Conversion:* A transformation of all or a portion of a building which results in a greater number of units of each use. Also, a transformation which changes the types of use of a building from one to another.
- 2.1.18 *Cooperative:* A system of ownership in which shares in a corporation are owned, entitling an owner or owners to occupancy of a portion of real estate owned by the corporation.
- 2.1.19 *Design review:* The process wherein a developer's site plan is submitted to the Town for examination and evaluation of the technical elements of the submitted materials as well as determination of how well the plan itself meets officially adopted criteria.
- 2.1.20 *Distribution:* The movement of products, generally between storage and retail locations.
- 2.1.21 *Dwelling:* Any building, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

- 2.1.22 *Dwelling unit:* One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.
- 2.1.23 *Education Facility:* An institution for educational instruction, including buildings, accessory structures and outdoor play areas. (5/7/98; Art. 13)
- 2.1.24 *Family:* One (1) or more persons living together in one (1) dwelling unit as a single housekeeping unit as distinguished from a group occupancy, a boarding house, rooming house, club, hotel or other communal arrangements.
- 2.1.25 *Filling station:* Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles. (See also Gasoline Station.)
- 2.1.26 *Floor area, net:* The sum of the interior floor area of the floors of a building exclusive of unoccupied basements, stair wells, halls, bathrooms, corridors, attics, walls, partitions, porches, and attached accessory buildings, as measured between exterior faces of walls.
- 2.1.27 *Floor area, gross:* The sum of the areas of the several floors of a building as measured by the exterior faces of the walls, not including the area of cellars, atriums, unroofed porches, balconies or terraces, attics not used for human occupancy or any floor space in an accessory building or in the main building intended for or designed for parking of motor vehicles. However, gross floor area shall include the floor space in a principal building devoted to any home occupation.
- 2.1.28 *Floor area ratio:* Gross floor area of all buildings on the lot divided by total lot area.
- 2.1.29 *Frontage:* The linear extent of a lot measured along a street right-of-way from the intersection of one side lot line to the intersection of the other of the same lot, which can be used for access to the lot, but not including any portion thereof serving more than one (1) lot or dwelling unit.
- 2.1.30 *Garage, private:* Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls or for commercial repair or commercial storage.
- 2.1.31 *Garage, public:* Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles, or supplying of gasoline or oil to motor vehicles.
- 2.1.32 *Gasoline station:* An establishment which provides for the servicing of motor vehicles and operations incidental thereto, which may include facilities for

lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means. (See also Filling station.)

- 2.1.33 *Hazardous materials:* A substance or solid material in a quantity or form that significantly contributes to serious illness or death, or that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed, or listed in the future, as hazardous by the Environmental Protection Agency, under the Toxic Substance Control Act, Federal Resource Conservation and Recovery Act, or similar authority, the Department of Energy, or by the Commonwealth of Massachusetts pursuant to applicable General Laws.
- 2.1.34 *Health Care Facility:* See Hospital and Long Term Care Facility:
- 2.1.35 *Home occupation:* An endeavor involving the production of goods or services conducted from a dwelling which endeavor is secondary to the use of the dwelling for residential purposes and which does not change the residential character thereof.
- 2.1.36 *Hospital:* An institution licensed by the Commonwealth of Massachusetts as a hospital providing health services for in-patient and out-patient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, out-patient departments, central staff service facilities, and staff offices which are an integral part of the institution.
- 2.1.36.1 *Hospital, veterinary:* A building providing for the diagnosis of ailments of animals other than human, including facilities for overnight care.
- 2.1.37 *Hotel:* A building designed or used for paying guests, primarily the temporary abode of persons who have their residence elsewhere, who are lodged with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual rooms or suites; access to individual rooms shall be available only through a common lobby and/or interior corridors.
- 2.1.38 *Industrial park:* An area planned for occupancy for more than one (1) industrial building with shared common areas and/or parking areas.
- 2.1.39 *Inn:* See Hotel.
- 2.1.40 *Junkyard:* The use of any lot, whether inside or outside a building, for the storage of junk, rags, or scrap materials, or the storage, dismantling, demolition or abandonment of construction equipment or machinery or parts thereof or of unregistered automobiles or other vehicles not in condition for use on a public highway.
- 2.1.41 *Kennel:* Facilities for keeping three (3) or more dogs or cats three (3) months old or older on a single premise, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs or cats are customarily kept for sale.

- 2.1.42 *Kindergarten:* A school or class of young children, usually from four (4) to six (6) years of age.
- 2.1.43 *Landscaped land:* Land fully developed and maintained to present a pleasant appearance and to stabilize the soil, using primarily vegetation and natural features of the site, although these may be supplemented by decorative paving.
- 2.1.44 *Loading space, off-street:* An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street or other appropriate means of ingress and egress.
- 2.1.45 *Lodging house, licensed:* A licensed dwelling other than a hotel or motel in which living space is let.
- 2.1.46 *Long-Term Care Facility:* Any institution whether conducted for charity or profit which is advertised, announced and maintained for the express or implied purpose of providing three (3) or more individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facility shall include convalescent or nursing homes, rest homes, infirmaries maintained in towns and charitable homes for the aged (Massachusetts Department of Public Health Regulations 105 CMR 151.000, effective February 6, 1980).
- 2.1.47 *Lot:* A parcel of land which is or may be occupied by a building and accessory buildings including open spaces required under this Chapter. "Lot" includes the words "plot" or "parcel."
- 2.1.48 *Lot, building:* Any single parcel of land as shown or defined on a recorded instrument or defined by metes and bounds, which is designated by its owner at the time of filing for a building permit or certificate of occupancy as a tract to be used, developed or built upon, and not including any part of a street. See also, Lot, Corner.
- 2.1.49 *Lot, corner:* A lot abutting on two (2) or more streets at their intersection.
- 2.1.50 *Lot width:* The shortest distance between the side lot lines of the lot measured at the minimum setback line.
- 2.1.51 *Manufacturing:* Fabrication with hands or machinery.
- 2.1.52 *Manufacturing, heavy:* Fabrication of raw materials.
- 2.1.53 *Manufacturing, light:* Assembly of parts or materials fabricated off-site.
- 2.1.54 *Medical office:* The office of a physician, dentist, or other licensed medical professional.
- 2.1.55 *Mobile home:* Any vehicle or object, 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 foundations. It shall include the type of vehicle or modular construction commonly known as a mobile home, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

- 2.1.56 *Monopole*: The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top. The provisions of this bylaw applicable to any other free-standing device if, despite the explicit prohibition contained in this bylaw on any free-standing device other than a monopole, a court of competent jurisdiction, after the exhaustion of all appeals, requires such free-standing device be allowed. (10-27-97, Art. 10)
- 2.1.57 *Motel*: See Hotel; provided, however, that access to individual rooms may be available directly from the exterior of the building.
- 2.1.58 *Multi-family*: See Apartment Building.
- 2.1.59 *Non-conforming lot*: A non-conforming lot is an existing lawful lot, which does not conform to the regulations of the District in which it is located and which existed at the time of the publication of the notice of the hearing before the Planning Board or Board of Selectmen, whichever was first, respecting the regulation to which it does not conform.
- 2.1.60 *Non-conforming structure*: Any structure which does not conform to dimensional regulations or to the parking and loading requirements of this ordinance for the District in which it is located; provided that such structure was in existence and lawful at the time of the publication of notice of the hearing before the Planning Board or Board of Selectmen, whichever was first, respecting the regulation to which it does not conform.
- 2.1.61 *Non-conforming use*: An existing lawful use of land or building which does not conform to the regulations for the District in which such use of land or building exists and which existed at the time of the publication of notice of the hearing before the Planning Board or Board of Selectmen, whichever was first, respecting the regulation to which it does not conform.
- 2.1.62 *Nursery school*: A place for group pre-school training of children.
- 2.1.63 *Office park*: An area planned for occupancy of more than one (1) office building with shared common areas and/or parking area.
- 2.1.64 *Outdoor auto sales*: Automobile rental, leasing, and/or sales, or the storage of vehicles for rental, leasing and/or sales, but not including the service, repair or dismantling of any automotive vehicle, conducted in whole or in part in an area which is not enclosed within a building or structure.

- 2.1.65 *Parish house:* A building used for non-religious, non-residential, non-profit functions of a congregation or church.
- 2.1.66 *Parking space:* An area for temporary or permanent storage of a vehicle.
- 2.1.66.1 *Parking structure, open:* A structure for the parking of passenger cars wherein two (2) or more sides of such structure are not less than fifty (50) percent open on each floor or level for fifty (50) percent of the distance from the floor to the ceiling and wherein provisions for the servicing and repairing of such vehicles is not made. (5-2-88, Art. 19)
- 2.1.67 *Person:* The word person shall include a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
- 2.1.68 *Professional office:* An office of recognized professionals, such as physicians, dentists, lawyers, engineers, artists, musicians and teachers, who are qualified to perform services of a professional nature.
- 2.1.69 *Public or semi-public building or use:* A building or use owned or operated by a local, county, state or federal governmental agency.
- 2.1.70 *Rectory:* Parsonage or dwelling occupied by a rector, minister, priest, rabbi or similar person in charge of a congregation or church.
- 2.1.71 *Rooming house:* See Boarding house.
- 2.1.72 *Setback or line of setback:* The distance from a lot line to part of structure nearest the lot line measured at right angles to the lot line, not including cornices, walls and fences. (10-26-98, Art. 10)
- 2.1.73 *Sign:* Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.
- 2.1.74 *Special Permit:* As defined in Massachusetts General Laws Chapter 40A, Sections 9 and 9A.
- 2.1.75 *Storage:* The deposit and/or care of materials in a warehouse or otherwise for safekeeping and/or ultimate distribution.
- 2.1.76 *Story:* That portion of a building included between the surface of any one floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. One-half (½) story means any story or space

situated wholly or partly in the roof, so designed, arranged, or built to be used for storage or habitation.

2.1.77 *Street:* A way legally open and available for safe public travel under at least one of the following classifications:

- (a) A public way or way which the Town Clerk or Town Engineer certifies is maintained and used as a public way; or
- (b) A way shown on a definitive subdivision plan approved and endorsed in accordance with the Subdivision Control Law and recorded at the Registry of Deeds and constructed in accordance with said plan or having a sufficient performance guarantee to ensure completion of construction in accordance with said plan; or
- (c) A way in existence when the Subdivision Control Law became effective in the Town of Stoneham which, in the opinion of the Planning Board has sufficient width, suitable grade, adequate site distance and turning radius, complies with the engineering requirements for safe entry and egress to or from another way and has adequate construction to provide for the needs of vehicular and pedestrian traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon all in accordance with the requirements of the Department of Public Works.
- (d) A way constructed pursuant to the provisions of Section 7.5.2.3

A public or private way aforesaid shall not be deemed to be a "street" as to any lot of land that does not have rights of access to and passage over said way, except to the extent a way may provide the principal means of access for the granting of a building permit, otherwise permitted pursuant to the zoning Bylaws, for an accessory structure or for an addition, alteration or renovation of a building lawfully constructed prior to the adoption of Section 7.5.2.3 regardless of the type or nature of the way offering the principal means of access to said building or use. (5-5-97, Art. 2)

2.1.78 *Street line:* The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

2.1.79 *Structure:* Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings, or a foundation for attachment to the land to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, fence, platform, swimming pool or the like. (See Temporary Structure.)

- 2.1.80 *Swimming pool:* An artificial pool of water or a natural pool altered to have a depth of two (2) feet or more at any point or seventy-five (75) or more square feet of surface and used for swimming or bathing, located indoors or outdoors, together with the equipment, and appurtenances used in connection with the pool.
- 2.1.81 *Temporary structure:* A structure which is erected for use for not more than one (1) year. Such structures shall include tents, portable bandstands, bleachers, reviewing stands, a mobile home used in conjunction with construction activities or other structures of similar character.
- 2.1.82 *Tourist home:* See Hotel.
- 2.1.83 *Town house:* A single family dwelling attached to another single family dwelling in such a manner that each dwelling has a floor at ground level and front and rear access to the outside.
- 2.1.84 *Trailer:* Any vehicle or object which is drawn by a motor vehicle.
- 2.1.85 *Use:* A manner of utilizing, by design or intent, land or buildings for purposes, including maintaining premises, occupying premises, erecting, altering, restoration, enlargement or moving a building or structure upon land to accomplish such purpose.
- 2.1.86 *Variance:* As defined in Massachusetts General Laws Chapter 40A, Section 10.
- 2.1.87 *Warehousing:* The storage and/or distribution of goods and materials from a storehouse or center.
- 2.1.88 *Wholesale:* The sale of goods in large quantity for the purpose of resale.
- 2.1.89 *Wireless Communication Services:* Personal wireless services as defined in the Federal Telecommunications Act of 1996, as amended, by way of example but not limitations: personal wireless services includes cellular telephone services, personal communications services and commercial mobile radio service. (10-27-97)
- 2.1.90 *Wireless Service Facility:* Facility for the provision of personal wireless services as defined by the Federal Telecommunications Act of 1996, as amended; such facilities include but are not limited to transmitting and receiving equipment, antennas, antenna structures and supports and related structures or equipment which are accessory to such facilities. (10-27-97)
- 2.1.91 *Yard:* An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure, except for fences.
- 2.1.92 *Yard, front:* A yard extending across the full width of the lot and lying between the street line and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and front lot line.

- 2.1.93 *Yard, rear:* A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line.
- 2.1.94 *Yard, side:* A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.
- 2.1.95 *Wireless Communications Facilities:* Any and all materials, equipment, storage structures, towers, and antennas, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services. (5-5-97, Art. 5)

### **3.0 ESTABLISHMENT OF DISTRICTS**

#### **3.1 *DISTRICTS:***

- 3.1.1 For the purposes of this bylaw, the Town of Stoneham is hereby divided into the following districts:

Residence A

Residence B

Neighborhood Business

Business

Central Business (Overlay)

Highway Business

Commercial I, II, and III (10-29-98, Art. 22)

Medical

Recreation/Open Space

Education (5-7-98, Art. 13)

#### **3.2 *LOCATION OF DISTRICTS:***

Said districts are hereby established as shown on a map entitled "Stoneham, Massachusetts, Official Zoning Map," dated April 1, 2008. A true copy of which is on file in the office of the Town Clerk. Said map, together with all explanatory information thereon, is hereby incorporated into and made a part of this bylaw. (10-26-98, Art. 11) (5-5-08, Art. 7)

**3.3 INTERPRETATION OF DISTRICT BOUNDARIES:**

- 3.3.1 Where a boundary of a district is shown as following a street, railroad, or utility line the boundary shall be the center line thereof unless otherwise indicated.
- 3.3.2 Where boundaries are indicated as property or lot lines and the exact measurements are not defined, the true location shall be such boundary or lot lines.
- 3.3.3 Where boundary lines are fixed by distances from street, property, or lot lines, such measurements shall control.
- 3.3.4 Where a zoning district abuts a waterbody, it shall be considered to extend into said waterbody. Where a single district surrounds a waterbody, said waterbody shall be contained within that district. Where a waterbody is abutted by more than one district, the boundaries thereof shall be determined by the extension of the abutting district boundaries until they intersect within the waterbody.

**4.0 USE REGULATIONS****4.1 APPLICATION OF USE REGULATIONS:**

- 4.1.1 Except as provided in Sections 6.0 and 7.0 of this bylaw, all buildings or structures hereafter erected, reconstructed, altered, enlarged or moved, and all uses of land in the Town of Stoneham, shall be in conformity with the provisions of this Section 4.0.
- 4.1.2 Any use not specifically listed or otherwise permitted in a district herein established shall be deemed prohibited.
- 4.1.3 *Uses Permitted in All Districts:*
  - 4.1.3.1 Public building or use, but not including a correctional institution or a mental hospital. An area of up to twenty-five percent (25%) of the net floor area of a public building may be used for a non-public office use(s). (5-1-06, Art. 5)  
  
An area of up to twenty percent (20%) of any Town of Stoneham owned property used for a public use (other than property used or zoned for open space and recreation) may be used for a non-public use if said use (as a use) is: (i) non-residential, (ii) not inconsistent with said Town of Stoneham public use, and (iii) not more detrimental to the neighborhood than the current Town of Stoneham public use. (10-18-07, Art. 2).
  - 4.1.3.2 Agricultural uses including the sale of agricultural products raised in or on the subject land, provided, however, that such uses, unless permitted in accordance with Section 4.1.5.1 below, shall be limited to parcels containing at least five (5) acres.
  - 4.1.3.3 Horticulture, floriculture, and viticulture, provided that such uses shall be limited to parcels of land containing at least five (5) acres.

- 4.1.3.4 Motor vehicle parking serving uses not accessory to the public building or public use in the parking area of the public building or public use except on park land or on open space and recreation. (5-7-07, Art. 6)
- 4.1.4 *Uses Permitted with Site Plan Approval by the Board of Selectmen:*
- 4.1.4.1 Religious institutions, including places of worship, rectories, schools, or convents.
- 4.1.5 *Uses Permitted in all Districts on a Special Permit Granted by the Planning Board and Site Plan Approval by Board of Selectmen: (5-8-89)*
- 4.1.5.1 Agricultural uses including the sale of agricultural products raised in or on the subject land, on parcels containing less than five (5) acres.
- 4.1.5.2 Activities accessory to activities otherwise permitted within the District as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right.
- 4.1.5.3 For any permitted use, or permitted combined use, in a structure or group of structures on one building site comprising fifty thousand 50,000 square feet or more of gross floor area. (5-8-89, Art. 18)
- 4.1.6 *Uses Prohibited in All Districts:*
- 4.1.6.1 Race Tracks.
- 4.1.6.2 Tourist cabins, trailers and trailer camps.
- 4.1.6.3 Motels.
- 4.1.6.4 Quonset huts.
- 4.1.6.5 Carports.
- 4.1.6.6 The keeping of poultry, pigeons, dogs, pigs or other animals as a business, except as permitted by Section 4.7.3.5.
- 4.1.6.7 The removal of sod, loam, clay, gravel or stone except in conjunction with a development otherwise permitted by this bylaw and in accordance with the provisions of Section 6.8.10.
- 4.1.6.8 No commercial wireless communications facility, including but not limited to towers and antennas and no building or other structure utilized primarily for the installation, support or operation of a commercial wireless communications facility shall be erected, constructed or installed in the Town of Stoneham nor shall a permit for said construction be issued for a period of six months from the effective date of this by-law. This bylaw does not apply to the construction or use of facilities by a conforming federally licensed amateur radio as protected by Massachusetts General Laws C. 40A, Sec. 3 or television antennas which are accessory to a residential use.

If any section of this bylaw or portion thereof is declared invalid it shall not affect the validity or application of the remainder of the bylaw. If the six month moratorium period established hereby is determined by an authority or court of competent jurisdiction to be longer than allowed under law, the moratorium period shall be for the longest period of time allowed by law, but in no event less than three months. (5-5-97, Art. 5)

4.1.6.9 Junkyards. (10-26-98, Art. 12)

4.1.6.10 Pawnbrokers. (10-23-00, Art. 7)

## **4.2 RESIDENCE A DISTRICTS:**

4.2.1 *Purpose:*

4.2.1.1 The purpose of the Residence A District is to provide family suburban residential areas with related public and semi-public uses and accessory uses thereto.

4.2.2 *Uses Permitted:*

4.2.2.1 One-family dwelling.

4.2.2.2 Accessory uses which are proper and usual with residences and are not injurious to a neighborhood as a place for such residences, including:

- (a) Private garage for not more than three (3) cars.
- (b) Private swimming pool.
- (c) One accessory building subject to the following restrictions:
  - 1. Located in the rear yard or to rear of required front setback and behind actual setback line or structure;
  - 2. Maximum gross floor area one hundred thirty (130) square feet with side and rear setbacks of five (5) feet; provided that the structure is a minimum of ten (10) feet from any abutting principal use or detached garage;
  - 3. Maximum gross floor area of two hundred fifty (250) square feet provided that the accessory building complies with the minimum setback requirements for the district contained in Section 5.2.1;
  - 4. Maximum height of fifteen (15) feet.(5-4-09, Art.10)
- (d) One (1) unregistered motor vehicle per lot; provided that it is not a commercial vehicle with a gross vehicle weight greater than seventeen thousand five hundred (17,500) pounds and that this provision shall not be applicable to any

unregistered motor vehicle housed exclusively in a garage on the premises. (10-26-98, Art. 13)

- (e) Parking of a commercial vehicle with a registered gross vehicle weight of no greater than seventeen thousand five hundred (17,500) pounds. (10-26-98, Art. 13)

Provided, however, that an accessory building or other building, if located in the rear of the principal building with no direct frontage on a public or private way, shall not be used for residence purposes.

4.2.2.3 Home occupations or professional offices, provided that:

- (a) Not more than one (1) non-resident shall be employed therein.
- (b) The use is carried on strictly within the principal building.
- (c) Not more than forty (40) percent of the existing gross floor area, but not to exceed five hundred (500) square feet, is devoted to such use.
- (d) That there shall be no display of goods, wares, or equipment visible from the street.
- (e) There shall be no advertising on the premises other than a small non-electrical sign not to exceed one (1) square foot in area and carrying only the name and occupation of any occupant of the premises such as artisan, tutor, day nurse, lawyer, architect, engineer, clergyman, accountant and similar occupations or professions.
- (f) The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way.
- (g) The building shall include no features of design not customary in buildings for residential use.
- (h) Such use as physicians, osteopaths, dentists, clinics, barber shops, beauty parlors, tea rooms, real estate offices, tourist homes, animal hospitals, kennels, animal services and others of a similar nature offering services to the public shall not be considered home occupations.

4.2.3 *Uses Permitted with Variances Granted by the Board of Appeals:*

4.2.3.1 Conversion of an existing dwelling to accommodate more than one (1) dwelling unit, provided that:

- (a) The building was in existence at the time of adoption of this Section.

- (b) In addition to the requirements of Section 5.0, there shall be a lot area equivalent to the minimum lot area required within the District for each dwelling unit.
- (c) In addition to the requirements in Section 6.0, there shall be at least one (1) off-street parking space for each bedroom or efficiency unit in the converted portion of the structure.
- (d) Each unit shall be a complete and independent dwelling unit.
- (e) The exterior appearance of the structure shall not be altered except for:
  - 1. Stairways and exits required by law.
  - 2. Restoration consistent with the original architecture of the structure.
  - 3. Additions in the rear or side yards which are not visible from the street and which are not more than ten (10) percent of the original floor area.

**Cross-reference**—Unlawfully parking large vehicles on street, Sec. 8-8.

4.2.4 *Uses Permitted on a Special Permit Granted by the Planning Board:*

4.2.4.1 Accessory Dwellings (family apartments)

- (a) Owner occupancy required: The owner(s) of the single-family lot and dwelling upon which the accessory dwelling unit, or family apartment, is located or to be located shall occupy at least one (1) of the dwelling units on the subject property. The Special Permit shall be issued to the owner of the subject property and shall be filed with the Registry of Deeds and the Planning Board shall forward a copy to the Inspector of Buildings. In the event there is a change in ownership of the subject property via a transfer to a family member an amendment to the Special Permit must be applied for. The Planning Board retains rights of rescission should any portion of conditions be violated.
- (b) In the event a change in residence of either family member occurs, or a conveyance occurs that is to someone other than a family member, or a voluntary surrender of the Special Permit, the subject property will automatically revert to a single family dwelling and no longer enjoy the rights granted under the Special Permit that allowed for the accessory dwelling. This does not preclude a new application for a Special Permit in accordance with the described use at any time in the future.
- (c) The gross floor area of the accessory dwelling, or family apartment, shall not exceed 750 square feet under any circumstance or condition. The accessory dwelling unit must be attached to the subject property primary dwelling unit by way of minimum shared wall coverage of 75% (of length). In addition all utility

services shall be single service (meter) to the subject property primary dwelling and accessory dwelling.

- (d) One additional parking space shall be provided for the accessory dwelling, or family apartment, in addition to a minimum of two spaces for the principal unit, or other parking requirements as determined by the Planning Board.
- (e) Occupancy of the accessory dwelling, or family apartment, shall be limited to two people and may not be used for business or commercial purposes.
- (f) A deed restriction for the affected lot must be filed with the Registry of Deeds to the effect that principal dwelling or accessory dwelling, or family apartment, be owner occupied as a condition for the issuance of an occupancy permit for the subject accessory dwelling, or family apartment.
- (g) Construction and occupancy of the accessory dwelling, or family apartment shall comply with all applicable state, federal, and local laws and regulations. No Certificate of Occupancy shall be issued until evidence of the recording of the Special Permit and Deed Restriction has been provided to the Planning Board and Building Inspector.
- (h) Ownership of the principal dwelling and the accessory dwelling, or family apartment, shall be one and the same, and may not be separated. There shall be one accessory dwelling allowed per single family dwelling. There is to be no other apartment or accessory dwelling unit on the subject lot. (10-27-03, Art. 21)

### **4.3 RESIDENCE B DISTRICT:**

4.3.1 *Purpose:* The purpose of the Residence B District is to provide residential areas of medium intensity with a variety of housing types.

4.3.2 *Uses Permitted:*

4.3.2.1 All of the uses and accessory uses permitted in Residence A District.

4.3.2.2 A dwelling containing one (1) or two (2) dwelling units.

4.3.3 *Uses Permitted on a Special Permit granted by the Planning Board and Site Plan Approval by the Board of Selectmen:* (5-1-95, Art. 11)

4.3.3.1 Multiple family dwellings, including apartment houses, garden apartments, and town houses, provided that:

- (a) Apartment sites and improvements and structures thereon, except structures regulated by Chapter 183A, Massachusetts General Laws, shall be constructed and retained as a single entity.

- (b) Off-street parking shall be provided as required by Section 6.3, provided that:
  - 1. All parking spaces shall be located to the rear of the front building line.
  - 2. If all the required parking area for a building containing dwelling units is enclosed within the structure of the buildings, the height regulation of Table One may be raised by ten (10) feet for that building.
- (c) Each structure shall be connected to and serviced by municipal water and sewer.
- (d) There shall be seven hundred and fifty (750) square feet of usable common open space per dwelling unit. Usable common open space shall mean areas left substantially in a natural state or improved by such landscaping as required in Section 6.5 and primarily designed and intended for the active and passive recreation of the occupants of the dwellings. Usable common open space shall not include street rights-of-way, open parking, or service areas, driveways, easements for above-ground utilities, required minimum front yards, or any other land deemed unsuitable by the Planning Board or the Board of Selectmen for reasons of excessive slope or poor drainage. (5-1-95, Art. 11)
- (e) In cases of public open space dedicated in fee to the Town, such as open space shall be maintained as a public area, accessible to the public.
- (f) In cases of the sale of individual units as in a condominium, there shall be included in the deed a requirement obligating the purchasers to join in an organization of unit owners incorporated under Chapter 183A of the General Laws of the Commonwealth of Massachusetts, as amended. The organization shall file a written report, including the names of officers, with the Town Clerk, to be submitted to the Town Clerk by February 15 of each year. Such report may be the same written report rendered to all unit owners referred to in Chapter 183A, Section 10, Paragraph d.
- (g) All existing or proposed utilities shall be installed underground at the time of initial construction.
- (h) If there is more than one (1) such structure on a lot of record, there shall be at least sixty (60) feet between each structure. The only exception may be that no more than three (3) buildings may each be interconnected by a covered walkway or breezeway for reasons of convenience and shelter from the elements, if such walkway, in the opinion of the Planning Board and the Board of Selectmen, shall not impair services to the buildings by emergency vehicles or equipment. Such buildings so interconnected shall be deemed as separate and individual buildings for the purposes of administering the Rules and Regulations Governing the Subdivision of Land for the Town of Stoneham. (5-1-95, Art. 11)

- (i) The applicant must provide documentation that the site is satisfactory as to drainage, water supply, and sewage disposal for the number of units to be constructed, such documentation to be prepared by a registered professional engineer.

4.3.4 *Uses Permitted on a Special Permit Granted by the Planning Board:*

4.3.4.1 All of the uses permitted on a Special Permit in Residence A Districts.

4.3.4.2 Lodging house or congregate housing.

4.3.4.3 Sanitarium or convalescent home.

4.3.4.4 Conversion of an existing dwelling to accommodate one (1) additional unit over that otherwise permitted, provided that:

- (a) The building was in existence at the time of adoption of this Section.
- (b) In addition to the requirements of Section 5.0, there shall be a minimum additional lot area of two thousand five hundred (2500) square feet for each newly created unit.
- (c) In addition to the requirements in Section 6.0, there is at least one (1) off-street parking space for each bedroom and efficiency apartment in the converted portion of the structure, which space shall not be provided in the front or side yard.
- (d) There is provision for screening by fencing or landscaping of outside storage areas.
- (e) No unit shall have a floor area of less than five hundred (500) square feet plus one hundred (100) square feet for each bedroom over one (1).
- (f) (f) The floor area of the newly created unit(s) shall be less than fifty (50) percent of the total floor area of the principal dwelling unit, after conversion.
- (g) (g) Each unit shall be a complete and independent dwelling unit.
- (h) (h) The exterior appearance of the structure shall not be altered except for:
  1. Stairways and exits required by law, which shall be in the rear of the building.
  2. Restoration consistent with the original architecture of the structure.
  3. Additions in the rear or side yard which are not more than ten (10) percent of the original floor area.

**Cross reference**—Unlawfully parking large vehicles on street, Sec. 8-8.

**4.4 NEIGHBORHOOD BUSINESS DISTRICT:**

4.4.1 *Purpose:* The purpose of the Neighborhood Business District is to provide area for retail sales and services to satisfy daily need and convenience for a neighborhood or group of neighborhoods.

4.4.2 *Uses Permitted:*

4.4.2.1 The following uses are permitted provided that there is no outside display, sales or storage or live or mechanical music or amusement:

- (a) Retail store with a maximum gross floor area of five thousand (5000) square feet per floor.
- (b) Service shop, such as barber shop, beauty shop, dry cleaning pick-up shop, with a maximum gross floor area of two thousand (2000) square feet.
- (c) Repair shop, such as shoe repair, appliance or electronic repair, jewelry repair, with a maximum gross floor area of two thousand (2000) square feet.
- (d) Enclosed accessory uses normally incidental to the permitted uses.

4.4.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:* (10-21-85, Art. 15; 5-4-87 - See editor's note below)

4.4.3.1 Restaurant where food and beverages are consumed indoors with a maximum gross floor area of two thousand (2000) square feet and where there is no drive-in service.

4.4.3.2 Combined business-residential use in one building, provided that the residential use shall be permitted above or below the ground floor and further provided that no more than five (5) dwelling units shall be allowed in a building. (5-3-99, Art. 20)

4.4.3.3 Conversion of a residence existing at the time of adoption of this Section to combined business and residence use or to multiple dwelling units, provided that in either case no more than two (2) dwelling units shall be allowed in a building.

**Editor's note**—Amendment of Sec. 4.4.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

**4.5 BUSINESS DISTRICT:**

4.5.1 *Purpose:* The purpose of the Business District is to provide an area for retail sales and services and other uses associated with a Central Business District.

4.5.2 *Uses Permitted with Site Plan Approval:*

4.5.2.1 All of the uses and accessory uses permitted in the Neighborhood Business District, subject to the same conditions.

- 4.5.2.2 Bank, financial, business, or professional office, telephone exchange.
- 4.5.2.3 Salesroom, showroom, department store or place for the conduct of retail business in a structure.
- 4.5.2.4 Restaurant, public dining room or lunch room, not including any drive-through facilities.
- 4.5.2.5 Accessory uses normal and incidental to uses permitted in Business Districts, including:
  - (a) Business accessory parking, provided that there is no repair, servicing, sale or storage of motor vehicles and vehicle parts.
  - (b) Off-street loading.
  - (c) Customary business accessory uses, excluding trailers, but including outside storage not to exceed 10% of the total lot for lots one (1) acre or less or 5% for lots greater than one (1) acre, provided that said storage shall be a minimum of ten (10) feet from any property line. (4-03-01, Art. 12)
- 4.5.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen: (5-4-87, Art. 15)*
  - 4.5.3.1 Hall, club, theater, dance hall, dancing school, gymnasium, library and museum or other place of amusement or assembly within a structure.
  - 4.5.3.2 Hotel.
  - 4.5.3.3 Funeral Home or mortuary.
  - 4.5.3.4 Retail business and service establishment for motor vehicles, subject to the following:
    - (a) Repairs shall be limited to minor repairs and adjustments unless conducted within a building.
    - (b) There shall be no outside storage of motor vehicles on the premises other than those awaiting delivery, or required in the operation of the garage or repair shop.
    - (c) The lot exclusive of required landscaping areas shall be paved.
- 4.6 ***CENTRAL BUSINESS DISTRICT:***
  - 4.6.1 *Purpose:* The purpose of the Central Business District is to preserve and improve the character and qualities of Stoneham Square.
  - 4.6.2 *Uses Permitted:*

- 4.6.2.1 All the uses permitted in the Business District, subject to the same conditions.
- 4.6.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:* (10-21-85, Art. 15; 5-4-87, Art. 15 - See editor's note below)
- 4.6.3.1 Dwellings above the first floor of a building used for one of the uses allowed in Section 4.6.2.

**Editor's note**—Amendment of Sec. 4.6.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

#### **4.7 HIGHWAY BUSINESS DISTRICT:**

- 4.7.1 *Purpose:* The purpose of the Highway Business District is to provide areas for shopping centers, businesses and services which are highway oriented and/or serve a transient population.
- 4.7.2 *Uses Permitted with Site Plan Approval by the Board of Selectmen:*
- 4.7.2.1 Office, bank or financial institution.
- 4.7.2.2 Retail store or service establishment.
- 4.7.2.3 Salesrooms for automobiles, bicycles, boats, farm implements and similar equipment.
- 4.7.2.4 Building materials salesrooms.
- 4.7.2.5 Photographic studios, medical and dental offices and laboratories and clinics. (10-29-98, Art. 14)
- 4.7.2.6 Accessory uses within a principal structure.
- 4.7.2.7 Restaurant excluding those permitted in 4.7.3.6.
- 4.7.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:* (10-21-85; 5-4-87, Art. 15)
- 4.7.3.1 Any retail establishment or establishments with a combined gross floor area fifty thousand (50,000) square feet or more. (10-21-85, Art. 15; 5-8-89, Art. 19)
- 4.7.3.2 Hotels.
- 4.7.3.3 Indoor recreation or amusements, including entertainment such as theaters, provided that:
- (a) Noise is confined to the building.
- (b) Such building is located at least seventy-five (75) feet from structures used or zoned for residential purposes.
- 4.7.3.4 Funeral homes, chapels, mortuaries, and crematoriums.

- 4.7.3.5 Commercial greenhouses, nurseries, and kennels, provided that:
- (a) All displays are set back at least thirty (30) feet from the street right-of-way.
  - (b) The paved area shall be screened in accordance with the provisions of Section 4.7.3.7 (e) below.
- 4.7.3.6 Drive-in, drive-through or fast food restaurants, and other drive-in retail establishments provided that:
- (a) No vehicles waiting service park or stand on a public way.
  - (b) The paved area shall be screened in accordance with the provisions of Section 4.7.3.7 (e) below.
- 4.7.3.7 Retail business and service establishments for the retail distribution of petroleum products, not including wholesale fuel storage and distribution areas, subject to the following:
- (a) Repairs shall be limited to minor repairs and adjustments unless conducted within a building.
  - (b) There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery, or required in the operation of the service station, garage or repair shop.
  - (c) The area used to service, repair or store vehicles shall be paved.
  - (d) There shall be an area at least fifteen (15) feet deep between the street line and the paved area which shall be separated from the street by a curb and which shall be seeded and landscaped except at an entrance and exit which shall be at least twenty (20) feet wide and at least fifty (50) feet apart, and further provided that there shall be only one (1) entrance and one (1) exit for each one hundred and fifty (150) feet of street frontage.
  - (e) The paved area shall be screened from all adjacent lots, whether on the side or rear, by a strip fifteen (15) feet wide, densely planted with shrubs or trees, which are at least three (3) feet high at the time of planting and are of a type which may be expected to form a year- round dense screen at least five (5) feet high within three (3) years. This screening should not obstruct a view of on-coming traffic when entering or exiting the property.
- 4.7.3.8 Places of amusement or entertainment, including skating rinks; dance halls; restaurants or other establishments with live entertainment; theaters.
- 4.7.3.9 Deleted (12-2-96). See Section 4.14.4.2.

**Editor's note**—Amendment of Sec. 4.7.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

**4.8 COMMERCIAL DISTRICT I: (10-29-98, Art. 22)**

- 4.8.1 *Purpose:* The purpose of the Commercial District I is to provide areas for light manufacture, assembly, research, industrial parks, office parks, high technology and similar uses. (10-29-98, Art. 22)
- 4.8.2 *Uses Permitted with Site Plan Approval by the Board of Selectmen:*
- 4.8.2.1 Research Laboratory.
- 4.8.2.2 Office Building.
- 4.8.2.3 Light Manufacturing.
- 4.8.2.4 Veterinary Hospital.
- 4.8.2.5 Office Parks.
- 4.8.2.6 Industrial Parks.
- 4.8.2.7 Retail store, service establishment, and retail business of which the gross floor area of the store or establishment is not greater than three thousand (3,000) square feet. (5-8-89, Art. 20)
- 4.8.2.8 Restaurant, public dining room or lunch room, not including any drive-through, of which the gross floor area of said restaurant, public dining room or lunch room, shall not be greater than three thousand (3,000) square feet and provided that the site in total contains fifty thousand (50,000) square feet or more of gross floor area. (10-30-89, Art. 1)
- 4.8.2.9 Deleted. [Refer to 4.14] (10-29-98, Art. 22)
- 4.8.2.10 Medical and dental offices and laboratories and clinics.
- 4.8.3 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:* (10-21-85, Art. 15; 5-4-87, Art. 12 - See editor's note below)
- 4.8.3.1 Utility buildings, contractor's storage warehouses and buildings, and wholesale distribution plants.
- 4.8.3.2 Passenger depots and terminals.
- 4.8.3.3 Retail store, service establishment, and retail business with gross floor area in excess of three thousand (3,000) square feet; and service establishment for the retail distribution of petroleum products, provided that such shall not permit gasoline service stations and garages. (10-21-85, Art. 15; 5-8-89, Art. 12)
- 4.8.3.3.1 Any retail store, service establishment or retail business with a combined gross floor area of seventy-five thousand (75,000) square feet or more. (5-8-89, Art. 12)

- 4.8.3.4 Automobile repair services provided that:
- (a) All service is performed within an enclosed structure.
  - (b) Such building shall be located not less than three hundred (300) feet from properties used or zoned for residential purposes, and not less than six hundred (600) feet from a school.
  - (c) Such building shall be set back at least fifty (50) feet from the street right-of-way.
  - (d) No motor vehicles in an inoperative condition are to remain on such site for more than a two (2) week period unless enclosed in a building or fenced or screened from abutting properties and streets.
  - (e) Screening in accord with Section 6.5 shall be provided and maintained along all adjacent property boundaries.
- 4.8.3.5 Banquet Facilities, Function Halls and Dinner Theaters. (7-28-03, Art. 3)
- 4.8.3.6 Senior Residential Overlay (SRO) District (See Section 4.16 Senior Residential Overlay (SRO) District for additional regulations and requirements)

**Editor's note**—Amendment of Sec. 4.8.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

#### **4.9        *MEDICAL DISTRICT:***

- 4.9.1        *Purpose:* The purpose of the Medical District is to provide an area for hospitals and services related to said hospitals, and medical offices and residential uses related to the Medical District uses.
- 4.9.2        *Uses Permitted with Site Plan Approval by the Board of Selectmen:*
- 4.9.2.1      Convalescent home, nursing home, life care facility, day care facility.
- 4.9.2.2      Residential uses related to any other allowed uses in the Medical District provided that the total residential uses shall not exceed forty percent (40%) of the total area of a lot or all contiguous lots in the Medical District.
- 4.9.3        *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:*(5-4-87, Art. 15) (See editor's note below)
- 4.9.3.1      Semi-public, philanthropic, or charitable institutions, but not including a correctional institution or a place of detention.
- 4.9.3.2      Library or museum.
- 4.9.3.3      Hospital.
- 4.9.3.4      Health Care Facility.

- 4.9.3.5 Activities accessory to uses otherwise permitted, either with Site Plan Approval and by Special Permit, within the District, including medical professional offices and medical schools or training facilities. (5-7-87, Art. 5)

**Editor's note**—Amendment of Sec. 4.9.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

**4.10 RECREATION/OPEN SPACE DISTRICT:**

- 4.10.1 *Purpose:* The purpose of the Recreation/Open Space District is to provide areas of low intensity public and semipublic uses which serve to protect and preserve the water supply, ground water quality and natural features and/or features which serve a regional purpose.

4.10.2 *Uses Permitted:*

- 4.10.2.1 Conservation areas for water, water supply, plants, and wildlife, flood protection and dams necessary for achieving these purposes.

- 4.10.2.2 Agriculture, floriculture, horticulture, viticulture, forests, and tree farms, provided that any equipment necessary for these uses is normally stored in an enclosure, and is not visible from District or property boundaries.

- 4.10.2.3 Cemeteries.

- 4.10.2.4 Recreational, cultural, civic and not for profit expositions when the land/structures are owned by the Town of Stoneham. (5-12-86)

- 4.10.3 *Uses Permitted on a Special Permit Granted by the Planning Board and the Board of Selectmen:* (5-4-87, Art. 15) (See editor's note below)

- 4.10.3.1 Recreational, cultural, civic and not for profit expositions when the land/structures are not owned by the Town of Stoneham. (5-12-86)

- 4.10.3.2 Zoos, public gardens, day camps, picnic areas and nature study areas.

- 4.10.3.3 Accessory uses, including snack bars, pro shops and retail sales in connection with and incidental to a permitted use.

**Editor's note**—Amendment of Sec. 4.10.3 on 5-4-87 added the requirement of site plan approval to the existing special permit requirement.

**4.11 WIRELESS SERVICE FACILITIES OVERLAY DISTRICT: (10-29-98, Art.20)**

- 4.11.1 *Purpose:*

This bylaw is adopted for the regulation and restriction of the construction, erection, installation, placement and/or use of Wireless Service Facilities and the protection of

the general public from the impacts associated with Wireless Service Facilities. It is the purpose of this bylaw to: (1) minimize the adverse impacts of wireless communications facilities on adjacent properties and residential neighborhoods; (2) limit the overall number and height of such facilities; (3) encourage the most appropriate use of the land; (4) promote shared use of existing facilities to reduce the need for additional facilities and (5) guide sound development while promoting the health, safety and general welfare of the Town consistent with applicable federal law. This bylaw is intended to be used in conjunction with any and all other applicable bylaws and regulations adopted by the Town. (10-29-98, Art. 20)

#### 4.11.2 *Applicability:*

The provisions of other sections of this zoning bylaw notwithstanding, the regulations and restrictions set forth herein shall apply to the construction, erection, installation, placement and/or use of Wireless Service Facilities including, but not limited to personal wireless service facility and free-standing devices. No Wireless Service Facility shall be constructed, erected, installed, placed and/or used on land, buildings, and/or structures within the Town of Stoneham on or after the date of enactment of this bylaw except in accordance with the provisions of this Section 4.11. Wireless Service Facilities lawfully in existence on the date of enactment of this bylaw may be maintained and shall be kept in good condition. (10-29-98, Art. 20)

This section does not apply to the construction or use of facilities by a conforming federally licensed amateur radio used in accordance with said license as protected by Massachusetts General Laws c.40A, Sec. 3 or television antennas, including so-called satellite dishes, which are necessary to a residential use and protected by applicable federal law. (10-29-98, Art. 20)

#### 4.11.3 *Uses Permitted:*

The following Wireless Service Facilities may be constructed, erected, installed and/or used in the Wireless Service Facilities Overlay District subject to the issuance of a building permit by the Inspector of Buildings:

- (a) A Wireless Service facility may be installed on: (i) a building, excluding buildings used for one to four family residential use or (ii) other structure, excluding any structure constructed or used primarily as a mount for antennas or other appurtenances to a Wireless Service Facility and excluding utility or similar poles and billboards or signs, provided that such Wireless Service Facility, including its supports, is:
  1. Finished in a manner designed to be aesthetically consistent with the exterior finish of such building or structure, and
  2. Mounted in such a manner so that it does not:

- (a) Extend above the building height (not including any structures on the roof of the building) by more than fifteen (15') feet.
- (b) Extend above the height of a structure other than a building by more than 15 feet;
- (c) Extend beyond the face of any wall, or exterior surface in case of structures that do not have walls, by more than 18 inches;
- (d) Extend below the top of any wall, or exterior surface in case of structures that do not have walls, by more than 12 feet;

When a Wireless Service Facility extends above the height of a building or the face of a structure as provided in subparagraphs (a) and (b), above, the Wireless Service Facility shall extend the minimum necessary for the proper functioning of the Wireless Communication Services to be provided by the Wireless Service Facility at that location, and every effort shall be made to conceal the Wireless Service Facility within or behind existing architectural features to limit its visibility from public ways. A Wireless Service Facility mounted on a roof shall be stepped back from the front facade in order to limit its impact on the building's silhouette; and

- 3. Individually or in the aggregate have a front surface facing surrounding streets and adjacent properties that does not exceed fifty (50) square feet in area.
- (b) A Wireless Service Facility installed wholly within and not protruding from the interior space of any existing building or structure, excluding buildings used for one to four family residential use.
- (c) A Wireless Service Facility used exclusively for non-commercial municipal public safety purposes.

Wireless Service Facilities constructed, erected, installed, placed and used pursuant to this as-right provision shall, unless otherwise provided, also be subject to the following Sections of this bylaw: 6.11.3.4 Color, 6.11.3.8 Lighting, 6.11.3.10 Historic, 6.11.4 Environmental Standards, 6.11.5 Safety Standards, 6.11.6.6 Noise Filing Requirements, 6.11.6.7 Radio Frequency Radiation Requirements, 6.11.8 Monitoring and Maintenance, and 6.11.10 Abandonment or Discontinuance of Use. (10-25-99, Art. 24)

#### 4.11.4 *Severability*

If any section of this bylaw or portion thereof is declared invalid it shall not affect the validity or application of the remainder of the bylaw. Or do anything, including but

not limited to changing the locations and/or heights allowed for Wireless Service Facilities. (10-29-98, Art. 20)

**4.12**     ***EDUCATION DISTRICT:*** (5/7/98, Art.13) (See editor's note)

4.12.1     *Purpose:*

The purpose of the Education District is to provide an area for educational instruction and recreation.

4.12.2     *Uses Permitted:*

- 4.12.2.1   Educational facilities owned or operated by the Town of Stoneham as utilized by the Stoneham School Committee for educational purposes or operated by any other governmental entity for educational purposes.

**Editor's Note** —The Education District was renumbered as 4.12 from 4.13 to allow for Commercial District II as a result of the October 26, 1998 Town Meeting, Article 22.

**4.13**     ***COMMERCIAL/MIXED USE DISTRICT:***

- 4.13.1     *Purpose:* The purpose of the Commercial / Mixed Use District is to provide for the development and redevelopment of the Fallon Road area. The district provides for a wide range of uses, including residential and mixed commercial, office, and residential use buildings, while continuing to provide for the light industrial and office uses that have occupied the area since the 1960s.

4.13.2     *Uses Permitted with Site Plan Approval by Board of Selectmen:*

- 4.13.2.1   Restaurant, public dining room or lunch room with a gross floor area not greater than five thousand (5,000) square feet
- 4.13.2.2   Retail store, service establishment, and retail business with gross square floor area not greater than fifty thousand (50,000) square feet.
- 4.13.2.3   Medical and dental offices, laboratories and clinics.
- 4.13.2.4   Office Buildings.
- 4.13.2.5   Office Parks.
- 4.13.2.6   Research Laboratory with uses such as, but not limited to, electronics, engineering, and software.
- 4.13.2.7   Light Manufacturing.
- 4.13.2.8   Industrial Parks.

- 4.13.3 *Uses permitted with a Special Permit Granted by Planning Board:*
- 4.13.3.1 Wireless Service Facility (including its supports) subject to the provisions of 6.11 Wireless Service Facility Regulations and Restrictions.
- 4.13.4 *Uses Permitted with a Special Permit Granted by the Planning Board and Site Plan Approval by Board of Selectmen: (10-21-85, Art. 15; 5-4-87, Art. 12 – See editor’s note below)*
- 4.13.4.1 Restaurant, public dining room or lunch room with gross floor area of greater than five thousand (5,000) square feet with or without drive through facilities.
- 4.13.4.2 Retail store, service establishment, and retail business with gross floor area greater than fifty thousand (50,000) square feet.
- 4.13.4.3 Hotels including both full service and extended stay and related accessory uses in support of a hotel such as fitness and dining facilities, business center, restaurant, meeting rooms and retail shops wholly within the premises.
- 4.13.4.4 Research and Development Laboratory engaged in any one of the following: research, experimental and testing activities and production; including but not limited to the fields of life sciences, biology, chemistry, electronics, engineering, geology, medicine and physics excluding any high hazard uses.
- 4.13.4.5 Mixed Use Building
- (a) Buildings with residential units shall also meet the standards in section 4.13.4.12.
- 4.13.4.6 Elder Congregate housing, resident care living facility, including without limitation, nursing facility, assisted living facility, hospice care facility and long term care facility.
- 4.13.4.7 Utility facility such as an electric substation or sanitary sewer pump station.
- 4.13.4.8 Contractor’s storage warehouses and buildings, and wholesale distribution plants.
- 4.13.4.9 Auto repair services provided that:
- (a) All service is performed within an enclosed structure.
- (b) Such building shall be located not less than three hundred (300) feet from properties used or zoned for residential purposes, and not less than six hundred (600) feet from a school.
- (c) Such building shall be set back at least fifty (50) feet from the street right-of-way.

- (d) No motor vehicles in an inoperative condition are to remain on such site for more than a two (2) week period unless enclosed in a building or fenced or screened from abutting properties.

4.13.4.10 Banquet Facilities, Function Halls, and Dinner Theaters.

4.13.4.11 Garden or Town house Design Dwelling Units, not to exceed One Hundred Fifty (150) units in the Commercial/Mixed Use District, provided that:

- (a) Each structure shall be connected to and serviced by municipal water and sewer.
- (b) Planning Board may require a portion of the property to be open space.
- (c) All existing or proposed utilities shall be installed underground at the time of initial construction.
- (d) The applicant must provide documentation to the Planning Board that the site is satisfactory in regard to drainage, water supply, and sewage disposal for the number of units to be constructed, such documentation to be prepared by a registered professional engineer and approved by the Planning Board.

4.13.4.12 Off-Street Parking, Layout, Screening and Loading Requirements for Commercial/Mixed Use District are in accordance with Section 6.3 except as follows:

- (a) Minimum required parking of 1.7 parking spaces per dwelling unit.
- (b) Parking spaces shall be a minimum of eight (8') feet by sixteen (16') feet.
- (c) Minimum aisle width of twenty-two (22') feet.
- (d) No minimum or maximum for the number of driveways permitting entrance to and exit from a lot to a street.
- (e) Parking spaces shall be on the same lot as the principle use except that parking spaces may be provided on an adjacent lot provided there is a recorded parking easement for said parking.
- (f) Tandem parking spaces are allowed for Town house use.
- (g) One level of parking within the building footprint is allowed beneath the uses permitted as described in 4.13.4.12 above.
- (h) No requirement for off-street loading area for Garden or Town house design residential use and a minimum of one (1) off-street loading area per office or retail building,

**4.14 COMMERCIAL DISTRICT III:** (10-29-98, Art. 22)

4.14.1 *Purpose:* The purpose of the Commercial District III is to provide areas for light manufacture, assembly, research, industrial parks, office parks, high technology and similar uses, wireless service facilities, large scale retail and other uses.

4.14.2 *Uses Permitted with Site Plan Approval by the Board of Selectmen:*

4.14.2.1 All uses permitted with Site Plan Approval in Commercial District II.

4.14.2.2 Any retail store, service establishment or retail business with a combined gross floor area of no less than one hundred thousand (100,000) square feet or more than one hundred fifty thousand (150,000) square feet. (5-3-93, Art. 6)

4.14.2.3 Truck deliveries restricted to the hours of 7:00 A.M. to 3:00 P.M. No deliveries allowed on Sunday. (5-3-93, Art. 6)

4.14.2.4 The establishment shall not open until 9:00 A.M. except Sundays when they may not open until 12 noon. (5-3-93, Art. 6)

4.14.3 *Uses permitted on a Special Permit Granted by Planning Board:*

4.14.3.1 Wireless Service Facility (including its supports)subject to the provisions of 6.11 Wireless Facility Regulations and Restrictions.

4.14.4 *Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:* (10-21-85, Art. 15; 5-4-87, Art. 12 - See editor's note below)

4.14.4.1 All uses permitted on a Special Permit and Site Plan Approval in Commercial District I.

4.14.4.2.1 Body Art Establishments (4-0301, Art. 10)

4.14.4.2.2 Adult Uses - an establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other matter or material for sale, rental, distribution, or exhibition, which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Sec. 31, including, but not limited to the following: adult bookstores, adult dance clubs, adult motion picture theatre, adult paraphernalia store, adult theatre, adult video stores and establishments which display live nudity for their patrons, subject to the following:

(a) An adult use may not occur or be located:

- i. Within 300 feet of a lot line of a church or other place of worship;
- ii. Within 300 feet of a public park, playground or athletic field;

- iii. Within 300 feet of public or private elementary or secondary school or licensed day care center.
  - iv. Within 1000 feet of any other adult use within the Town of Stoneham;
  - (b) With the exception of an adult motion picture theatre, adult theatre and establishments which display live nudity for their patrons, adult entertainment uses may not exceed three thousand (3,000) square feet gross floor area. In addition all adult uses are subject to lawful conditions imposed pursuant to Section 7.4.3 of these bylaws and the site plan process, regardless of whether or not more restrictive than a provision of this Section.
  - (c) No advertisement, display or other promotional material which contains nudity, sexually explicit graphics or sexually explicit text shall be visible to the public from outside of the building.
  - (d) No special permit shall be issued to any person convicted of violating the provisions of section sixty-three of chapter one hundred and nineteen (G.L. c. 119, Sec. 63) or section twenty-eight of chapter two hundred and seventy-two (G.L. c.272, Sec. 28).
  - (e) A special permit granted under this section shall lapse within two years, and 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 a permit for if construction has not begun by such date except for good a cause. (12-2-96, Art. 4)
- 4.14.4.3 In addition to the requirements of this Section, the special permit granting authority shall adopt and from time to time amend rules relative to the issuance of special permits hereunder, and shall file a copy of said rules in the office of the town clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for a submission and approval of such permits. (12-2-96, Art. 4)

It is the purpose and intent of this bylaw to address and mitigate the secondary effects of sexually oriented businesses referenced herein, since such secondary effects have been found by the Board of Selectmen and Planning Board of Stoneham and after other public input, to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the quality of life in the town, all of which secondary impacts are adverse to the health, safety and general welfare of the Town of Stoneham and its present and future inhabitants. The provisions of this bylaw have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose, intent nor effect of this bylaw to restrict or deny access by adults to sexually oriented matter

or materials protected by the Constitution of United States or of the Commonwealth of Massachusetts, nor restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute or exhibit such matter or materials. Neither is it the intent nor effect of this bylaw to legalize the distribution of obscene matter or materials. (12-2-96, Art. 4)

**Editor's Note** — West of I-93 bounded by Woburn/Stoneham Line.

**Editor's Note** — Amendment of Sec. 4.8.3 on 5-4-87 added the requirement of site plan approval to the existing special Permit requirement.

#### **4.15 MEDICAL/OFFICE/RESIDENTIAL/DISTRICT:**

- 4.15.1 *Purpose:* The purpose of the Medical/Office/Residential District is to provide an area for medical and related services, and to provide for a development of general office, technological, and research related uses and to provide for multi-family residential uses.
- 4.15.2 *Uses related to the Medical/Office District permitted as of right:*
- 4.15.2.1 Elder congregate housing.
- 4.15.2.2 Hospital, related medical treatment, diagnostic care and services.
- 4.15.2.3 Health Care Practice and Services whether offered in an individual or group practice setting, including free standing and mobile diagnostic facilities.
- 4.15.2.4 Garden or Town house design dwelling units not to exceed 310 units in the Medical/Office/Residential District provided that there is a maximum of thirty (30) units per acre for Garden dwellings and a maximum of ten (10) units per acre for Town house style dwellings.
- 4.15.2.5 Medical, Professional, Administrative, Executive or Management Offices.
- 4.15.2.6 Office Buildings.
- 4.15.2.7 Office Parks.
- 4.15.2.8 Research laboratory with uses such as, but not limited to, electronics, engineering and software.
- 4.15.2.9 Accessory uses incidental to and in support of any of the as of right uses described above are permitted in Section 4.15.2. Accessory uses greater than 2,500 square feet of the gross floor area shall be allowed only with the grant of a Special Permit pursuant to Section 4.15.4.3. Further provided that there shall be no exterior advertising of accessory uses. A clubhouse for the residents of Garden and Town house design dwelling units is a permitted accessory use not to exceed 5,000 square feet without a special permit.

- 4.15.2.10 Off-street Parking, Layout, Screening and Loading Requirements for Medical/Office/Residential District are in accordance with Section 6.3 except as follows:
- (a) Minimum of 1.7 parking spaces per dwelling unit.
  - (b) Parking spaces shall be a minimum of eight (8') feet by sixteen (16') feet.
  - (c) Minimum aisle width of twenty-two (22') feet.
  - (d) No minimum or maximum for the number of driveways permitting entrance to and exit from a lot to a street.
  - (e) Parking spaces shall be on the same lot as the principle use except that parking spaces may be provided on an adjacent lot provided there is a recorded parking easement for said parking.
  - (f) Tandem parking spaces are allowed for Town house use.
  - (g) No side and/or rear parking setbacks are required and the parking setback for any street is two (2') feet except the parking setback for Woodland Road is ten (10') feet.
  - (h) No requirement for off-street loading area for Garden or Town house design residential use and a minimum of one (1) off-street loading area per office building.
  - (i) No requirement to protect abutting properties from headlight glare.
- 4.15.2.11 The four (4) foot wide area of landscaping adjacent to the property boundary required by Section 6.5.2.4 is not required in Medical/Office/Residential District.
- 4.15.2.12 Up to two levels of parking within the building footprint is allowed beneath the uses permitted as described in 4.15.2 above.
- 4.15.2.13 Pre-existing wireless facilities subject to the provisions of 4.11 Wireless Facility Regulations and Restrictions.
- 4.15.3 *Uses in the Medical/Office/Residential District Permitted with Site Plan Approval by the Board of Selectmen:*
- 4.15.3.1 Resident care living facility, including, without limitation, nursing facility, assisted living facility, hospice care facility, and long term care facility.
  - 4.15.3.2 Medical laboratories, or clinics, dental laboratories or clinics.
  - 4.15.3.3 Clinics and facilities licensed by the Department of Public Health or by the Department of Mental Health or any successor agency.

- 4.15.4 *Uses Permitted in the Medical/Office/Residential District with a Special Permit Granted by the Planning Board and Site Plan approval by the Board of Selectmen after concurrent hearings held by the Boards:*
- 4.15.4.1 Medical schools, medical training facilities and training facilities for health professions.
- 4.15.4.2 Conference center.
- 4.15.4.3 Hotels, including both full service and extended stay and related accessory uses in support of a hotel such as fitness and dining facilities, business center, restaurant, meeting rooms and shops wholly within the premises.
- 4.15.4.4 Research and Development Laboratory engaged in any one of the following: research, experimental and testing activities, and production, including but not limited to the fields of life sciences, biology, chemistry, electronics, engineering, geology, medicine and physics excluding any high hazard uses.
- 4.15.4.5 Restaurant, public dining room or lunch room, with a gross floor area not greater than five thousand (5,000) square feet.
- 4.15.4.6 Multi-level parking facility accessory to a principal use permitted in Section 4.15.2, 4.15.3 or 4.15.4 including enclosed and open facilities and above and below ground.
- 4.15.4.7 Non-residential uses that provide services ancillary to uses permitted by right or on a special permit in the Medical/Office/Residential District, including, without limitation, maintenance shop, machine shop, water tower, steam plant and power plant. (10-23-00, Art. 1)

**4.16 SENIOR RESIDENTIAL OVERLAY (SRO) DISTRICT:**

- 4.16.1 *Purpose:* The purpose of the SRO District is to encourage the development of safe, independent senior housing within the Commercial 1 District in order to provide the following: a variety of housing options for a senior couple or individual who are Qualified Occupants who are/is capable of living independently; to create a style of housing which reflects the desires of a maturing population; to encourage social interaction through the utilization of an increased density of development; to provide access to existing commercial and retail amenities to minimize dependence on vehicles; and to provide links to transportation and recreational opportunities.
- 4.16.2 *Uses within the SRO District are permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen:*
- 4.16.3 *Definitions:*
- (a) Qualified Project and Qualified Occupants:

Any application within the SRO District for the development of independent senior housing shall provide evidence of compliance with the requirements of MGL, Chapter 151B, Section 4, subsection 6, which permits the creation of age restricted housing subject to the units being owned or rented by at least one (1) person who is fifty-five (55) years of age or older or sixty-two (62) years of age or older on a property consisting of five (5) or more acres. The application shall also include a preliminary agreement or restrictive covenant which outlines how the units will be regulated to ensure compliance with these restrictions.

(b) **Independent Senior Housing:**

A residential facility consisting of a multi-unit building or buildings that provide accommodations for independent senior adults who are Qualified Occupants. These residences and associated structures may include common areas, a common dining facility, and space for social, psychological and/or educational programs. Home health care or other community based services may be used on an individual basis. There may be management and maintenance staff but there is no permanent on-site medical staff.

4.16.4 *Application of SRO District Regulations:*

- (a) *Overlay District:* This by-law is adopted as an overlay district for all qualifying properties within the Commercial 1 District and sets forth the design and dimensional standards that apply to all developments of an SRO District Project. These standards shall apply to any development proposing a new building or any redevelopment that will require the alteration of an existing building and parking area. All applications under this SRO District shall comply with Section 6.8 “Performance Standards” and Section 7.4 “Special Permit”, of the Zoning By-Laws.
- (b) *Application Process:* The Planning Board shall be the Special Permit Granting Authority and the Board of Selectmen shall be the Site Plan Granting Authority for developments proposed under Section 4.16 “Senior Residential Overlay (SRO) District”. Applicants shall comply with the procedures for Site Plan and Special Permit review as listed elsewhere in this by-law.
- (c) *Waivers:* The Planning Board may, as part of any Special Permit decision, modify or waive any dimensional requirement of the SRO District, unless otherwise noted, upon a finding that due to unique conditions effecting the property, project location, or other beneficial site designs, that the dimensional requirements of this section would unreasonably restrict the use of the property or would be detrimental to the orderly development of the area or would create a better project. In granting such modifications or waivers, the Board may impose conditions it deems necessary to protect the public interest and to insure that the development will be consistent with the purpose of this section. The

Planning Board may not waive the Minimum Lot Area requirement of 5 acres, unless such provision is modified under M.G.L., Chapter 151B, § 4.

- (d) *Review by other agencies:* Any Special Permit application submitted to the Planning Board or a Site Plan application submitted to the Board of Selectmen under Section 4.16 shall comply with all local review requirements and procedures for Special Permit and Site Plan review.

4.16.5 *General Requirements:*

- (a) *Design:* The site layout shall utilize appropriate building placement and landscape design to reasonably protect project residents from excessive noise, lights and traffic, emanating from adjacent properties.
- (b) *Infrastructure:* The proposed site shall be served by municipal water and sewer services and shall comply with all utility design standards imposed by the Town Department of Public Works and Town Engineer.

4.16.6 *Signage:*

- (a) Developments constructed under the SRO District By-law shall comply with the signage requirements of the Commercial 1 District, as described within Section 6.7 “Signs and Illumination” contained elsewhere within this By-law.

4.16.7 *Dimensional Requirements and Additional Regulations:*

- (a) Dimensional restrictions shall be consistent with the limitations specified for the Commercial 1 District, as described within Section 5.2.1 “Table One - Dimensional Requirements”, of this By-law, subject to the following requirements below and waiver provisions as detailed in Section 4.16.3 (c) of this By-Law.
- (b) **Minimum Lot Size: 5 Acres** (This dimensional requirement is not permitted to be reduced or waived by the Planning Board, subject to Section 4.16.3 (c) of this By-Law.)
- (c) **Building Height:** If some or all of the required parking spaces for the proposed dwelling units are enclosed within the structure of the building, the height requirement specified within Section 5.2.1 “Table One - Dimensional Requirements”, is permitted to be raised by ten (10) feet for that specific structure.
- (d) **Multiple Structures:** The SRO District allows for the construction of multiple structures on one lot in order to minimize sprawl and to encourage the creation of useable open space for residents. In all cases, the buildings shall maintain a minimum separation of thirty (30) feet and shall be subject to applicable Massachusetts State Building Code requirements. The building locations shall be designed to ensure that adequate emergency vehicle access is provided.
- (e) **Connections:** Buildings may be connected by a series of covered walkways, pursuant to applicable Massachusetts State Building Code requirements

- (f) Common Open Space: The development shall provide an area of useable common open space which will be accessible by residents of the development for passive recreational opportunities. Qualifying useable common open space shall mean (i) Existing vegetated areas which are left substantially in a natural state; (ii) areas improved by such landscaping as required in Section 6.5 and primarily designed and intended for passive recreational opportunities; or (iii) enclosed common space (i.e., clubhouse), which provides gathering areas, entertaining space or exercise facilities, available for use only by residents of the facility and their guests. Useable common open space shall not include a public or privately owned right-of-way, open parking or service areas, or driveways.
- (g) Base Unit Density: Subject to the dimensional requirements and restrictions outlined within this By-law, the base number of units permitted within an SRO development shall be limited to 2 units per 2,000 square feet of total land area, inclusive of wetlands or other land areas regulated by the Conservation Commission.
- (h) Density Bonus: Notwithstanding the limitations set out above, the Planning Board may, at their discretion, authorize an increase in the permissible intensity of an SRO District development over the Base Unit Density, provided the applicant offers one or more of the following public benefits: (In no event shall the Density Bonus increase the Base Unit Density more than 10%)
  - 1. Traffic or pedestrian improvements (such as, but not limited to, bike path connections, off-site sidewalks or pedestrian improvements; traffic mitigation).
  - 2. Landscaped open space which adds unusual value or character to the community or provides enhanced protection to an environmentally sensitive area.

**4.17      *RESERVED***

**4.18      *RAILROAD RIGHT-OF-WAY DISTRICT:***

4.18.1      *Purpose:* To allow for the temporary use of a portion of the former Railroad Right-of-Way as described in Section III below, for business uses as described in Section 4.18.2 below for a period of time no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right-of-Way as a bikeway, linear park, or other recreation area, or (ii) June 30, 2014. The Railroad Right-of-Way Overlay District confers additional land use options and does not eliminate or alter zoning rights permitted in the underlying zoning district.

4.18.2      *Uses Permitted As Of Right:*

- 4.18.2.1 All of the uses and accessory uses allowed in the Business District, Central Business District, Highway Business District, and Commercial District I, regardless of whether any such uses or accessory uses requires a Special Permit or other approval in said zoning district, shall be allowed as of right in the Railroad Right-of-Way Overlay District, other than the following uses: (i) automobile repair services and (ii) gasoline station or other service establishment for the retail distribution of petroleum products.
- 4.18.2.2 Uses, as allowed by Section 4.18.2.1 above, shall be limited for a period of time no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right-of-Way as a bikeway or linear park, or (ii) June 30, 2014.
- 4.18.2.3 Structures (defined in Section 2.1.79 of these Zoning Bylaws) shall be limited to temporary structures. For purposes of this Railroad Right-of-Way Overlay District “temporary” shall, notwithstanding the time period set out in Section 2.1.81 of these Zoning Bylaws, mean with a time limit no greater than that allowed for uses authorized pursuant to said Section 4.18 as described above (no longer than the earlier of the following: (i) the commencement of construction of the former Railroad Right-of-Way as a bikeway or linear park, or (ii) June 30, 2014).
- 4.18.2.4 Any temporary structure in excess of seven hundred fifty (750) square feet of gross floor area shall have one (1) parking space for every seven hundred fifty (750) square feet of gross floor area. There shall be no other parking requirements for a use in this Railroad Right-of-Way Overlay District. [See also M.G.L. c.40, Sec. 54A.]
- 4.18.2.5 The Performance Standards of Section 6.8 of these Zoning Bylaws shall be applicable to any use in this Railroad Right-of-Way Overlay District. (4-7-09. Art. 11)

**4.19      *RESERVED***

**4.20      *EAST SCHOOL OVERLAY DISTRICT:***

- 4.20.1      *Purpose:* The purpose of the East School Overlay District is to encourage the as-of-right development and use of a residential building with no more than three (3) dwelling units on a portion of the site of the former East School at 12 Beacon Street, located within the underlying Resident A District, in order to best reuse this unique property and building. The East School Overlay District confers an additional land use option and does not eliminate or alter zoning rights permitted in the underlying zoning district.
- 4.20.2      *Use(s) Permitted As of Right:*
- 4.20.2.1      One building for residential use with no more than three (3) dwelling units.
- 4.20.3      *Accessory Buildings and Structures:*

- 4.20.3.1 There shall be no accessory buildings or other structures, other than a flagpole or as otherwise required by applicable law, bylaws or regulations of the Commonwealth of Massachusetts or the Town of Stoneham, except as allowed by Special Permit from the Planning Board, pursuant to Section 7.4. There shall be no personal wireless service facility or other telecommunications structure, except to the extent required by applicable federal or state law.
- 4.20.4 *Off-Street Parking, Layout, Screening and Loading Requirements:*
- 4.20.4.1 Off-Street Parking, Layout, Screening and Loading Requirements shall be in accordance with Section 6.3, except as follows:
- (a) Two (2) parking spaces for every dwelling unit.
  - (b) The Section 6.3.5.2 requirement regarding the shielding of abutting properties, from the headlight glare shall apply to the protection of properties across a public or private way from the subject property, other than in the area of a driveway or other entrance or egress.
  - (c) Section 6.3.7 (Off-Street Loading) shall not be applicable.

## **5.0 INTENSITY REGULATIONS**

### **5.1 APPLICATION:**

No lot on which a building exists or is erected shall be altered, and no structure shall be constructed, reconstructed, relocated or altered so as to create or increase a non-conformance with this Section, except in accordance with the provisions of Sections 6.2 and 7.0.

### **5.2 DIMENSIONAL REGULATIONS BY DISTRICT:**

The accompanying table, entitled "Dimensional Regulations," Table I is hereby incorporated into and made a part of this bylaw.

### **5.3 SPECIAL CONDITIONS AND EXCEPTIONS:**

- 5.3.1 *Contiguous Lots under Single Ownership:* If contiguous lots are under one ownership the owner shall be required to add to such lot any land adjoining, in his ownership, in order to permit a lot to be created that can meet requirements as far as possible.
- 5.3.2 *Division of Existing Lots to Create Lot Between Existing Building and Street:* Within the zoning Districts known as One-Family, Residence A and B, no land shall

be divided into separate lots so that a new lot line is defined within that portion of land which lies between an existing dwelling and the street which the front of the existing dwelling is facing. For the purposes of defining the area thus excluded, the extreme right and left exterior walls of the dwelling shall be visually extended from the front corners of the dwelling out to the street.

5.3.3 *(Reserved)*

5.3.4 *Setbacks:* Where, to an extent of fifty percent (50%) of the space between two (2) streets or in a space of four hundred (400) feet on one (1) side of the street, front yards of uniformly greater depth than specified hereunder have been established or provided for by private agreement or by private building restrictions or where through common usage they exist, the depth of the front yards so established, provided for or existing shall be the front yard depth under this Section for such street or portion of street. Where a similar space and to a similar extent front yards of a varying depth, but all of a greater depth than fifteen (15) feet are so established, provided for or existing, the minimum depth so established, provided for or existing, shall be the front yard depth under this Section for such street or portion of a street.

**Editor's note**—Section 5A of Chapter 40A referenced above is now Section 6 of Chapter 40A.

5.3.5 *(Reserved)*

5.3.5.1 *Setback Averages:* As an exception, if a dwelling is one of a series of three contiguous house lots, the setback required shall be the average of such existing lots.

5.3.5.2 *Setback Exceptions Certain Areas on Main Street:* Except as provided for in Section 7.0 where the Board of Appeals may permit a lesser distance under conditions where unfavorable topography makes compliance with this Section impractical, no building or structure may be placed within fifteen (15) feet of the street line in the following areas along Main Street:

- (a) On the easterly side between Marble Street and Maple Street.
- (b) On the westerly side between Montvale Avenue and North Street.
- (c) On the easterly side between Summer Street and Hancock Street.
- (d) On the easterly side between Pleasant Street and North Street.
- (e) On both sides of Main Street, from Collincote Street north to the northerly boundary of Stoneham, no part of any structure except free-standing pole or ground signs shall be moved within fifty (50) feet of the street line.

- 5.3.5.3 *Projections:* Under provisions for setbacks in Residence A and Residence B Districts specified in Section 5.2.1, cornices may be extended two (2) feet and chimneys and one (1) story portions three and one-half (3 ½) feet nearer a lot line, private way or other building. Stairs are subject to a maximum allowable extension of no greater than half the setback. (10-29-98, Art. 16)

Section 5.2.1

TABLE ONE - DIMENSIONAL REQUIREMENTS

District	Minimum Lot Size in Square Feet	Frontage & Lot Width in Feet <sup>(2)</sup>	Percent Coverage <sup>(3)</sup>	Minimum Setback in Feet			Height in Feet
				Front	Side <sup>(4)(15)</sup>	Rear <sup>(15)</sup>	
<i>Residence A</i>	10,000 <sup>(1)</sup>	90	30	20	10 <sup>(8)</sup>	15 <sup>(8)(10)</sup>	30
<i>Residence B</i>	7,000 <sup>(5)</sup>	75 <sup>(7)</sup>	20	15 <sup>(6)</sup>	10 <sup>(6)</sup>	15 <sup>(6)(8)(10)</sup>	30
<i>Neighborhood Business</i>	10,000	100	50	15	15	15	30
<i>Business</i>	None Required	None Required	75	15	10	15	45
<i>Central Business</i>	None Required	None Required	100	None	None	None	45
<i>Highway Business</i>	10,000	100	75	20 <sup>(9)</sup>	5	5	45
<i>Commercial</i>	20,000	100	75	15	10	10	65
<i>Commercial/Mixed Use</i>	10,000 sf Minimum	100	75	15	10	10	65 <sup>(18)</sup>
<i>Commercial/Mixed Use(Residential Uses)</i>	200,000 sf Minimum density = 12 units/acre; Maximum density = 20 units/acre	150	30	20	20	10	65 <sup>(19)</sup>
<i>Medical</i> <sup>(11)</sup>	40,000	150	40	40	20	50	65
<i>Recreation/Open Space</i>	40,000	150	5	40	20	50	30
<i>Education</i> <sup>(12)</sup>	50,000	45	35	20	13	20	55
<i>Medical/Office/Residential</i>	200,000/200,000/200,000	150/150/150	30/30/30	40 <sup>(13)</sup> / 30 <sup>(13)</sup> /30 <sup>(13)</sup>	20 <sup>(13)</sup> /20 <sup>(13)</sup> /10 <sup>(13)(14)</sup>	20 <sup>(13)</sup> /20 <sup>(13)</sup> /10 <sup>(13)(14)</sup>	97/97/65
<i>Railroad Right-of-Way Overlay District</i>	None <sup>(17)</sup>	None <sup>(17)</sup>	75 <sup>(17)</sup>	5 <sup>(16)(17)</sup>	5 <sup>(16)(17)</sup>	5 <sup>(16)(17)</sup>	20
<i>East School Multi-Family Overlay District</i>	20,000	Frontage – 150 Width – 130	50	40 <sup>(20)</sup>	10 <sup>(20)</sup>	30 <sup>(20)</sup>	40 <sup>(21)</sup>

- (1) Except 40,000 feet for all non-residential uses.
- (2) See 5.3.4 (Reserved)
- (3) Portion of lot devoted to structure.
- (4) Except that no part of a building may be placed within 15' of any street.
- (5) Plus 2,500 for each dwelling unit over one in a structure.
- (6) 30' for three or more dwelling units.
- (7) 150' for three or more dwelling units.
- (8) A minimum distance of ten (10') feet between buildings on adjacent lots in Residence A and B must be maintained.
- (9) Except 15' for freestanding pole or ground signs.
- (10) Except for pools which shall have a ten (10') foot minimum rear setback requirement. (5-12-86)
- (11) Residential uses in the Medical District shall conform to the requirements specified herein for the Residence B District.
- (12) No setback required where abutting public open or recreational space. (5-7-98)
- (13) Retaining walls over four (4') feet in height are permitted within the required front, side, and rear setbacks in the Medical/Office/Residential District.
- (14) Minimum Space between principal buildings on the same lot is ten (10') feet.
- (15) Fences as structures of six (6') feet in height or less and retaining walls of four (4') feet in height or less are excluded from front, side, and rear setback requirements except retaining walls over four (4') feet in height are permitted in the Medical/Office/Residential District in Note (13).
- (16) Except that there shall not be a setback requirement if the property abutting the subject lot line is owned by the same person or entity that is using the property in the Railroad Right-of-Way Overlay District.
- (17) Property in the Railroad Right-of-Way District shall not be used in calculating or otherwise complying with the frontage, lot size, percent lot coverage or setback requirements of an abutting property. (Art. 11, 4-7-09)
- (18) Height may be increased to 85 feet by Special Permit from Planning Board.
- (19) Height may be increased to 80 feet by Special Permit from the Planning Board in accordance with Sub-section 4.13.4.13(g).
- (20) A flagpole, retaining wall of no greater than five feet (5') in height, ramp, stairway or bulkhead from the ground level to the basement are all excluded from the setback requirements.
- (21) A cupola, chimney or appurtenance accessory to a residential structure and use allowed under this Section 4.20 are all excluded from this height limitation, but in no event may they be greater than fifty-five feet (55') in height.

Section 5.2.2

TABLE TWO - DIMENSIONAL REQUIREMENTS

District	Minimum Lot Size in Square Feet	Frontage & Lot Width in Feet	Percent Coverage <sup>(1)</sup>	Minimum Setback in Feet			Height in Feet
				Front <sup>(2)</sup>	Side <sup>(2)</sup>	Rear <sup>(2)</sup>	
<i>Medical/Office/Residential</i>	200,000/200,000/200,000	150/150/150	30/30/30	40 <sup>(3)</sup> /30 <sup>(2)</sup> /30 <sup>(3)</sup>	20 <sup>(3)</sup> /20 <sup>(3)</sup> /10 <sup>(3)(4)</sup>	20 <sup>(3)</sup> /20 <sup>(3)</sup> /10 <sup>(3)(4)</sup>	97/97/65

- (1) Portion of lot devoted to structure.
- (2) Except that no part of a building may be placed within 15' of any street.
- (3) Retaining walls over four (4') feet in height are permitted within the required front, side, and rear setbacks in the Medical/Office/Residential District.
- (4) Minimum Space between principal buildings on the same lot is ten (10') feet.

5.3.6 *Corner Lots:*

5.3.6.1 Lot lines of a corner lot which border on adjacent lots shall be considered as side lot lines. The front lot line of a lot having frontage on more than one (1) street shall be the street line having the longer dimension.

5.3.6.2 On a corner lot in Residence A and Residence B Districts, no fences, wall or structure, planting or foliage more than three and one-half (3 ½) feet in height above the plane of the established grades of the streets shall be erected in any part of a front yard herein established, that is included within the street lines at points which are twenty (20) feet from their point of intersection measured along such street lines which will obstruct the view of a driver of a vehicle approaching a street intersection.

5.3.6.3 On a corner lot in Business, Commercial and Medical Districts, no fence, wall or structure, planting or foliage more than three and one-half (3 ½) feet in height above the plane of the established grade of the streets shall be erected in any part of a front or side yard herein established, that is included within the street lines at points which are seven (7) feet distant from their point of intersection, measured along such street lines, which will obstruct the view of a driver approaching a street intersection. This shall not apply to structures above the first story.

5.3.7 *Required Space Between Principal Buildings on the Same Lot:*

5.3.7.1 When there is more than one (1) principal building on a lot, there shall be a space equivalent to the maximum height requirement for the District in which it is located between each such principal building. (10-21-85, Art. 15; 5-2-88, Art. 16; 5-8-89, Art. 16)

5.3.8 *Exceptions to Intensity Regulations:*

5.3.8.1 The Board of Appeals may give permission, in accordance with Section 7.0 for lesser distances in specific cases where unfavorable topography makes it difficult to conform to the provisions of sections therein having to do with One-Family, Residence A and Residence B Districts where any parcel of land, the boundaries of which have remained unchanged since March 31, 1925, is of such peculiar size or shape that it is not reasonably possible for the owner to make beneficial use of such parcel in conformity with the provisions of this Chapter relating to area and setback lines within Residence A and Residence B Districts.

5.3.9 *(Reserved)*

**6.0 GENERAL PROVISIONS AFFECTING ALL DISTRICTS:****6.1 APPLICATION:**

6.1.1 No land, building or structure shall be used or occupied in the Town except in conformance with the standards contained herein.

**6.2 NON-CONFORMING USES AND STRUCTURES:****6.2.1 Applicability:**

6.2.1.1 This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s.5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided there is no modification of the use or structure unless authorized hereunder.

**6.2.2 Nonconforming Uses:**

6.2.2.1 The Board of Appeals may grant a "Section 6 special permit" to change from one nonconforming use to another, less detrimental, nonconforming use. A "Section 6 special permit" may not be granted for any other change of use, nor for a substantial extension of a use.

**6.2.3 Nonconforming Structures Other Than Single or Two Family Residential Structures:**

- (a) The Board of Appeals may award a "Section 6 special permit" to reconstruct, extend or structurally change a nonconforming structure in accordance with this section if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. A Section 6 special permit may not be granted to alter a structure to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent. Provided further, however that:
- (i) The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; and
  - (ii) The granting of a Section 6 special permit to reconstruct, extend or structurally change a nonconforming structure in accordance with this

section does not eliminate nor diminish any requirement to obtain a special permit otherwise required for the proposed structure.

6.2.4 *Nonconforming Single and Two Family Residential Structures:*

In the following circumstances, alteration, reconstruction, extension or structural change to a single or two-family residential structure shall not be considered an increase in the non-conforming nature of the structure and shall be permitted as of right:

- (a) alteration to a structure located on a lot with insufficient area, but which complies with all current setback, yard, building coverage, and building height requirements (“current requirements”), where the alteration will also comply with all said current requirements. (This clause shall apply regardless of whether the lot complies with the current frontage requirement).
- (b) alteration to a structure located on a lot with insufficient frontage, but which complies with all current setback, yard, building coverage, and building height requirements (“current requirements”), where the alteration will also comply with all of said current requirements. (This clause shall apply regardless of whether the lot complies with the current area requirement).
- (c) alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements (This clause shall apply regardless of whether the lot complies with the current area and frontage requirements).
- (d) alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure, and will comply with all other current setback requirements and all yard, building coverage and building height requirements (This clause shall apply regardless of whether the lot complies with the current area and frontage requirements).
- (e) alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Building Inspector determines that the proposed alteration does not meet the requirements of subsections (a)-(e) above (“above subsections”) so as not to be permitted as of right, the applicant may:

- (i) Appeal said determination of the Building Inspector to the Board of Appeals pursuant to Section 7.6.1, on the basis that said proposed alteration

is permitted as of right pursuant to one of the above subsections (a - e); and/or

(ii) Apply to the Board of Appeals for a Section 6 special permit based on a finding by the Board that the proposed alteration does not increase the nonconforming nature of said structure, despite the fact that the proposed alteration is not permitted as of right pursuant to one of the above subsections; and/or

(iii) Apply to the Board of Appeals for a Section 6 special permit based on a finding by the Board that the proposed alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

#### 6.2.5 *Abandonment or Non-Use:*

A nonconforming use or structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of the Zoning Bylaws, unless the Board of Appeals grants a Special Permit for reestablishment, subject to the provisions of Section 7.4, including, but not limited to the attachment of conditions regarding calendar time period, extent of use, hours of operation, outdoor storage, lighting, parking or similar controls.

#### 6.2.6 *Reconstruction after Catastrophe:*

A nonconforming structure may be reconstructed after a catastrophe in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two (2) years after such catastrophe.
2. Structures as reconstructed shall:
  - (a) be only as great in volume and area as the original nonconforming structure; and
  - (b) be located on the same footprint as the non-conforming structure or otherwise meet all applicable requirements for yards, setback, and height;
  - (c) a structure of greater volume and/or area may be authorized pursuant to the applicable process(es) set out above for the expansion of a non-conforming use and/or structure.

#### 6.2.7 *Reversion to Nonconformity:*

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use. (10-27-03, Art. 12)

State law reference—G.L. c. 40A, Sec. 6.

**6.3 OFF-STREET PARKING REQUIREMENTS:**6.3.1 *Objectives and Applicability:*6.3.1.1 *Objectives:* The objectives of this section of the bylaw are as follows:

- (a) Promote traffic safety by assuring adequate places for storing of motor vehicles off the street and for their orderly access and egress to and from the public street;
- (b) Increase the traffic-carrying capacity of street and highways in the town and obtain a more efficient utilization of on-street curbside parking;
- (c) Reduce hazards and nuisances to pedestrians on public sidewalks and ways.

6.3.1.2 *Applicability:* No building permit or certificate of occupancy shall be issued for the construction of a new building, the enlargement of an existing building, the development of a use not located in a building, the redevelopment of an existing building or the change from one type of use to another, unless off-street parking is provided and detailed on a plot plan in accordance with this section of the bylaw.6.3.2 *Location of Parking Facilities:*

## 6.3.2.1 Parking shall be on the same lot as the principal use, with the following exceptions for off-site parking:

*Central Business District:*

1. A Special Permit by the Planning Board subject to the provisions of section 6.3.8 and Site Plan Approval by the Board of Selectmen when required.
2. There will be no off-street parking requirement for any existing structure in the Central Business District, provided that any alteration, rehabilitation or addition to any existing structure does not increase the requirements as outlined in Section 6.3.3.

6.3.2.2 *Location on Site:* Such parking facilities may be provided within a structure, above or below ground, or outside at grade level.6.3.3 *Minimum Number of Spaces by Use:*

Use	Requirement
1. Residential a).Single or two Family b) Greater than two family c) Congregate living d) Assisted living, long-term care e) SRO	a) 2 per dwelling unit b) 2.1 per dwelling unit, any space requirement in excess of 2.0 per dwelling unit shall not be assigned, conveyed or transferred and shall be clearly marked for visitor or guest parking. c) .75/ bedroom d) .4/ living unit e) 2.1 spaces per dwelling unit, any space requirement in excess of 2.0 per dwelling unit shall not be assigned, conveyed or transferred and shall be clearly marked for visitor or guest parking. Or to act in any other manner.
2. Institutional/ Public assembly a) Elementary, day care, pre-school b) Secondary, college, tech school c) Church, temple, club, lodge, comm. Center, any place of public assembly	a) 2 per each classroom plus 30% for visitors, staff b) 1 for 8 seats c) 1 per 4 seats according to maximum occupancy
3. Commercial/ Business a) Medical/ dental office b) Business, professional, administrative office c) Retail/ personal service establishment	a) 1 per every 200 square feet of gross floor area b) 1 per every 350 square feet of gross floor area c) 1 per every 350 square feet of gross floor area
4. Food Service Establishments a) Restaurants/ diners	a) 1 per 3 seats
5. Hospitals	1 per 400 square feet of gross floor area
6. Hotels	1 for every rental room plus 1 per 3 people at maximum occupancy of assembly room, plus 33%
7. Warehouse, storage, wholesale, or similar use	1 per 750 square feet of gross floor area
8. Any other commercial or business use not listed	1 per 300 square feet of gross floor area

- 6.3.3.1 *Calculations:* Any parking calculations or .5 or greater shall be rounded up to the next space.
- 6.3.3.2 *Unspecified Uses:* Parking for any unspecified use requiring a Special Permit under this bylaw shall be determined by the Planning Board.
- 6.3.4 *Facility Design Standards:*
- 6.3.4.1 *Parking Spaces:*
- 6.3.4.1.1 Parking spaces shall each be a minimum of nine (9) feet by eighteen (18) feet or (9) nine feet by (22) twenty-two feet in length for parallel parking exclusive for drives, walks, and maneuvering space.
- 6.3.4.1.2 Parking spaces for vehicles such as commercial trucks, buses or other vehicles that exceed 7 ½ by 18 feet in size must be specifically identified upon a plan and be of such dimensions as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the stalls so identified and approved.
- 6.3.4.2 *Layout:*
1. Access to and egress from all parking areas shall be only via driveways which meet the design standards of Section 6.3.6;
  2. Except for Residence A and B, all portions of all parking spaces, loading areas and maneuvering aisles shall be set back a minimum of five (5) feet from any street or way and meet the side and rear setback requirements for the district. Curbs, wheel stops, screening or similar barriers shall be installed along the setback line for parking and loading to prevent vehicles from being parked or driven within required setback areas or required landscaped areas;
  3. Aisle Widths-Each off-street parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic or the following widths in the case of one-way traffic only.

<b>Angle of Parking</b>	<b>Minimum Aisle Width</b>
Parallel	12 feet
30 degrees	11 feet
45 degrees	13 feet
60 degrees	18 feet
90 degrees	20 feet

4. Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said parking space without requiring the moving of any other vehicle or the passing over of any other parking space;
5. Each parking area shall be designed to provide a circulation system within the lot so that all vehicles may exit from and enter into the adjacent street or way by being driven in a forward direction and no vehicle shall be required to enter or leave by backing.
6. All required parking areas shall be paved and parking spaces marked to provide delineation between parking stalls and aisles. Such markings shall be maintained so as to be plainly visible with color and markings according to acceptable industry standards as per the Town Engineer.
7. *Handicapped Parking:* Specially designated parking spaces for the physically handicapped shall be provided, as described in Code of Massachusetts Regulations, 521 CMR Rules and Regulations of the Architectural Access Board or any successor state law or regulations governing architectural access. Spaces for the handicapped shall be clearly identified by a sign indicating those spaces are reserved for physically handicapped persons. Such spaces shall be located in that portion of the parking lot nearest to the entrances to the use or structure which the parking lot serves. Van accessible stalls are required in accordance with the 521 CMR Rules and Regulations of the Architectural Access Board.
8. *Surfacing and Drainage:* Such parking facilities shall be suitably graded, surfaced and drained so as to dispose of all surface water without detriment to surrounding uses.
9. *Maintenance of parking facility:* Lots shall be kept clean and free from rubbish and debris.
10. *Snow Storage:* The layout of the parking area shall allow sufficient space for the storage of plowed snow so as not to diminish the capacity to meet the minimum parking requirements.

6.3.5 *Lighting and Screening:*

6.3.5.1 All illumination on parking lots must be shielded so as not to shine upon abutting properties.

6.3.5.2 Properties other than the use served by the parking lot, which abut the parking lot shall be protected from headlight glare by either:

- (a) A strip at least four (4) feet wide, densely planted with shrubs or trees which are no more than four (4) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen, or
- (b) A wall, barrier or fence of uniform appearance at least five (5) feet high but not more than six (6) feet above finished grade. Such wall, barrier or fence may be opaque or perforated, provided that not more than fifty percent (50%) of the face is open and must be constructed in accordance with Section 6.5 of this bylaw.

6.3.5.2.1 Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances and exits.

6.3.6 *Driveway Access Permits:*

- (a) Prior to issuance of a building permit, a driveway/access permit must be obtained from the Public Works Department for all new or relocated driveways or parking lots except those which are governed by other state or federal statute. (10-21-85, Art. 5; 5-4-92)
- (b) No such driveway or access shall exceed a grade slope in excess of thirteen percent (13%)
- (c) Driveway/access slopes shall be calculated from the street layout line back edge of sidewalk to the termination of the driveway or the garage floor. For purposes of calculating the slope in (b) in areas where curbing and/or sidewalks have yet to be installed, the elevation at the back edge of the sidewalk shall be assumed to be ten (10) inches above the existing or proposed gutter grade. (10-25-90)
- (d) In all districts the number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
- (e) No private way or driveway which serves a non-residential use in a non-residential district shall be built through a residential district.

6.3.7 *Off-Street Loading:*

6.3.7.1 *Applicability:*

- 6.3.7.1.1 The provisions of this Section shall apply to any building or structure, or addition thereto, to be utilized for any use within any zone except those allowed in Residence A, Residence B and Open Space Districts, containing more than twenty-five thousand (25,000) gross square feet.

6.3.7.2 *Number of Off-Street Loading Areas Required:*

6.3.7.2.1 There shall be one (1) off-street loading area for each twenty five (25,000) square feet, of gross floor area. (10-18-07, Art. 1)

6.3.7.3 *Design:*

6.3.7.3.1 Each off-street loading area shall be not less than ten (10) feet in width, thirty-five (35) feet in length, and twelve (12) feet in height, exclusive of driveways.

6.3.7.3.2 Off-street loading areas shall be located entirely on the lot to be served, and shall be designed with appropriate means of vehicular access to a street or alley.

6.3.7.3.3 Off street loading areas shall be suitably graded, surfaced and drained so as to dispose of all surface water without detriment to surrounding uses.

6.3.8 *Special Permits For Parking:*

6.3.8.1 Special permit for a change in parking space requirements: the number of off-street parking spaces required by Section 6.3.3, of this bylaw for a use or uses in the Central Business District and in the Commercial I District for Banquet Facilities, Function Halls and Dinner Theaters may be changed by Special permit in accordance with the following provisions: (7-28-03, Art. 4)

1. Special permit criteria: The Planning Board, by special permit, may allow remote parking lots, or shared parking lots which it deems reasonable, based on the following criteria, and other applicable provisions presented in this subsection:
  - (a) The capacity, location and current level of use of existing parking facilities, both public and private;
  - (b) The efficient and maximum use in terms of parking needs and services provided;
  - (c) The relief of traffic and parking congestion;
  - (d) The safety of pedestrians;
  - (e) The provision of reasonable access either by walking distance or shuttle vehicle arrangements;
  - (f) The maintenance of the character of the area.
2. The following are allowed by Special Permit:
  - (a) The substitution of parking spaces within municipal parking lots in lieu of or in reduction to the parking requirements of this section, provided they are located within 1600 feet of the building which is intended to be served.

- (b) A reduction in parking space requirements: The number of off-street parking spaces required by Section 6.3.3 of this bylaw for a use or uses in the non-residential districts may be reduced by special permit in accordance with the following provisions:
1. Shared parking: Shared private parking facilities for different buildings or uses may be allowed by Special Permit, subject to the following provisions:
    - (a) Up to fifty percent (50%) of the parking spaces serving a building may be used jointly for other uses not normally open, used or operated during similar hours. The applicant must show that the peak parking demand and principal operating hours for each use are suitable for a common parking facility.
    - (b) A written agreement defining the joint use acceptable to the Planning Board of the common parking facility shall be executed by all parties concerned and approved by the Planning Board as part of the special permit process. Such agreement shall be recorded at the Middlesex Registry of Deeds.
    - (c) Any subsequent change in land uses for which the shared parking proposal was approved, and which results in the need for additional parking spaces, shall require a new special permit application under this subsection.
  2. Remote parking: Remote (satellite) parking areas may be authorized by the Planning Board by special permit, subject to the following provisions:
    - (a) The satellite parking spaces will be used solely by the employees and, where practicable, clientele of the commercial use;
    - (b) The off-site parking spaces shall be located to adequately serve the proposed use and shall be within six hundred (600) feet of the building served for clientele of the commercial use. Off-site parking for employees of the business may be located within a distance of one thousand two hundred (1,200) feet, unless shuttle vehicle arrangements are provided as a condition of the special permit. The parking distance shall be measured by the shortest route of pedestrian access, entrance to entrance.

3. Pedestrian access: Any proposals submitted, which, in the opinion of the Planning Board, provide direct and vital pedestrian access to other abutting commercial properties and serve to improve pedestrian accessibility may reduce the number of parking spaces required by fifteen percent (15%). Pedestrian access shall be provided enough improved pathways, stairway access or other physical improvements, and such access shall be clearly marked. (Art. 27, 10-25-99)

#### **6.4 (RESERVED)**

#### **6.5 SCREENING AND LANDSCAPING:**

##### *6.5.1 Applicability:*

- 6.5.1.1 The design provisions and setback requirements of this section shall be applied to lots for those circumstances not addressed by Section 6.3.5.2. (04-03-001, Art. 8)

##### *6.5.2 Design:*

- 6.5.2.1 Every effort shall be made to retain existing topography, trees, plant materials, and other natural features.
- 6.5.2.2 The screening required herein, and in Section 6.3.5.2, shall be located so as not to conflict with any corner visibility requirements.
- 6.5.2.3 All areas not covered by pavement, curbing or structures, shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area. Playing areas used for court games patios, decks, and walkways shall be considered to be landscaped areas for the purposes of this Section.
- 6.5.2.4 Wherever setbacks are required, there shall be a four (4) foot wide area of landscaping adjacent to the property boundary, for the entire length thereof, except at entranceways. (4-03-01, Art. 8)

##### *6.5.3 Pools:*

- 6.5.3.1 All private pools, both in-ground and above-ground, within the Town of Stoneham shall be enclosed in the following manner:
  - (a) In-ground and above-ground pools shall be enclosed within a six (6) foot fence around portion of the area where pool is located and self-locking gate.
  - (b) All pools within the Town shall comply with this bylaw within six (6) months of adoption.

Cross reference—Health standards for swimming pools, Board of Health, Sec. 20-2(a).

## **6.6**      ***LIGHTING:***

### 6.6.1      *Applicability:*

6.6.1.1      The provisions of this section shall be applied in conjunction with, and shall supplement the provisions of Section 6.3.5.1.

### 6.6.2      *Standards:*

6.6.2.1      All Parking areas shall be lighted so as to maintain a minimum intensity of one (1) footcandle on the entire surface thereof.

6.6.2.2      All artificial lighting shall be arranged and shielded so as to prevent glare from the light source onto adjacent streets and properties.

## **6.7**      ***SIGNS:***

### 6.7.1      *Purpose:*

The purpose of this bylaw is:

- (a) To maintain and enhance the aesthetic environment.
- (b) To improve pedestrian and traffic safety.
- (c) To minimize the possible adverse effect of signs on public and private property.
- (d) To enable the fair and consistent enforcement of these sign restrictions.

### 6.7.2      *Applicability:*

A sign may be erected, placed, established, painted, created or maintained in the town only in conformance with the standards, procedures, exemptions, and other requirements of this bylaw.

### 6.7.3      *Computations:*

6.7.3.1      **Area of Individual Signs:** The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the total area of the square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming a part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall (provided that said framework, bracing, fence, or wall does not exceed thirty percent (30%) of the supported sign alone and is not designed or used as an advertising device).

- 6.7.3.2 Area of Multi-faced Signs: The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- 6.7.3.3 Height: The height of a sign shall be compute as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) the existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.
- 6.7.3.4 Maximum permitted signs: The maximum number of signs permitted are listed by district in Section 6.7.3.7.4. The types of signs allowed are listed by district in Section 6.7.6.1- Table 2 of this bylaw.
- 6.7.4 *Definitions:*
- Words and phrases used in this Section shall have meanings set forth in this Section. Words and phrases not defined in this Section but defined in Section 2.0 of this Chapter 15, hereinafter referred to as Section 2.0 shall be given the meaning set forth in Section 2.0. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.
- 6.7.4.1 Animated sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- 6.7.4.2 Awning sign: A-non-illuminated sign painted on or attached to a fabric or vinyl cover on a rigid frame. Only business names and/ or logos may be attached to, painted, stenciled, or other wise placed on these devices.
- 6.7.4.3 Banner: Any sign of lightweight fabric or similar material that is mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any religious, educational, not-for-profit institution are exempt.
- 6.7.4.4 Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

- 6.7.4.5 Billboard: A sign which does not advertise a business or profession conducted, a service offered or a commodity sold upon the premises where such sign is located.
- 6.7.4.6 Building marker: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze and is a permanent attached marker.
- 6.7.4.7 Building sign: Any sign attached to any part of a building, as contrasted to a freestanding sign.
- 6.7.4.8 Business center: A location with retail/service businesses or potential businesses which collectively have an aggregate floor area equal to or greater than fifty thousand (50,000) square feet and which has a name different from the name of any of the individual businesses and which has common private parking and vehicular entrances.
- 6.7.4.9 Business center sign: A sign identifying a business center and individual businesses within the center.
- 6.7.4.10 Canopy sign: A canopy is a multisided structure supported by columns or attached on one end to a building design to protect people directly overhead from the weather. A canopy sign is attached to the vertical surface of a canopy.
- 6.7.4.11 Changeable copy sign: A sign that is designed so that characters, letters or illustrations can be changed or rearranged either manually or automatically without altering the [non-letter] face of the sign.
- 6.7.4.12 Commercial message: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- 6.7.4.13 Discontinued sign: A legal or non-conforming sign which no longer identifies or advertises a bona fide business, lessee, service, owner, product or activity.
- 6.7.4.14 Electronic message center: A sign on which the copy changes automatically on a lamp bank or through mechanical means, e.g., electrical or electronic time and temperature units.
- 6.7.4.15 Externally illuminated sign: A sign whose illumination is derived entirely from an external artificial source.
- 6.7.4.16 Flashing sign: A sign that contains an intermittent or sequential flashing light source.
- 6.7.4.17 Free-standing pole sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or structure.

- 6.7.4.18 Historical marker: Historical markers erected or placed by historical association, governmental agency or owner of property that has been placed on the State or Federal Register of Historic Places, or a property approved as being historic by the Town of Stoneham Historic Commission.
- 6.7.4.19 Identification sign: A sign whose copy is limited to the name and address of the building, institution, or person and/or activity or occupation being identified.
- 6.7.4.20 Informational sign: An on-premise sign identifying a premises or activity conducted upon such premises and providing direction for the safe and/or efficient flow of vehicular or pedestrian traffic. An informational sign has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance," "loading only," telephone," "handicap" and other similar directives. No sign with a commercial message, including but not limited to logos and trademarks shall be considered informational.
- 6.7.4.21 Internally illuminated sign: A sign whose illumination is derived entirely from an internal artificial source.
- 6.7.4.22 Marquee sign: A sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter, which projects from the face of a building.
- 6.7.4.23 Monument sign: An outside sign identifying a development, business(es), service(s), or home(s), the bottom of which is attached directly and permanently to the ground and physically separated from any other structure.
- 6.7.4.24 Non-commercial message: A message that does not direct attention to a business operated for profit, or to a commodity or service for sale.
- 6.7.4.25 Off-premise sign: A sign that pertains to a use which is not located or maintained on the premises (other than non-commercial message signs) including a sign that which identifies goods or services that are not sold on the same premises as the said sign.
- 6.7.4.26 On-premise sign: A sign that pertains to the use of the premises on which it is located and maintained.
- 6.7.4.27 Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- 6.7.4.28 Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the

public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

- 6.7.4.29 Real estate sign: A temporary sign advertising real estate upon which the sign is located as being for rent, lease or sale.
- 6.7.4.30 Roof sign: Any sign erected and constructed wholly on and/or over the roof of a building, supported by the roof structure.
- 6.7.4.31 Secondary Sign: Any sign that serves to complement the main sign by promoting the primary use, building name, parking area, or for significant directional purposes.
- 6.7.4.32 Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
- 6.7.4.33 Temporary sign: Any sign that is used only temporarily and is not permanently mounted.
- 6.7.4.34 Wall sign: Any sign attached parallel to, but within 6 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- 6.7.4.35 Window sign: A sign installed on or affixed to a window and intended to be viewed from outside.

6.7.5 *Prohibited signs:*

The following are prohibited.

- (a) Animated, moving, flashing and revolving signs, beacons, searchlights, pennants, portable signs, and balloons.
- (b) Off-premise signs and billboards, except for non-commercial signs and signs permitted pursuant to Sections 6.7.6 (e) and 6.7.8.
- (c) Roof signs.
- (d) Portable signs on wheeled trailers.
- (e) Signs which are attached in any form, shape or manner to a fire escape.
- (f) Any sign not specifically permitted in this bylaw is prohibited.

6.7.6 *Permitted signs:*

- (a) Table 2- Permitted Signs by Zoning District.

- (b) Non-commercial message signs- Any sign, display or device allowed under this bylaw may contain, in lieu of any other copy, any otherwise lawful noncommercial message which complies with all other requirements of this bylaw.
- (c) Historical markers approved by the Stoneham Historic Commission MA Historic Commission are allowed in all districts.
- (d) Temporary Signs allowed in all districts
  - 1. New Construction- During construction of a building, a free standing pole or ground sign may be erected on the premises identifying the building, owner, and contractors and shall not exceed 36 square feet in surface area nor 10 ft in any dimension. Such sign shall be promptly removed after completion of the building but in no event after one (1) year from the original date of the building permit.
  - 2. Alteration/Repair- One sign identifying contractor not to exceed 6 square feet and to be promptly removed upon completion of activity.
  - 3. Banners-Allowed with building permit for total of 30 calendar days.
- (e) Off -Premise and billboard signs are permitted by Special Permit in the Commercial I Zoning District, subject to the procedures and requirements in Section 6.7.8.

6.7.7 *Procedures:*

6.7.7.1 Applications: Application for a sign permit shall be made in writing upon forms furnished by the Building Inspector. Such application shall contain the location by street and number of the proposed sign(s) as well as the name and address of the owner and the sign contractor or erector. The Building Inspector may require the filing of plans (including elevations) or other pertinent information.

6.7.7.2 Certificate of Insurance:

- (a) When a sign is permitted to be erected on a Town way or in an area adjacent to a Town way, which proximate location could under normal conditions create a hazard to travelers on such a public way, the Building Inspector may, before issuing a permit, require the person, firm, or corporation to file a certificate of insurance issued by a company authorized to do business in the Commonwealth of Massachusetts stating that there is in effect an insurance policy in an amount equal to the sum required if a bond were filed 9as decided by the Building Inspector and or the Town Administrator), insuring the Town against any and all claims for personal injury or damage to property that in any way may result from such a sign. The Town Counsel shall approve

all such certificate of insurance. The certificate shall also state that the policy shall not be canceled or in any manner amended, changed or altered without giving the Town Clerk fifteen (20) days written notice thereof, return receipt required.

- (b) If a surety bond be required in lieu of a certificate of liability, such bond shall be approved by the Town Counsel and shall be conditioned for the installation and erection of signs in accordance with the provisions of this Section and other bylaws of the Town and laws of the Commonwealth of Massachusetts and shall provide for the indemnification of the Town for any and all damages or liability which may accrue against it by reasons of faulty installation, erection, demolition, repair, removal or defects in or collapse of any sign for a period of one (1) year after erection and for such a time that such sign is maintained or serviced by or under the direction of the maker of such bond. Such bond shall further provide for the indemnification of any person who shall, while upon public property or in any public place, incur damage for which the principal named in the bond is legally liable.

6.7.7.3 Location of sign - inclusion of permit number on sign: All signs shall be erected in the exact location described in the permit. The permit number shall be clearly visible and located at the lower right hand corner of the face of

6.7.7.4 Changing lettering on changeable letter signs: No permit shall be required to change the advertising copy or message on a changeable letter sign allowed at the time of adoption of this bylaw.

6.7.7.5 Maintenance; inspection: All signs, together with their supports, braces, guys and anchors shall be kept in repair and in a proper state of preservation to the extent that the State Building Code does not govern such. The display surfaces of all signs shall be kept neatly painted or posted at all times.

6.7.7.6 Removal upon vacancy: Any sign affixed to a building or advertising a business or office which becomes vacant shall be removed within one-hundred eighty (180) days of said vacancy by the owner of the subject premises.

6.7.7.7 Non-Conforming Signs: Any sign legally erected prior to the effective date of this bylaw which was permitted by previous provision contained in the Zoning Bylaw; or other bylaws of the Town but which is not in conformity with the provisions of this Section 6.7, shall be considered a non-conforming sign. Non-Conforming Signs may be maintained, except as hereafter provided:

- (a) A non-conforming sign shall be brought into compliance with this Section 6.7 of the Zoning Bylaw if there is a:
  - 1. change in the use, or

2. change in the location of the sign on the premises, or
  3. change in the location of the building, or the property line in a manner that renders the sign to be nonconforming with respect to dimensional requirements.
- (b) A non-conforming sign shall be brought into compliance with this Section 6.7 if it is rebuilt or relocated. Rewording or re-lettering of a non-conforming sign is allowed as long as such sign is not required to be brought into compliance for a reason provided in Section 6.7.8.7 (a) above.
- (c) A non-conforming sign shall not be changed or altered to another sign, which does not comply with this Section 6.7 of the Zoning Bylaw.
- 6.7.7.8 Removal of Discontinued Signs: A discontinued sign shall not be maintained or re-established after the activity, business, or usage to which it relates has been discontinued or ceases to operate for one hundred and eighty (180) days or longer. The permit holder or the owner of the premises upon order of the Building Inspector shall remove such sign. (5-7-03, Art. 20)
- 6.7.8 *Off-Premise and billboard sign:*
- 6.7.8.1 Applications: Off-Premise and billboard signs (hereinafter also referred to as “signs” in this Section 6.7.8) shall be permitted in the Commercial I Zoning District only by grant of a Special Permit issued by the Planning Board. Special permits may be limited to a term of years specified by the Planning Board. Any person desiring a Special Permit under this section shall submit a Special Permit application to the Planning Board together with a filing fee of \$2,500.00 and ten (10) copies of the application materials as outlined below:
- (a) Site Plan and area maps identifying the following features:
    - (i) Location of any existing buildings, parking spaces and traffic circulation pattern on the subject parcel;
    - (ii) Proximity of nearest residentially used and residentially zoned property utilizing current area photographs and Stoneham Assessors Maps;
    - (iii) Specific location of proposed sign;
    - (iv) Details of proposed buffer/landscaping area around signage including species and caliper of trees and/or shrubbery;
    - (v) Location of an existing sign(s) on the parcel, including any signs on a building; and
    - (vi) Photographs or architectural depiction of proposed sign.
  - (b) Sign details shall include the following information:

- (i) Detailed dimensions and area of any proposed single or multi-faced sign;
  - (ii) Detail sheet of any proposed support structure specifying dimensions and construction type. Upon request by the Planning Board or the Building Inspector, the Applicant shall provide a structural analysis of the support structure stamped by a licensed structural engineer; and,
  - (iii) Lighting proposal, including cut sheets of all proposed lighting fixtures to be either attached to the sign, structure or affixed to the ground.
- (c) Additional Requirements:
- (i) Authorization from the property owner (i.e., lease, etc.) granting permission to install proposed signage; and
  - (ii) Any additional information as may be required by the Planning Board to assist the Board in determining whether the application complies with the intent and requirements of this Section 6.7.8.

6.7.8.2 Dimensional Restrictions and Design Guidelines: All signs shall be in compliance with the following requirements:

1. Signs shall be permitted in the Commercial I Zoning District, provided, however, that no sign shall be located further than 100' from any interstate highway layout or on a lot containing less than three (3) acres in area;
2. Signs shall not create a material visual impact to any abutting or adjacent residentially zoned and used property in the Town of Stoneham;
3. All signs must be permanently affixed to a main support structure. No portable signs shall be permitted;
4. Signs shall not have excessive lighting. Electronic signs shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions;
5. Exposed back of signs, poles and other support structures must be painted in a color and finished so as to present an attractive and finished appearance which will blend with the natural surroundings.
6. The following types of signs are prohibited:
  - (i) Animated, projected, moving or giving the illusion of movement (including any moving parts), scrolling, flashing, revolving, blinking, and intermittently illuminated signs, beacons (or any light directed at any location other than the sign itself), searchlights, pennants, and inflatable signs, including balloons;

- (ii) Signs with physical movements or any kind;
  - (iii) Changeable copy or message signs that change at intervals of more than once every eight (8) seconds. Changes of image shall be instantaneous as seen to the human eye and shall not use fading, rolling, window shading, dissolving or similar effects;
  - (iv) Tri-vision signs;
  - (v) Video signs or signs that otherwise give the illusion of video or moving images;
  - (vi) Signs with sound;
  - (vii) Signs with pyrotechnics;
  - (viii) Signs which by reason of position, wording, illustration, size, shape or color obstruct, impair, obscure, interfere with the view of, or may be confused with any traffic control signal or device or which may otherwise obstruct or interfere with traffic.
7. There shall be no more than one sign for each one thousand five hundred (1500) linear feet along the interstate highway layout in the Commercial I Zoning District. This calculation shall be based on the Zoning Map and such calculation shall be submitted by the Applicant to the Planning Board as part of the application materials;
  8. A sign may be double sided. An individual sign or sign face shall not exceed six hundred seventy-two (672) square feet in total area on each side and shall not exceed fourteen (14) feet in height by forty-eight (48) feet in width, as calculated pursuant to Section 6.7.3.1 of these Zoning Bylaws;
  9. A sign shall be mounted on a pedestal or other support structure. The top of the sign shall not exceed fifty (50) feet in height from the elevation of the Interstate Highway immediately adjacent thereto. The bottom of the sign shall not exceed seventy (70) feet in height from the normal grade as calculated pursuant to Section 6.7.3.3 of these Zoning Bylaws;
  10. There shall be no sign, including a roof sign, on any building, whether erected or otherwise placed or painted on the building;
  11. No sign shall be on or otherwise attached to a tree, utility pole, fence or rock;
  12. Lighting or other illumination related to the proposed sign shall not project, glare or negatively impact abutting properties and shall not shine onto abutting roadways;

13. The Applicant shall provide a 10' wide landscaped buffer around the base of the support structure to minimize its visual impact.

6.7.8.3 Criteria for Approval: The Planning Board shall not approve any applications for a Special Permit under Section 6.7.8 unless it finds that all of the following conditions are met and/or are incorporated into any Special Permit decision:

1. The specific site is an appropriate location for the proposed sign and the design and layout complies with the standards and requirements set forth in this Bylaw;
2. The proposed sign will not adversely affect the abutting neighborhood or have the effect of causing a hazard to motorists;
3. The sign is in accordance with Section 7.4.3.1 of the Zoning Bylaws. Any Special Permit decision shall require compliance with Section 6.7.7.2 "Certificate of Insurance";
4. Any Special Permit decision shall require compliance with Section 6.7.7.3 "Location of sign; inclusion of permit number on sign";
5. Any Special Permit decision shall require compliance with Section 6.7.7.5 "Maintenance; inspection";
6. All permits are subject to any necessary approvals, restrictions and conditions required and/or issued by the Commonwealth of Massachusetts and/or the federal Government; and,

The Planning Board, in granting the special permit, shall attach such additional conditions and safeguards as it deems necessary.

6.7.8.4 Sign Maintenance/Removal:

- (a) All signs and supporting structures shall be kept in good repair and free from tear, rust, and other indices of deterioration.
- (b) If a sign permitted under Section 6.7.8 is abandoned, discontinued, blank, or is in disrepair for a period of ninety (90) days, it shall be cause for its removal. (For purposes of this section, a sign is "blank" if:
  - (i) there is no advertising copy paid for by a person other than the sign owner or advertising an interest other than the rental of the sign for said ninety (90) day period;
  - (ii) it advertises a business or service, enterprise or activity that is no longer operating or being offered or conducted; or
  - (iii) the advertising message it displays becomes illegible in whole or substantial part.) The Building Inspector shall notify the owner and/or

manager of the sign and property owner in writing, specifying a forty-five (45) day period to remove or repair. If the sign has not been removed or repaired within the time period to the satisfaction of the Building Inspector, the Building Inspector may revoke the sign permit and cause the sign to be removed forthwith. All expenses for the removal shall be borne by the sign owner and/or property owner as determined by the Building Inspector.

If the Building Inspector determines that a sign is an immediate threat to public safety irrespective of any stays granted to the sign and/or property owner, the Building Inspector may cause any sign, abandoned or not, and any portion of its support structure if deemed part of the public threat, to be immediately removed, and/or the threatened public area cordoned off. All expenses for protecting the public, including the removal of said sign or stabilization of the public safety threat, shall be borne by the sign owner and/or property owner as determined by the Building Inspector. A sign which is not abandoned may be returned to its original position, but only after repairs have been made and the public safety threat abated, to the satisfaction of the Building Inspector.

#### 6.7.8.5 Surety:

The Applicant shall provide a financial surety to the Town which will cover the full cost of the removal of any sign which is found to be abandoned, discontinued, blank or is in disrepair, as determined under Section 6.7.8.4. The Applicant shall deposit with the Town Accountant a surety in an amount which shall be determined by the Planning Board. Upon removal of the sign, any remaining funds shall be returned to the Applicant without interest.

And further to amend the dimensional chart for signs, currently located following Section 6.7.7.8 of Zoning Bylaws, by adding the below chart for the Commercial I Zone. Said chart to be in addition to the existing dimensional chart for Commercial I, II, III. And further to move all said dimensional charts to follow this new Section 6.7.8.

### Residence A and East School Overlay District

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
<b>Wall</b>							
Real Estate	N	6 SF	NA	NA	NA	1	
Informational	N	1 SF	NA	NA	NA	1	
Accessory Use	N	1 SF	NA	NA	NA	1	
<b>Free Standing Pole</b>							
Real Estate	N	6 SF	6	NA	NA	1	
Informational	N	1 SF	NA	NA	NA	1	
Accessory Use	N	1 SF	NA	NA	NA	1	
Temporary	N	*	*	NA	NA	*	
<p>*Temporary Signs</p> <ul style="list-style-type: none"> <li>• Political: Not to exceed 90 days; exempt from maximum number limit</li> <li>• New Construction: Not to exceed one year. During construction of a building, a free standing pole or ground sign may be erected on the premises identifying the building, owner, and or contractors; not to exceed 36 SF in surface area or 10 ft. in any dimension. Such sign to be promptly removed upon completion of the subject building,</li> <li>• Alterations/repairs: Not to exceed duration of activity. One sign for purpose of identifying contractor; not to exceed 6 SF.</li> </ul>							

**Residence B**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
<b>Wall &amp; Free Standing Pole</b>							
Real Estate	N	6 SF	NA	NA	NA	1	
Informational	N	1 SF	NA	NA	NA	1	
Accessory Use	N	1 SF	NA	NA	NA	1	<u>Less than 5 units</u>
	N	10 SF	NA	NA	NA	1	5 plus units
Temporary	N	*	*	NA	NA	1	
<p>*Temporary Signs (See Amendment by Attorney General)</p> <ul style="list-style-type: none"> <li>Political: Not to exceed a period of 90 days – 60 prior to and 30 following the subject event. Signs are not to exceed 6 square feet in total size.</li> <li>New Construction: Not to exceed one year. During construction of a building, a free standing pole or ground sign may be erected on the premises identifying the building, owner, and or contractors; not to exceed 36 SF in surface area or 10 ft. in any dimension. Such sign to be promptly removed upon completion of the subject building.</li> <li>Alterations/repairs: Not to exceed duration of activity. One sign for purpose of identifying contractor; not to exceed 6 SF.</li> </ul>							
<b>Illuminated</b>		SF	NA	NA	NA	1	Less than 5 units
<b>Externally Lit Only</b>		0 SF	NA	NA	NA	1	5 plus units
<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>							
<b>Directory</b>	Y	12 SF	6	Standard	Standard	1	

## Open Space & Recreation Education Districts

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall & Informational	Y	10 SF	NA	Standard	Standard	NA	
Free Standing Pole	Y	25 SF	15	Standard	Standard	NA	
Informational	Y	15 SF	15	Standard	Standard	NA	
Accessory	Y	4 SF	15	Standard	Standard	NA	

## Neighborhood Business

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	10 SF	NA	NA	NA	1	If lit sign, external lit only and shall not be lit from 10 PM to 6 AM
Individual Letter	Y	NA	10	NA	NA	1	
Illuminated Externally Lit Only	Y	10 SF	NA	NA	NA	1	<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>

**Medical**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	25 SF	4	NA	NA	1	1 sign per business; not to exceed 25% of total façade.
Secondary	Y	12.5 SF	4	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed.
Individual Letter	Y	NA	1	NA	NA	1	
Awning	Y	75% length of awning	1	NA	NA	NA	
Monument	Y	25 SF	6	15	15	1	
Informational	Y	6 SF	6	NA	NA		
Illuminated	Y	25 SF	NA	NA	NA	1	1 per business; not to exceed 25% of total façade
	<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>• No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>• No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>• Source of external lighting shall be directed at sign only.</li> </ul>						

## Business

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1st floor only
Secondary	Y	50% of primary wall sign	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
Free Standing Pole	Y	24 SF	15'	15	10		
Individual Letter	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1st floor only
Identification	Y	½ wall sign					Must be below roof line
Awning	Y	¾ length of awning	1	NA	NA	1	
Window	N	30% of window area	NA	NA	NA	NA	
Monument	Y	30 SF	6	15	10	1	
Informational	Y	6 SF	6	NA	NA		
Illuminated	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	15	10	1	1 per business 1 <sup>st</sup> floor only
	<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						

## Central Business

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall & Illuminated Externally Lit Only	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1 <sup>st</sup> floor only
Secondary	Y	50% of primary wall sign	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	<u>NA</u>	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>							
Individual Letter	Y	75 % length of linear storefront frontage	Building Setback: 0-20' = 2' 21'-30' = 3' 31'+ = 4'	NA	NA	1	1 per business 1st floor
Marquee	Y	NA	Shall have minimum clearance of 10'	NA	NA	1	
Awning	Y	75% length of awning	1	NA	NA	NA	
Window	N	30% of window area	NA	NA	NA	NA	
Informational	Y	6 SF	6	NA	NA		

## Highway Business

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	1 per 2 linear feet of building frontage, max. of 100	NA	NA	<u>NA</u>	1	1 per business 1 <sup>st</sup> floor only
Secondary	Y	50% of primary wall sign	NA	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
Free Standing Pole	Y	24 SF per face max. of 48 SF	15	20	5	1	
Business Center	Y	24 SF for main, 10 SF per individual business max of 64 SF	15	20	5	1	Must be the only free standing sign on premises
Individual Letter	Y	NA	1	NA	NA	1	
Projecting	Y	4 SF	NA	NA	NA	1	Maximum number per doorway
Marquee	Y	NA	10' minimum clearance	20	5	1	
Awning	Y	75% length of awning	1	NA	NA	NA	

## Highway Business

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Window	N	30% of window area	NA	NA	NA	NA	
Canopy	Y	18 SF	1	15	NA	NA	Max. SF applies to total for all canopies
Informational	Y	6 SF	6	NA	NA		
<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>							

## Medical Office

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	1.5 SF for each linear foot of frontage, max of 40' width	6	NA	NA	1	Per business
Informational	Y	6 SF	6	NA	NA	1	
Monument	Y	½ area allowed for wall sign	15	15	15	1	

## Commercial I, II, &amp; III

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Wall	Y	1 SF per 2 linear feet of building frontage, max. of 100 SF	4	NA	NA	1	Not to exceed 25% of total façade
Secondary	Y	Max of 50 SF	4	NA	NA	1	Second sign allowed if a second building entrance available; not to exceed 50% of total SF allowed
Identification	Y	25 SF	4	NA	NA	1	
Free Standing Pole	Y	24 SF	15	15	10	1	
Business Center	Y	24 SF for main, 10 SF per individual business max of 64 SF	15	15	10	1	Must be the only free standing sign on premises
Awning	Y	75% length of awning	1	NA	NA	NA	
Illuminated	Y	25 SF	NA	NA	NA	1	1 per business; not to exceed 25% of total façade
	<p>Illuminated Signs</p> <ul style="list-style-type: none"> <li>No red or green light shall be used on any such sign if in the opinion of the Stoneham Chief of Police it creates a driving hazard.</li> <li>No sign shall be illuminated between the hours of 1 AM and 6 AM.</li> <li>Source of external lighting shall be directed at sign only.</li> </ul>						

**Commercial I, II, & III**

Sign Type Allowed	Permit Required	Max. Sign Area	Max Height Ft.	Front Setback	Side Setback	Max. Number	Comment
Projecting	Y	24 SF	NA	NA	NA	1	Projection not to exceed 6' from building
Monument	Y	100 SF	15	15	15	1	
Marquee	Y	NA	10' minimum clearance	NA	NA	1	
Informational	Y	6 SF	6	NA	NA		

## Note 1.

Changeable letter signs are allowed as part of the signage for petroleum product distribution facilities (i.e. gas stations). The area is considered to be part of the total allowed signage. No additional sign area will be permitted for changeable letter signs.

## Note 2.

Signs and postings required by Federal, State, or local agencies or authorities pursuant to applicable law and or regulations made there under shall be exempt from this bylaw to the extent required by Federal, State and or local agencies or authorities.

## Commercial I

Sign Type Allowed	* Special Permit Required	Max Sign Area	* Max Height in Feet	* Front and Rear Setback	* Side Setback	Max Number	Comment
Off-premise & billboard signage - Permitted in Commercial I District only	Y	672 SF per sign face- Not to exceed 14'x48' per sign face	<p>The top of the sign shall be no greater than 50' above the elevation of the interstate Highway immediately adjacent thereto</p> <p>The bottom of the sign shall be no greater than 70' in height from the normal grade as calculated pursuant to Section 6.7.3.3 of these Zoning Bylaws</p>	<p>40' other than a sign facing an Interstate Highway for which there is no setback requirement</p> <p>*no more than 100' from Interstate Highway Layout</p> <p>•</p>	<p>40' other than a sign facing an Interstate Highway for which there is no setback requirement</p> <p>*no more than 100' from Interstate Highway Layout</p> <p>•</p>	See Section 6.7.8	See Section 6.7.8 for additional restrictions and guidelines

**6.8 PERFORMANCE STANDARDS:**6.8.1 *Applicability:*

6.8.1.1 No land, building or structure shall be used or occupied in any District in the Town of Stoneham except in conformance with the standards contained herein.

6.8.2 *Air Pollutants:*

6.8.2.1 Except as is herein provided, all use and conditions of land, buildings and structures shall be in conformance with the Regulations 310 CMR 6.00-8.00 of the Department of Environmental Quality Engineering, Commonwealth of Massachusetts, December 31, 1981, and amendments thereto.

6.8.3 *Noise and Odor:*

6.8.3.1 No noise and/or odors shall be generated which create a public nuisance.

6.8.4 *Heat, Glare, Vibration and Radiation:*

6.8.4.1 No heat, glare or vibration shall be discernible without instruments from the outside of any structure, and no nuclear radiation shall be discernible from the outside of the structure with or without instruments.

6.8.4.2 Wind energy conversion systems, machinery and equipment shall not cause interference with radio and/or television broadcasting or reception and shall comply with the provisions of 47 CFR Part 15 (Federal Communications Commission) as it exists, or as it may be amended.

6.8.5 *Waste Disposal, Water Supply and Water Quality:*

6.8.5.1 Regulations of the State Department of Public Health shall be met and when required, approval shall be indicated on the approved site plan. In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resources Commission, Division of Water Pollution Control, as published and entitled "Water Quality Standards," filed with the Secretary of State on September 21, 1978, and amendments thereto, for streams and water bodies within the Town.

6.8.6 *Storage:*

6.8.6.1 All materials, supplies and equipment shall be stored in accord with Fire Prevention Standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties.

6.8.7 *Exterior Lighting:*

6.8.7.1 No exterior lighting, other than street lighting approved by the Department of Public Works, shall shine on adjacent properties or towards any street.

6.8.8 *Building Construction:*

6.8.8.1 All buildings shall be of construction prescribed in the State Building Code. No building permit shall be granted unless the application for such permit is filed in accord with the Building Code.

6.8.9 *Hazardous Materials and Wastes:*

6.8.9.1 All hazardous materials and wastes used, created, stored, processed, disposed of by processing, diluting, burying or containment, leaching or any other manner, or transported including piping in the Town of Stoneham shall be used, stored or transported in accord with all applicable Federal, State and Local regulations.

6.8.10 *Regulating Alteration of Land:*

6.8.10.1 Whenever the existing contours of the land are altered, the land shall be left in a useable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of water to or from abutting properties, and shall be suitably landscaped. During alteration public safety must at all times be protected by the owner to the satisfaction of the Inspector of Buildings, including, if necessary, the erection of a fence or barrier around the area of alteration. (10-21-85, Art. 15; 5-2-88, Art. 14)

**6.9 FLOOD PLAIN (OVERLAY) DISTRICT REGULATIONS:**

6.9.1 *Flood Plain (Overlay) District:*

6.9.1.1 The Flood Plain Overlay District is herein established as an overlay district. The underlying permitted uses in all districts are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Stoneham Flood Insurance Rate maps, (FIRM), and the Flood Boundary and Floodway Maps, dated July 3, 1986, on file with the Town Clerk, Planning Board and Inspector of Buildings. These maps as well as the accompanying Stoneham Flood Insurance Study are incorporated herein by reference.

6.9.2 *Development Regulations:*

6.9.2.1 *The following requirements in addition to all other requirements in the underlying district, apply in the Flood Plain Overlay District:*

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Inspector of Buildings for its reasonable utilization toward

meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.

- (b) In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions in addition to all other requirements in the underlying district shall apply:
  1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
  2. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code. (10-21-85, Art. 15; 5-12-86, Art. 12)

## **6.10 LAND FILL REGULATION:**

### **6.10.1 *Permit Requirement:***

6.10.1.1 The placement on a lot or movement within a lot of soil, loam, sand, gravel, minerals or other earth material for fill is prohibited without a permit issued by the Building Inspector, when

- (a) The placement or movement of said fill is in excess of two hundred (200) cubic yards per lot during a twelve-month period, other than that incidental to the landscaping of buildings or structures, or for commercial resale; or
- (b) The placement or movement of said fill shall change the drainage characteristics of the land or lot so as to detrimentally affect abutting land. (1-19-89, Art. 2; 10-30-89, Art. 5)

6.10.1.2 The permit requirement set out in Section 6.10.1.1 above, shall not be applicable to the placement or movement of fill on public land by the Town of Stoneham. Sections 6.10.3, 6.10.4, 6.10.5, and 6.10.6 shall be applicable to such fill operations, however. (1-19-89, Art. 2; 10-30-89, Art. 5)

### **6.10.2 *Permit Process:***

6.10.2.1 The application for a permit shall include the name of the property owner, the contractor placing the fill, the transportation company, and the origin, destination, composition and quantity of the material being placed or moved on the property. (1-19-89, Art. 2; 10-30-89, Art. 5)

- 6.10.2.2 The applicant shall provide the Building Inspector with plans prepared and stamped by a registered civil engineer showing the existing topography, proposed finished grade, required retaining walls, proposed footings (if any), as well as plans for drainage and control of run-off and erosion. Plans shall be reviewed by the Town Engineer, however, responsibility for the plan and design, and all consequences resulting therefrom, remain with the applicant, his engineer and contractor(s). (1-19-89, Art. 2)
- 6.10.2.3 The Building Inspector may deny any application for a permit if the proposed placement of fill changes the drainage characteristics of the land or lot so as to detrimentally affect abutting land, or would endanger or threaten property or the safety of the public. (1-19-89, Art. 2)
- 6.10.2.4 The cost of obtaining a permit under this Section shall be Twenty Dollars (\$20.00). A copy of the permit shall be displayed in a conspicuous location at the site of filling. (1-19-89, Art. 2)
- 6.10.2.5 The permit and appeal process shall be governed by Chapter 40A of the Massachusetts General Laws and Section 7.6 of these bylaws. (1-19-89, Art. 2)
- 6.10.3 *Prohibited Material:*
- 6.10.3.1 Placement or movement of any fill containing concrete, metal or steel, brick, block, plaster, wood lathe, bituminous, or other building materials, trees, stumps, heavy metals, hazardous material or other waste products, is prohibited, except for the following if mixed with clean material and compacted in accordance with the Massachusetts State Building Code:
- (a) Non-reinforced concrete slabs if they are broken into pieces with the greatest surface area no greater than six (6) square feet in area.
  - (a) Non-reinforced concrete blocks, curbing or other configurations with the longest side dimension no greater than three (3) feet or
  - (c) Brick, either in pieces or in cemented aggregations, of three (3) feet or less in every dimension. (1-19-89, Art. 2)
- 6.10.4 *Fill Analysis:*
- 6.10.4.1 The Building Inspector may request that the Board of Health determine whether a chemical analysis or other appropriate test of the fill shall be required. (1-19-89, Art. 2)

6.10.5 *Fill Operations:*

6.10.5.1 All fill operations shall be carried out in a safe manner. The Building Inspector, may, if deemed necessary, require security fencing of suitable material, dimension and construction, surrounding the site. (1-19-89, Art. 2)

6.10.6 *Violations:*

6.10.6.1 Any person found to be in violation of any part of Section 6.10 shall be subject to a fine of One Hundred Dollars (\$100.00) for each day such violation continues. (1-19-89, Art. 2; 10-30-89, Art. 5)

6.10.6.2 The Building Inspector shall have authority to require the removal of any fill placed or moved in violation of this section. All costs of removal shall be borne by the violator(s). (1-19-89, Art. 2; 10-30-89, Art. 5)

**6.11 WIRELESS SERVICE FACILITY REQUIREMENTS AND RESTRICTIONS:**

6.11.1 *General Applicability and Purpose:*

6.11.1.1 The same general applicability and purpose as stated in Sections 4.11.1 and 4.11.2 apply.

6.11.1.2 1. Special Permits

In the districts where Wireless Service Facilities are allowed by Special Permit, the Planning Board may issue a Special Permit under Section 7.4 of this bylaw, and the Special Permit Granting Authority Rules and Regulations which shall apply except to the extent a submission requirement is superseded herein, for:

- (a) A Wireless Service Facility (including its supports) of the type allowed in Section 4.11.3, installed on a building or structure, if such Wireless Service Facility exceeds any one or more of the dimensional requirements of Section 4.11.3 (a)(2) or (a)(3); or
- (b) A monopole in accordance with provisions of this bylaw below.

Provided that the Planning Board finds:

1. That the requested installation is essential to the proper functioning of the telecommunications services to be provided by the Wireless Service Facility at that location and that an alternative installation meeting the by-right limitations of Section 4.11.3 is not feasible; and
2. That the requested installation will not materially adversely affect adjacent properties; and

3. That there are no existing, approved or proposed Wireless Service Facilities which are reasonably available to accommodate the Wireless Service Facility equipment proposed in order to provide the proposed Wireless Communications Services; and
4. That the overall height of a proposed monopole does not exceed the height permitted in the underlying zoning district, unless the applicant demonstrates that a greater height, but in no event higher than fifteen feet (15') above the height permitted in the underlying zoning district or higher than ten feet (10') above the tallest building, average tree canopy height (measured from ground level) or topographical feature of the land within five hundred feet (500') of the Wireless Service Facility, is essential to the proper functioning of the Wireless Communication Services to be provided by the Wireless Service Facility at that location and that an alternative installation meeting the height restrictions and the requirements of this bylaw can not be met. The height and size, including any appurtenant equipment and devices, shall be the minimum height and size essential to the proper functioning of the Wireless Communication Services to be provided by the Wireless Service Facility at that location; and
5. That with respect to a monopole, the applicant has agreed to permit other Wireless Communications Service providers to co-locate on the monopole if technologically practical at commercially reasonable rates. (10-29-98, Art.20;10-25-99, Art. 25)

6.11.2 *Prohibitions:*

The following are prohibited:

- (a) All free standing (ground mounted) Wireless Service Facilities other than monopoles. Prohibited free standing Wireless Service Facilities include Lattice towers or Lattice style towers and any Wireless Service Facility requiring two or more legs.
- (b) Guy wires. (10-29-98, Art. 20)

6.11.3 *Design Provisions:*

6.11.3.1 *Setbacks:*

- (a) All Wireless Service Facilities, including equipment shelters, shall comply with the setback provisions of the zoning district in which the facility is located.
- (b) The center point of the base of a monopole (or any other freestanding ground mounted Wireless Service Facility if for any reason allowed under applicable

law despite the prohibition herein) shall be set back from the property line of the lot in which such device is located by distance equal to the overall vertical height of the monopole and any antennas or other appurtenances plus five feet (5'), unless the applicant demonstrates that: (1) due to topography and/or other characteristics of the site or the structure a lesser setback shall not pose any public safety danger to any adjacent property and that the requested installation is essential to the proper functioning of the telecommunications services to be provided by the Wireless Service Facility, or (2) the Planning Board finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use. (10-29-98, Art. 20).

6.11.3.2 *Screening:*

Whenever possible, Wireless Service Facilities shall be sited so as to minimize visibility from adjacent property and shall be suitably screened from abutters and residential neighborhoods and from public viewing areas. (10-29-98, Art. 20)

6.11.3.3 *Landscaping and Preservation of Existing Vegetation:*

Freestanding Wireless Service Facilities not otherwise camouflaged from public viewing in accordance with this bylaw shall, unless otherwise directed by the Planning Board based on site conditions, be surrounded by buffers of dense tree growth and undestroy vegetation in all directions to create an effective year-round visual buffer of sufficient height and depth to effectively screen the facility while not effectively impairing the operation of the Wireless Service Facility or shall otherwise be disguised to the satisfaction of the Planning Board. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions. To the extent feasible and consistent with this bylaw, existing on-site trees and vegetation shall be preserved and/or be replaced or restored after construction and installation of the Wireless Service Facilities. (10-29-98, Art. 20)

6.11.3.4 *Color:*

Wireless Service Facilities, including but not limited to monopoles and mounted Wireless Service Facilities and supports, shall be painted or otherwise colored or finished in the manner which minimizes the visibility of the Wireless Service Facilities in the surrounding landscape and on the building or structure to which they are attached and, if applicable, with the sky. (10-29-98, Art. 20)

6.11.3.5 *Antennas:*

Whenever technologically feasible, antennas and other wireless communication equipment shall be mounted flush against the monopole. (10-29-98, Art. 20)

6.11.3.6 *Fencing:*

Any fencing necessary to control access to the Wireless Service Facilities shall be compatible with the character of the area. Fences utilizing razor wire, barbed wire or a similar wire type shall not be allowed. (10-29-98, Art. 20)

6.11.3.7 *Signs:*

There shall be no advertising permitted on or in the vicinity of a Wireless Service Facilities. There shall be a sign not exceeding four square feet in area at each installation which shall display a phone number where the person responsible for the maintenance of the installation may be reached on a 24-hour basis. (10-29-98, Art. 20)

6.11.3.8 *Lighting:*

Lighting of Wireless Service Facilities shall be prohibited except for such lighting as may be required by federal or state law or regulation or by order of the Federal Aviation Administration in pre-emption of this prohibition. Lighting of Wireless Service Facilities and any other facilities on site shall be shielded from abutting properties. Temporary lighting as necessary for emergency repair purposes shall be allowed for a reasonable period of repair. (10-29-98, Art. 20)

6.11.3.9 *Equipment Shelters and Network Interconnections:*

Equipment shelters and network interconnections for Wireless Service Facilities shall be located in underground vaults or shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The style of fencing and/or landscape buffer shall be compatible with the neighborhood. (10-29-98, Art. 20)

6.11.3.10 *Historic Buildings and Districts:*

Any Personal Wireless Service Facilities located on or within an historic structure shall not alter the character-defining features or distinctive construction methods of the building. Any alteration made to an historic structure to accommodate a device shall be fully reversible. (10-29-98, Art. 20)

6.11.3.11 *Parking:*

There shall be a maximum of one parking space for each monopole to be used in connection with the maintenance of the site and not to be used for the permanent storage of vehicles or other equipment. (10-29-98, Art. 20)

6.11.4 *Environmental Standards:*

6.11.4.1 Wireless Service Facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized. (10-29-98, Art. 20)

6.11.4.2 No hazardous waste shall be discharged on the site of any Wireless Service Facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site. (10-29-98, Art. 20)

6.11.4.3 Stormwater run-off shall be contained on-site. (10-29-98, Art. 20)

6.11.4.4 Ground-mounted equipment for Wireless Service Facilities shall not generate noise in excess of 50 db at the property line.

Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna. (10-29-98, Art. 20)

6.11.5 *Safety Standards:* (10-29-98, Art. 20)

6.11.5.1 Wireless Service Facilities and equipment shall be authorized, constructed and operated in accordance with applicable federal and state law, regulations, orders and guidelines. (10-29-98, Art. 20)

6.11.5.2 Wireless Service Facilities shall be designed to withstand winds and gusts of a category 5 hurricane. (10-29-98, Art. 20)

6.11.5.3 When a Wireless Service Facility is located above or in the vicinity of pedestrian areas or other areas open to the public, such installation shall be constructed and maintained in a manner that does not impede or restrict the movement of pedestrians nor pose a hazard to any person. (10-29-98, Art. 20)

6.11.6 *Application Procedures - Special Permit:* (10-29-98, Art. 20)

6.11.6.1 *Pre-application Wireless Service Facilities Conference:*

Prior to the submission of an application for a Special Permit pursuant to this bylaw, the applicant is strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed wireless service facility in general terms and to clarify the filing requirements. The purpose of the conference is to inform the Planning Board as to the preliminary nature of the proposed Wireless Service Facility. No formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the location of the proposed

facility, as well as its scale and overall design and to discuss alternative sites, including but not limited to existing sites of Wireless Service Facilities. (10-29-98, Art. 20)

6.11.6.2 *Application Filing Requirements:*

The following shall be included with an application for a Special Permit for a Wireless Service Facility.

(a) General Filing Requirements

1. Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants. A licensed carrier shall either be an applicant or a co-applicant and shall provide a certified copy of its FCC license to operate the proposed system.
2. If the property owner is not an applicant or co-applicants said property owner must provide written documentation of the applicant's right to use the property for the proposed Wireless Service Facility.
3. A detailed statement and description of the Wireless Communication Services to be provided or supported by the Wireless Service Facility, including how the proposed Wireless Service Facility will eliminate or alleviate any existing deficiencies or limitations in the Wireless Communication Services of the applicant.
4. A certification by the applicant that said applicant and the Wireless Service Facility comply with all federal and state laws, regulations and requirements to provide the proposed Wireless Service Facility. (10-29-98, Art. 20)

6.11.6.3 *Location Filing Requirements:*

Include the following information with an application:

- (a) Address of the subject property and the names of the nearest public and private ways.
- (b) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- (c) A map showing the Wireless Service Facilities with which the proposed facility would interact and the other existing Wireless Service Facilities in the Town and within two (2) miles of its municipal boundaries.
- (d) To the best of the applicant's knowledge, information and belief, a forecast of when maximum capability would be reached for the proposed Wireless Service

Facilities and the proposed locations of all the applicant's existing and future Wireless Service Facilities in the Town and within two (2) miles of the Town boundaries depicted on a map.

6.11.6.4 *Siting Filing Requirements:*

- (a) File with the application, as site filing information, a one-inch-equals-40 feet vicinity plan showing the following:
  1. Property lines for the subject property and all properties adjacent to the subject property within 300 feet (300').
  2. Tree cover on the subject property and adjacent properties within 300 feet, (300') by dominant species and average height, as measured by or available from a verifiable source.
  3. Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet (300').
  4. Proposed location of antenna, mount and equipment shelter(s).
  5. Proposed security barrier, indicating type and extent, as well as point of controlled entry.
  6. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet (300') including driveways proposed to serve the Wireless Service Facility.
  7. Distances, at grade, from the proposed Wireless Service Facility to each building on the vicinity plan.
  8. Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet (300').
  9. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
  10. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the Wireless Service Facility
  11. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.
- (b) Sight lines and photographs as described below:

1. A sight line representation shall be drawn from any public or private way within three hundred feet (300') and the closest facade of each residential building (viewpoint) within three hundred feet (300') to the highest point (visible point) of the Wireless Service Facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within three hundred feet (300') there shall be at least two sight lines from the closest habitable structures or public roads, if any.
  2. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public or private way within 300 feet.
  3. Each of the existing condition photographs shall have the proposed personal Wireless Service Facility superimposed on it to show what will be seen from public roads if the proposed Wireless Service Facility is built.
- (c) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed Wireless Service Facility plus from all existing public and private ways that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
1. Antennas, mounts and equipment shelter(s), with total elevation dimensions and at ground level of the highest point.
  2. If the security barrier will block views of the Wireless Service Facility, the barrier drawing shall be cut away to show the view behind the barrier.
  3. Any and all structures on the subject property.
  4. Existing trees and shrubs at current height and proposed trees and shrubs.
  5. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

6.11.6.5 *Design Filing Requirements:*

- (a) Equipment brochures for the proposed Wireless Service Facility such as manufacture's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (b) Materials of the proposed Wireless Service Facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted

fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

- (c) For monopoles a description of the capacity of the monopole, including the number and type of antenna, transmitters and/or receivers that it can accommodate and the basis for these calculation.
- (d) Colors of the proposed Wireless Service Facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (e) Dimensions of the Wireless Service Facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (f) Appearance shown by at least two photographic superimpositions of the Wireless Service Facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- (g) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- (h) Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a crane test or alternate temporary structure or balloon if approved by the Planning Board, at the proposed site that replicates to illustrate the height of the proposed Wireless Service Facility. The crane or structure shall remain in position for no less than three (3) days for at least eight (8) hours per day, with one day being a weekend day. The date, time and location of such test shall be advertised, at the applicant's cost in a Stoneham newspaper of general circulation twice in consecutive weeks, not more than twenty-one (21) days prior to the test. In addition, written notice shall be sent, at the applicant's cost, to abutters who would receive notice for special permit applications pursuant to G.L.c.40A, sec.11.
- (i) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed. (10-29-98, Art. 20)

6.11.6.6 *Noise Filing Requirements:*

1. The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed Wireless Service Facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:
2. Existing, or ambient: the measurements of existing noise.
3. Existing plus proposed Wireless Service Facilities: maximum estimate of noise from the proposed Wireless Service Facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Bylaw. (10-29-98, Art. 20)

6.11.6.7 *Radiofrequency Radiation (RFR) Filing Requirements:*

- (a) The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:
  1. Existing, or ambient: the measurements of existing RFR.
  2. Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless facility plus the existing RFR environment.
  3. Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines and any applicable requirements of the Commonwealth of Massachusetts. (10-29-98, Art. 20)

6.11.6.8 *Federal Environmental Filing Requirements:*

- (a) The National Environmental Policy Act (NEPA) applies to all applications for Wireless Service Facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR ch.I.) The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for certain Wireless Service Facility, including, but not limited to all those proposed in or involving any of the following areas: endangered species habitat, historical site, flood plains, wetlands, high intensity white lights in residential neighborhoods, and excessive radio frequency radiation exposure.

- (b) At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each Wireless Service Facility site that requires such an EA to be submitted to the FCC.
- (c) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the Wireless Service Facility that are considered hazardous by the federal, state or local government. (10-29-98, Art. 20)

6.11.6.9 *Waiver:*

The Planning Board may waive one or more of the application filing requirements of this bylaw if it finds that such information is not needed for a thorough review of the proposed Wireless Service Facility.

6.11.7 *Term of Special Permit:*

A Special Permit issued for any Wireless Service Facility may, in accordance with the G.L.c.40 A, Sec. 9, have a time limitation. At the end of that time period, the Wireless Service Facility shall be removed by the carrier or a new Special Permit shall be required.

6.11.8 *Modifications:*

A modification of a Wireless Service Facility may be considered equivalent to an application for a new Wireless Service Facility and will require a Special Permit when the following events apply:

- (a) The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the personal wireless service facility in one or more of the following ways:
  - 1. Change in the number of facilities permitted on the site; or
  - 2. Change in technology used for the personal wireless service facility.
- (b) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing. (10-29-98, Art. 20)

6.11.9 *Co-location:*

6.11.9.1 Monopoles shall share Wireless Service Facilities equipment where feasible and appropriate, thereby reducing the number of Wireless Service Facilities that are stand-alone facilities. All applicants for a Special Permit for a Wireless Service Facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- (a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;

- (b) Attempted contact with all the other licensed carriers for commercial mobile radio services operating in the County; and
  - (c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location. (10-29-98, Art. 20)
- 6.11.9.2 In the event that co-location is found not be feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for collocation. (10-29-98, Art. 20)
- 6.11.9.3 If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the Wireless Service Facility at full build-out. (10-29-98, Art. 20)
- 6.11.9.4 If the Planning Board approves co-location for a Wireless Service Facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities no specified in the approved Special Permit shall require a new Special Permit. (10-29-98, Art. 20)
- 6.11.9.5 Estimates of RFR emissions will be required for all facilities, including proposed and future facilities. (10-29-98, Art. 20)
- 6.11.10 *Abandonment or Discontinuation of Use:*
- 6.11.10.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation for operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the Wireless Service Facility shall be considered abandoned upon such discontinuation of operations. If there are two or more users of a single Wireless Service Facility, then this provision shall not become effective until all users cease using the Wireless Service Facility. (10-29-98, Art. 20)
  - (a) Upon abandonment or discontinuation of use, the licensed carrier shall physically remove the Wireless Service Facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
    - (b) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
    - (c) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

- (d) Restoring the location of the Wireless Service Facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- 6.11.10.2 If a licensed carrier fails to remove a Wireless Service Facility in accordance with this section of this bylaw, the town shall have all the authority allowed under law to cause and/or enforce the removal of the Wireless Service Facility and the restoration of the property. The Planning Board may require the applicant to post a bond at the time of construction to cover costs for the removal of the Wireless Service Facility and the restoration of the property in the event the Town must remove the facility and/or restore the property. 10-29-98, Art. 20)
- 6.11.11 *Reserved*
- 6.11.12 *Monitoring and Maintenance:*
- 6.11.12.1 After the wireless service facility is operational, the licensed carrier shall submit, within ninety (90) days of beginning operations, and at annual intervals from the date of issuance of the Certificate of Occupancy, existing measurements of RFR from the Wireless Service Facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio frequency Standards section of this Bylaw. (10-29-98, Art. 20)
- 6.11.12.2 After the Wireless Service Facility is operational, the licensed carrier shall submit, within 90 days of the issuance of the Certificate of Occupancy, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Bylaw. (10-29-98, Art. 20)
- 6.11.12.3 The licensed carrier shall maintain the Wireless Service Facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping. (10-29-98, Art. 20)
- 6.11.13 *Severability:*
- If any section of this bylaw or portion thereof is declared invalid it shall not affect the validity or application of the remainder of the bylaw. (10-29-98, Art. 20)
- 7.0 ADMINISTRATION:**
- 7.1 BOARD OF APPEALS:**
- 7.1.1 *Establishment:*

- 7.1.1.1 The Board of Appeals referred to herein shall be the Board of Appeals of the Town of Stoneham as constituted on the date of the acceptance of this recodification.
- 7.1.1.2 The Board of Appeals shall also act as the Board of Appeals required under the provisions of Section 81Z of Chapter 41 of the Massachusetts General Laws, as amended, relating to subdivision control.
- 7.1.1.3 *Appointment of regular members:* The Selectmen shall nominate and appoint members to the Board of Appeals annually during the month of April to fill such vacancies as may exist due to the expiration of members' terms.
- 7.1.1.4 *Appointment of associate members:* The Selectmen shall also annually during the month of April nominate and appoint two (2) associate members of the Board of Appeals who shall act as members thereof in the absence of any member or members of the Board when requested by the Board of Appeals. Said associate members shall have the power of regular members in the performance of their duties and shall be subject to the provisions of this Section relative to members of the Board of Appeals. The Selectmen may at any time appoint an associate member to fill an existing vacancy on the Board.
- 7.1.1.5 *Terms:* The terms of regular members shall be three (3) years. All terms of associate members shall be one (1) year.
- 7.1.1.6 *Residency and removal of members:* Members of the Board of Appeals shall be residents of the Town of Stoneham, and shall hold office during such residence until their successors are duly qualified and may be removed for just cause after hearing by the Board of Selectmen.
- 7.1.1.7 *Vacancies:* The Selectmen shall nominate and appoint members to fill the unexpired terms of regular and associate members should a vacancy exist.
- 7.1.1.8 *Concurrent membership:* No regular member of the Board of Appeals or the Planning Board shall serve on both Boards concurrently. However, any person holding a position upon acceptance of this revised Zoning bylaw as a member of the Board of Appeals and member of the Planning Board shall continue his duties on both Boards until the normal expiration of either term.
- 7.1.2 *Powers:* The Board of Appeals shall have the following powers:
- 7.1.2.1 To hear and decide appeals in accordance with Section 8 of Chapter 40A of the General Laws, as amended.
- 7.1.2.2 To hear and decide petitions for variances in accordance with Section 10 of Chapter 40A of the General Laws, as amended.
- 7.1.2.3 To hear and decide petitions for exceptions as provided in this bylaw.

**State law reference**—Variances, G.L. c. 40A, Sec. 12.

7.1.3 *Variance Procedure:*

7.1.3.1 Deleted (4-03-01, Art. 6)

**Editors note**— See Chapter 18, Board of Appeals Rules & Regulations

**7.2 BOARD OF SELECTMEN:**

7.2.1 *Establishment:*

7.2.1.1 The Board of Selectmen referred to herein shall be the Board of Selectmen of the Town of Stoneham.

7.2.2 *Powers:*

7.2.2.1 To hear and decide petitions for Site Plan Approval whenever the contemplated use requires Site Plan Approval, either under this bylaw or under Chapter 16 of the Stoneham Town Code.

7.2.3 *Conditions for Site Plan Approval:*

7.2.3.1 The applicable Board shall not approve any application for Site Plan Approval unless it finds that said Site Plan complies in all respects with the requirements of this bylaw.

7.2.3.2 In approving a Site Plan, the applicable Board may attach such conditions, limitations, and safeguards as are deemed necessary to protect the District and the Town as enumerated in Chapter 16 of the Stoneham Town Code.

7.2.4 *Review Fees for Outside Consultants:*

- (a) When reviewing an application for site plan approval or modification thereof (hereinafter also referred to as a "proposal"), the Board of Selectmen may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed subdivision development or because of its potential impact. The Board may require that applicants pay a review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.
- (b) In hiring outside consultants, the Board may engage engineers, planners, traffic consultants and/or other appropriate professionals who can assist the Board in analyzing a proposal to ensure compliance with all relevant laws, bylaws and regulations. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.

- (c) Funds received by the Board pursuant to this section may be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been collected from the applicant. In the alternative, the funds received may, upon a determination by the Board, be deposited in the general fund subject to the requirement of providing a refund in the amount proscribed below. Failure of an applicant to pay a review fee shall be grounds for denial of the site plan approval or modification.
- (d) Review fees may only be spent for services rendered in connection with the specific proposal from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- (e) Any applicant may take an administrative appeal from the selection of an outside to the Board of Selectmen sitting outside of its site plan hearing process. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. (5-5-97, Art. 1)

### **7.3 PLANNING BOARD:**

#### **7.3.1 Establishment:**

7.3.1.1 The Planning Board referred to herein shall be the Planning Board of the Town of Stoneham.

#### **7.3.2 Powers:**

7.3.2.1 The Planning Board herein referred to shall have all the powers referred to under the provisions of Sections 81A through 81GG, Chapter 41, Massachusetts General Laws, as amended, relating to Planning Boards and to subdivision control.

7.3.2.2 To hear and decide petitions for Special Permits upon which the Board is empowered to act under this bylaw.

**State law references**—Municipal planning and planning boards, G.L. c. 41, secs. 81A-81J. Subdivision control law, G.L. c. 41, secs. 81K-81GG.

Cross reference—Planning Board, Regulations, Ch. 17.

**7.4**        ***SPECIAL PERMIT:***

7.4.1        *(Reserved)*

7.4.2        *Procedure:*

7.4.2.1      Additional procedural requirements in the special permit process are located in Chapter 17 of the Stoneham Town Code. (4-03-01, Art. 5)

7.4.3        *Conditions for Approval of a Special Permit:*

7.4.3.1      The Planning Board shall not approve any such application for a Special Permit unless it finds that in its judgment use of the site is in harmony with the general purpose and intent of this bylaw and is subject to and consistent with the conditions, safeguards and limitation herein set forth, and is subject to all the following conditions (except that uses accessory to activities permitted as a matter of right and which activities are necessary in connection with scientific research or scientific development or related production may be permitted provided the applicable Board finds that the proposed accessory use does not substantially derogate from the public good):

- (a) The specific site is an appropriate location for such use, structure, or condition.
- (b) The use as developed and operated will not adversely affect the neighborhood.
- (c) There will be no nuisance or serious hazard to vehicles or pedestrians.
- (d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- (e) Access to the site over streets is appropriate for the type of vehicles involved.

7.4.3.2      In approving a Special Permit, the Planning Board may attach such conditions, limitations and safeguards as are deemed necessary to protect the District and the Town. Such conditions may include, but are not limited to, the following:

- (a) Requirement of front, side or rear yards greater than the minimum required by this bylaw.
- (b) Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.
- (c) Modification of the exterior features or appearances of the structure.

- (d) Limitation of size, number of occupants, method or time of operation, or extent of facilities.
- (e) Regulation of the number, design and location of access drives or other traffic features.
- (f) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaws.

7.4.4 *Exercise of a Special Permit:*

7.4.4.1 A Special Permit shall be exercised within two (2) years after issuance, including the time required to pursue or await the determination of an appeal referred to in Section 7.6, or shall lapse.

7.4.5 *Special Permit for Temporary Structure or Use:*

7.4.5.1 In undeveloped sections of the Town and in built-up sections where some good reason exists, the Building Inspector may grant temporary and conditional permits for a period of not more than one (1) year at a time, subject to a single renewal for buildings and uses which do not conform to the use regulations of the District; provided that such permits are made subject to such conditions as shall safeguard the character of the District and are granted in accordance with the procedure provided in Section 7.4.

7.4.5.2 Upon the expiration of such permit, the structure shall be removed and the use cease and the land shall be restored to useable condition.

**State law reference**—Special permit, G.L. c. 40A, Sec. 9.

**Editor's note**—Secs. 7.4.6 - 7.4.6.2 have been renumbered as Sec. 7.2.3 - 7.2.3.2.

**7.5**      ***ENFORCEMENT:***

7.5.1      *Enforcing Officer:*

7.5.1.1      *Designated:* The Building Inspector appointed under provisions of the Building bylaw shall enforce the provisions of this Section.

7.5.1.2      *Violation - Inspection of Property:* If the Building Inspector shall be informed or knows that any provision of this Section has been or is being violated, he shall inspect the property where the violation exists.

7.5.1.3      *Violations - Notice:* If the Building Inspector shall find any such violation as specified in Subsection 7.5.1.2 of this Section, he shall give notice in writing to the owner or his authorized agent and to the occupant of the premises that any use of the building or structure contrary to this Section shall immediately cease.

- 7.5.1.4 *Violations - Revocation of Occupancy Permits:* If after such notice as specified in Subsection 7.5.1.3 of this Section, the building or structure is used contrary to the provisions of this Section or if any owner or occupant fails to obey a lawful order of the Building Inspector in respect to any violation of this Section, he may revoke the permit for occupation of the premises.
- 7.5.1.5 *Violations - Injunctions and other methods of enforcing Section:* Upon such failure to obey as is specified in Subsection 7.5.1.4 of this Section, the Building Inspector shall make complaint to the court having jurisdiction thereof or apply to the Superior Court for an injunction or order restraining the further use of the premises and shall take any and all such action as may be necessary to enforce this Section.
- 7.5.1.6 *Authority Generally:* In all other matters the Building Inspector shall have all authority granted him under the provisions of the Statutes of the Commonwealth, the provisions of this bylaw, and the provisions of any other Bylaws of the Town of Stoneham.

**State law references**—Inspection of Buildings, G.L. c. 143, secs. 3-61. Massachusetts State Building Code, 780 CMR 100, et seq.

7.5.2 *Building Permits:*

7.5.2.1 The Building Inspector shall act as follows:

- (a) *Issuance in violation of this Section:* The Building Inspector shall issue no permit for the construction, erection, removal or alteration of any building or structure which is designed or intended to be used for a purpose in violation of this Section.
- (b) *Posting:* The Building Inspector shall, upon granting a permit, not later than twelve (12) hours thereafter, cause a copy to be posted on the property to which it relates in a conspicuous location thereon.
- (c) *Date of Issuance:* The Building Inspector shall issue no permit for the construction, erection, alteration or removal of any building until after three (3) days from the time of the filing of the application therefor.

7.5.2.2 The Building Inspector shall not issue a building permit for any building or use requiring Site Plan Approval unless such approval has been obtained.

7.5.2.3 Building permits, excluding permits for accessory structures, additions and alterations and renovations, for buildings not having frontage on: (1) a public way or a way certified which the Town Clerk of Town Engineer certifies is maintained and used as a public way, or (2) a way shown on a definitive subdivision plan approved and endorsed in accordance with the Subdivision Control Law and recorded at the Registry of Deeds and constructed in accordance with said plan shall comply with the following provisions:

- (a) A building permit, excluding permits for accessory structures, additions and alterations and renovations, for a building having frontage on a way in existence when the Subdivision Control Law became effective in the Town of Stoneham may be issued only if the way has, in the opinion of the Planning Board, sufficient width, suitable grades, adequate site distance and turning radius, complies with the engineering requirements for safe entry and egress to or from another way, has adequate construction to provide for the need of vehicular and pedestrian traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon all in accordance with the requirements of the Department of Public Works. The Planning Board may grant a waiver from the department of Public Works requirements in any particular case where such waiver is in the public interest and not inconsistent with the intent and purpose of the zoning Bylaws.
- (b) A building permit, excluding permits for accessory structures, additions and alterations and renovations, for a building which abuts a private way offering the principal means of access to abutting properties but which way does not qualify as a street pursuant to Section 2.1.74 (b) or (c) or which does not have public water and sewer available for connection may be issued only if the following requirements have been met:
  - i. A determination has been made by the Planning Board, based upon a plan submitted by the applicant in accordance with the rules and regulations of the Planning Board as to plan form that a way having sufficient width, suitable grade, adequate site distance and turning radius, complies with the engineering requirements for safe entry and egress to or from another way and has adequate construction to provide for the needs of vehicular and pedestrian traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation and provision of municipal services to serve such land and the buildings thereon or to be erected thereon can be constructed all in accordance with the engineering requirement of the Department of Public Works. The Planning Board may grant a waiver from the Department of Public Works requirements in any particular case where such waiver is in the public interest and not inconsistent with the intent and purpose of the zoning Bylaws; and
  - ii A determination by the Planning Board or its agent that the way and municipal services referenced in subparagraph (i) above have been constructed in accordance with the plan submitted and approved by the Planning Board or in the opinion of the Planning Board or its agent have been sufficiently constructed for the granting of a building permit with a

bond, deposit or passbook or tri-party agreement or other form of security acceptable pursuant to the requirements of the Planning Board securing completion thereof, and

iii The lot upon which the building is located existed and was duly recorded at the Registry of Deeds prior to the enactment of this Bylaw, and

(c) All other requirements concerning the issuance of a building permit must be complied with prior to the issuance of a building permit.

Nothing herein or pursuant to the definition of "street" in Section 2.1.76 shall prohibit the granting of a building permit, otherwise permitted pursuant to the zoning bylaws, for an accessory structure or for an addition, alteration or renovation of a building lawfully constructed prior to the adoption of this Bylaw regardless of whether said way qualifies as a street pursuant to Section 2.1.74 (a), (b), or (c). (5-5-97, Art. 3)

#### 7.5.3 *Violations:*

7.5.3.1 If the Building Inspector shall be informed, in accordance with Section 7 of Chapter 40A of the General Laws, or otherwise have reason to believe that any provision of this bylaw has been, is being, or may be violated, he or his agent shall investigate the facts and inspect the property in question.

7.5.3.2 If the Building Inspector shall find such violation, he shall give notice thereof in writing to the owner or the duly authorized representative thereof and to the occupant of the premises, and order that the use of any building or premises contrary to the provisions of this bylaw shall cease immediately.

#### 7.5.4 *Occupancy Permits:*

7.5.4.1 No building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever, and no change of use shall hereafter be made of any land or in any building or part thereof, until a certificate of occupancy and compliance shall have been issued by the Building Inspector stating that the building or use or both complies with the provisions of this Section, other provisions of the bylaws of the Town, and the provisions of the laws of the Commonwealth. (4-03-01, Art. 11)

7.5.4.2 Applications for certificates of occupancy and compliance shall be filed coincident with application for building permits and shall be issued or refused in writing for cause within five (5) days after the Building Inspector has been notified in writing that the erection or alteration of such building or buildings has been completed.

7.5.4.3 A record of all certificates of occupancy and compliance shall be kept on file in the office of the Building Inspector and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property.

- 7.5.4.4 Buildings accessory to dwellings when completed at the same time shall not require a separate Certificate of Occupancy.
- 7.5.4.5 Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion.
- 7.5.4.6 Such certificate shall not be issued, except under such restrictions and provisions as will adequately insure the safety of occupants.
- 7.5.4.7 No temporary certificates shall be issued prior to its completion, if the building fails to conform to the provisions of the building laws and the laws of the Commonwealth or of this Section to such a degree as to render it unsafe for the occupancy proposed.
- 7.5.5 *Penalty:*
- 7.5.5.1 The penalty for the violation of any provision of this bylaw shall be Three Hundred Dollars (\$300) for each day such violation continues after receipt of notice thereof. (5-2-88, Art. 9)

## **7.6** *RIGHT TO APPEAL:*

- 7.6.1 Actions of the Building Inspector may be appealed to the Board of Appeals by:
- 7.6.1.1 Any person aggrieved by an order, act or refusal of the Building Inspector to grant a permit.
- 7.6.1.2 Any person aggrieved by the issuance of a permit by the Building Inspector.
- 7.6.1.3 Any person aggrieved by inability to obtain enforcement action from the Building Inspector in accordance with the provisions of Section 7 of Chapter 40A of the Massachusetts General Laws, as amended.

**Editor's note**—Section 7 of Chapter 40A referenced above is now Section 8 of Chapter 40A.

## **8.0** *APPLICABILITY:*

### **8.1** *EFFECTIVE DATE:*

- 8.1.1 The adoption of this bylaw shall have the force and effect of repealing all presently existing Zoning bylaws and amendments thereto, heretofore adopted by the Town of Stoneham, except those relating to establishment and powers of the boards referred to herein.
- 8.1.2 The effective date of this bylaw, and the establishment of the respective Districts shall be deemed to be October 21, 1985. The effective date of each subsequent

amendment or change of this bylaw shall be shown by an appendix to this bylaw which shall be kept on file in the office of the Town Clerk.

## **8.2** *OTHER REGULATIONS:*

- 8.2.1 Nothing contained in this bylaw shall be construed so as to repeal or nullify any existing bylaw or regulation of the Town, other than those referred to in Section 8.1.1, but shall be in addition thereto. Where the subject matter herein contained is elsewhere regulated, the more stringent provision shall prevail.

## **8.3** *LIMITATIONS:*

- 8.3.1 This bylaw shall not be deemed to effect, in any manner whatsoever, any easements, covenants or other agreements between parties; provided that where this bylaw imposes a greater restriction upon the use of buildings or land or upon the erection, construction, enlargement of buildings than is imposed by other provisions of the Bylaws of the Town, rules, regulations, certificates or other authorizations or by easements, covenants or agreements, the provisions of this bylaw shall prevail.

## **8.4** *VALIDITY:*

- 8.4.1 Nothing in this bylaw shall be construed as establishing regulations or restrictions which are not uniform for each class or kind of buildings, structures, or land, and for each class or kind of use in each district.

## **8.5** *SEVERABILITY:*

- 8.5.1 The invalidity of any portion or provision of this bylaw shall not affect the validity of any other Section or provision thereof.

## **9.0** *ADOPTION AND AMENDMENT:*

- 9.1 This bylaw shall be adopted, and may from time to time be amended, in accordance with the provisions of Section 5 of Chapter 40A of the Massachusetts General Laws, as amended.

**State law reference**—Adoption or change of zoning bylaws, procedures, G.L. c. 40A, Sec. 5.