

# TOWN OF GROVELAND



## ZONING BY-LAWS

As Amended at Town Meeting on December 3, 2018  
Attorney General Approval on July 2, 2019

# GROVELAND ZONING BY-LAW

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## **SECTION 1. GENERAL PROVISIONS**

### **1.1. Title.**

This By-law shall be known and may be cited as the Zoning By-law of the Town of Groveland, Massachusetts and is referred to herein as “this By-law.”

### **1.2. Authority.**

This By-law is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto.

### **1.3. Purpose.**

These regulations are enacted to promote the general welfare of the Town of Groveland, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the Town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the Town and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### **1.4. Scope**

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

### **1.5. Applicability.**

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of this By-law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-law shall control. If within this By-law a zoning by-law or part thereof is in conflict with another zoning by-law or part thereof, the most stringent shall apply.

### **1.6. Amendments.**

This By-law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s. 5, and any amendments thereto.



### 1.7. Separability.

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision herein.

## **SECTION 2. DEFINITIONS**

*(Amended on April 30, 2018)*

For the purpose of this By-law the following words and terms are hereby defined or the meaning thereof explained or limited. In the event of conflict within the body of this By-law, the more stringent definition will apply unless otherwise indicated. Words used in the present tense include the future, the singular number includes the plural and the plural includes the singular, the word “lot” includes the word “plot”, the word “shall” is intended to be mandatory, the word “may” is intended to be permissive, the words “occupied” or “used” shall be considered as though followed by the words “or intended, arranged or designed to be used or occupied,” the word “person” includes a group, partnership, firm, association, organization, company, or corporation as well as an individual. The words “building,” “structure,” “lot,” or “parcel,” shall be construed as being followed by the words “or any portion thereof.” Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this By-law. All other words not defined herein shall have their commonly accepted meanings.

**ACCESSORY USE OR BUILDING:** Use or building customarily incidental to and located on the same lot with the use or building to which it is accessory and not detrimental to the neighborhood.

**AGRICULTURAL USE – EXEMPT:** Commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture uses as permitted by M.G.L. c. 40A, § 3.

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

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

**ANIMAL GROOMER:** A place where animals are groomed and cared for on a daily basis but not boarded overnight.

**APARTMENT:** A building or group of buildings, each containing four (4) or more independent units including individual cooking and sanitary facilities.

**AREA, BUILDING:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings.

**AREA, NET SITE:** The total area within the property lines excluding external streets.

**ASSISTED LIVING FACILITY:** For-profit or non-profit entity which provides room and board

and where the operator provides a minimum of two meals per day and assistance with activities of daily living for three or more elderly or disabled residents

**AUTO SALESROOM:** Premises licensed for First Class auto sales.

**BANQUET FACILITY:** An establishment which is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries, conferences and other similar events. Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; and 2) the sale of alcoholic beverages for on-premises consumption only during scheduled events and not open to the general public.

**BASEMENT:** That portion of a building that is partly or completely below grade (see “Story above grade”).

**BED AND BREAKFAST ESTABLISHMENT:** A private home, offering overnight accommodations to the traveling public, including breakfast, on an intermittent basis but not to be used for long-term rentals or apartments.

**BOATHOUSE, PRIVATE:** Building or structure for storage of boats for private use and not for hire.

**BUILDING:** A combination of materials having a roof and forming a shelter for persons, animals, property, or an activity. The word “building” shall be construed, where the context allows, as though followed by words “or structure or part or parts thereof.” Where appropriate in the context the word “building” shall include the principal and accessory use or uses to which the building is put.

**BUILDING, FRONT LINE OF:** The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

**BUILDING HEIGHT:** The vertical distance measured from grade plane to the highest point of the roof for flat roofs, to the top of the lower pitched section of mansard roofs, and to the mean height between eaves and ridge, for gable, hip and gambrel roofs.

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

**BUILDING SUPPLY:** The sale of construction and building materials, including but not limited to lumber, hardware, and electrical and plumbing parts and fixtures, including-the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

**BULK STORAGE:** Exposed storage tanks for oil, gas, etc., outside storage of sand and any other earth material, lumber or other bulk materials.

**BUSINESS OFFICE:** A building or part thereof devoted to the administration of a business or commercial enterprise which involves clerical, accounting and other administrative procedures but excludes the receipt, processing and sale of merchandise; or premises devoted to the

professional office of a lawyer, engineer, architect, accountant, real estate or insurance agent or broker, or similar activity.

**CAMPGROUND:** A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

**CAR WASH:** The use of mechanical equipment for purposes of cleaning automobiles and other vehicles.

**CHILD CARE FACILITY:** A day care center or school age child care program, as permitted by M.G.L. c. 40A, § 3, including such facilities or uses defined as “child care center”, “family child care home”, “group care facility”, “large family child care home”, or “school-aged child care program”, as those terms are defined in M.G.L. c. 15D, §1A.

**CLUB:** An organization catering exclusively to members and their guests, or premises and buildings, for recreational or athletic purposes, which are not conducted primarily for gain, provided there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purpose of such club.

**COMMERCIAL RECREATION, INDOOR:** A structure for recreational, social or amusement purposes, which may include as an accessory use, the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance, including but not limited to theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit.

**COMMERCIAL RECREATION, OUTDOOR:** Drive-in theatre, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this By-Law.

**COMPOST FACILITY:** A place, other than on the premises of a private residence for personal use, where there is stored and disposed of a mixture that consists largely of decayed organic matter and is used for fertilizing and conditioning land.

**CONTIGUOUS BUILDABLE AREA:** That area of a lot that is contiguous and buildable land as required by Section 8.1 Table of Dimensional Requirements, together with that area within required setbacks to the extent such area complies with the further requirements of this definition. Wetlands described by G.L. c. 131, including any no disturbance and no build setback areas in accordance with G.L. c. 131, and the Town of Groveland Wetlands By-Law and accompanying Regulations, and slopes in excess of twenty (20) percent shall not be considered as buildable for the purpose of calculating square footage.

**CONTRACTOR’S YARD:** Premises used by a contractor, subcontractor or other person doing business in construction, landscaping and related trades for the storage, either indoors or out, of vehicles, equipment, tools, supplies, materials and for fabrication of sub-assemblies.

**CONVENIENCE RETAIL:** A small retail establishment of less than 2,500 gross square feet,

usually located within or associated with another use, that offers for sale convenience goods such as pre-packaged food, tobacco, periodicals, and other household items.

**COVERAGE, LOT:** That percentage of the plot or lot area covered by the building area.

**CUSTOMARY HOME OCCUPATION:** A customary home occupation is the use of a room or rooms in a dwelling and/or accessory building on one lot by one or more persons residing thereon to conduct a business for financial gain in a manner subordinate to the principal use of the lot for residential purposes. A customary home occupation does not include business activities carried on in a residential dwelling pursuant to outside employment.

**DRIVE-IN RESTAURANT:** Any premises used for the sale, dispensing or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may consume the food, refreshments or beverages on the premises.

**DUMP:** A lot of land or part thereof used for the disposal by abandonment, dumping, burial, burning or any other means and/or whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**DWELLING:** Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

**DWELLING UNIT:** A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**DWELLING, SINGLE-FAMILY:** A detached structure consisting of one (1) dwelling unit. Approved accessory apartments shall be considered as part of a single family dwelling for the purposes of this zoning bylaw.

**DWELLING, TWO-FAMILY:** A detached structure consisting of two (2) attached dwelling units.

**DWELLING, MULTIPLE-FAMILY:** A single structure consisting of three (3) or more attached dwelling units.

**DUPLEX:** A detached structure consisting of two (2) attached dwelling units, both units having living space on the ground level, and each unit having a distinct and separate entrance.

**EDUCATIONAL USE, EXEMPT:** The use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation, pursuant to G. L. c. 40A, §3.

**EDUCATIONAL USE, NONEXEMPT:** The use of land or structures for educational purposes not exempted from regulation by G.L. c. 40A, §3.

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

**EXPRESS PARCEL PICK-UP:** A location including parcel pick-up boxes designed for efficient drop off of letters and packages to be mailed by courier or post in a twenty-four hour period.

**EXTERIOR WALL:** An above-grade wall that defines the exterior boundaries of a building.

**FAMILY:** One (1) or more persons occupying a dwelling unit and living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

**FARM:** Any parcel of land containing at least five (5) acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used as more fully defined by G.L. c. 40A §3. It excludes the raising of fur-bearing animals, hogs, riding academies, livery or boarding stables and dog kennels.

**FARM STAND, EXEMPT:** The sale of produce, wine and dairy products that meets the requirements for protection from zoning regulation as set forth in G.L. c. 40A, § 3.

**FARM STAND, NON-EXEMPT:** The sale of produce, wine and dairy products that does not meet the requirements for protection from zoning regulation as set forth in G.L. c. 40A, §3.

**FLOOD:** An overflow of lands not normally covered by water and that are used or usable by man. Floods have two (2) essential characteristics: the inundation of land is temporary; and the land is adjacent to and inundated by overflow from a river, stream, ocean, lake or other body of standing water.

**FLOOD, INTERMEDIATE REGIONAL:** A flood having an average frequency of occurrence in the order of once in one hundred (100) years although the flood may occur in any year, i.e., all the flood plain area has a one (1) percent chance of being flooded each year while some portion of it may be flooded every year.

**FLOOD PLAIN:** The areas adjoining a river, stream, watercourse, ocean, lake, or other body of standing water that have been or may be covered by floodwater, as identified by the most recently adopted NFIP maps.

**FLOOR AREA:** The aggregate horizontal area in square feet of all floors of a building or several buildings on the same lot measured from the exterior faces of walls enclosing each building, exclusive of garages. The basement and other areas used only for storage or for services incidental to the operation or maintenance of such building or buildings shall not be used for determining floor area. In the absence of information as to what portion of a building will be used for such storage and services, eight (8) percent of the aggregate floor area shall be deemed to be used only for storage or for services incidental to the operation or maintenance of such building or buildings for the purpose of making any required calculations.

**FLOOR AREA, LIVABLE:** The sum of the gross horizontal area of the floors of a dwelling unit used or intended to be used for living, sleeping and cooking purposes, excluding basement floor areas with less than ten (10) percent of its wall area devoted to window space, bathrooms, toilets, laundries, pantries, foyers, communicating corridors, stairways, closets, storage spaces, garages, breezeways, carports, porches and any area with less than a five- foot clear headroom under sloping ceilings.

**FLOOR AREA, RATIO:** The ratio of the total floor area of a building or buildings on one lot to the total area of the lot.

**FUEL FACILITY:** A place for the sale, storage and transportation of fuel in bulk or for wholesale purposes.

**GARAGE, PRIVATE:** A garage used for storage purposes only and having a capacity of not more than four (4) automobiles. Space therein may be used for not more than one (1) commercial vehicle not to exceed two (2) tons' capacity, and space may be rented for not more than one (1) vehicle of other than the occupants of the building to which such garage is accessory.

**GRADE:** The finished ground level adjoining the building at all exterior walls.

**GRADE PLANE:** A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building between the structure and a point 6 feet from the building.

**GREENHOUSE/NURSERY EXEMPT:** The business of propagating plants, including trees, shrubs, vines, seed, grass, live flowers and other plants, and the storage and selling of such plants grown on the premises, as exempted by G.L. c. 40A, § 3.

**GREENHOUSE/NURSEY NON-EXEMPT:** The business of propagating plants, including trees, shrubs, vines, seed, grass, live flowers and other plants, and the storage and selling of such plants grown on the premises, not exempted by G.L. c. 40A, § 3.

**HABITABLE AREA:** An area in a building used for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable area.

**HOME OCCUPATION:** An occupation or a profession which:

Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and

Is carried on by a member of the family residing in the dwelling unit; and

Is clearly incidental and secondary to the use of the dwelling for residential purposes; and

Which conforms to the following additional conditions:

The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.

No person outside the family shall be employed in the home occupation.

There shall be no exterior display, no exterior sign except as permitted under Section 11, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

No offensive noise, unsightliness, vibration, smoke, dust, odors, heat, or glare shall be produced.

Customer visits are made by appointment only.

**HORSE RIDING STABLE, PRIVATE:** An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

**HORSE RIDING STABLE, PUBLIC:** A building in which any horses are kept for remuneration, hire or sale.

**HOTEL/MOTEL/INN:** A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities.

**HOUSE TRAILER:** Any portable or mobile vehicle used or designed to be used for living purposes and standing on wheels or on rigid supports.

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

**JUNK YARD:** The commercial use of any area of any lot, whether inside or outside a building, for the storage, keeping, or abandonment of junk, or scrap or discarded materials, or the dismantling, demolition or abandonment of automobile(s) or other vehicle(s) or machinery or parts thereof.

**KENNEL, COMMERCIAL:** A commercial establishment in which domesticated animals are housed, groomed, bred, boarded, trained or sold.

**LANDFILL:** A system of trash and garbage disposal in which the waste is buried between layers of earth.

**LIGHT MANUFACTURING:** Fabrication, processing, or assembly employing only electric or



other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration or hazardous materials and/or chemicals.

**LINE, STREET:** The dividing line between the street right-of-way and the lot.

**LODGE BUILDING:** Structure occupied by a nonprofit social or civic organization.

**LOT:** Parcel of land occupied or intended to be occupied by one (1) main building or use and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of the zoning by-laws, having not less than the minimum area and width required by the by-law for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for a building on such land.

**LOT AREA:** Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if title to such street is held by the owner of the lot, except that if a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may not be computed as if such boundary lines were so extended.

**LOT, CORNER:** A lot bounded by more than one (1) street which has an interior angle of one hundred thirty-five (135) degrees or less formed by the tangents or straight segments of street lines between the side or rear lines of such lot or by an extension of such street lines. A lot bounded by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form, or would form if extended, an interior angle of one hundred thirty-five (135) degrees or less.

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

**LOT FRONTAGE:** The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line, as measured continuously along a street, road, or way providing adequate vehicular access to the Lot. In the case of corner lots, lot frontage is measured between the side lot line and the mid-point of the corner radius on the street designated as the frontage street by the Zoning Enforcement Officer. Lots fronting on straight, curved, and cul-de-sacs, the frontage distance shall be determined by measuring the cumulative distances along the curves and any tangent sections there between.

**LOT, INTERIOR:** A lot other than a corner lot.

**LOT LINES:** The lines bounding a lot as defined herein.

**LOT, THROUGH:** An interior lot having frontage on two (2) parallel or approximately parallel streets.



**LOT, WIDTH OF:** The distance between the side lot lines.

**MEDICAL/DENTAL OFFICE BUILDING OR CLINIC:** A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities, excluding buildings used to grow or dispense medical marijuana.

**MINIATURE GOLF:** A game or amusement modeled on golf and played with a putter and golf ball in which very short grassless holes constitutes an obstacle course through which the ball must be directed.

**MINING:** The excavation of the earth for the purpose of extracting ores, precious stones, coal, and related materials.

**MIXED USE:** Those buildings in which more than one (1) use or occupancy, as defined by 780 CMR the Massachusetts State Building Code, is contained.

**MOTOR VEHICLE BODY REPAIR:** An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage of vehicles for the cannibalization of parts.

**MOTOR VEHICLE REPAIRS:** Premises for the servicing and repair of autos, but not to include fuel sales.

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

**MUNICIPAL:** The word “municipal” means the Town of Groveland.

**MUNICIPAL RECREATIONAL OUTDOORS:** Outdoor facilities owned or operated by the Town of Groveland for the purpose of outdoor recreational activities.

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

**OCCUPANCY PERMIT:** A permit issued by the building inspector/zoning enforcement officer authorizing the occupancy and the use of land/or buildings.

**OPEN SPACE:** An unoccupied space open to the sky on the same lot with a building. This area must be free of all structures, parking, pavement or other uses that preclude landscaping.

**PARKING, PRIVATE:** Parking for fee or parking of more than one (1) commercial vehicle except on farms.

**PARKING SPACE:** An area in a building or on a lot available for parking one (1) motor vehicle, having a width of not less than nine (9) feet and an area of not less than one hundred eighty (180) square feet, exclusive of passageways and driveways appurtenant thereto, and with free and

unimpeded access to a street over unobstructed passageways or driveways.

PERMIT: Special permit, unless otherwise specified.

PLANNED UNIT DEVELOPMENT: Land used for dwellings (single, multiple or apartments) having reduced area or frontage or both, subject to a special permit issued by the Planning Board in accordance with the provisions of Section 10.3 of this By-law.

PORCH, OPEN: A porch that has no walls or windows other than that of the main building to which it is attached.

PUBLIC: The word “public” means the Town of Groveland, Commonwealth of Massachusetts, United States Government or an agency thereof.

PUBLIC WORKS YARD: Premises operated by, or on behalf of, the Town of Groveland for the storage, manufacture, maintenance or repair of buildings, infrastructure, materials or equipment.

REAR LINE OF A LOT: A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the frontage street. Where because of irregular lot shape, the building inspector and the lot owner cannot agree as to whether a lot line is a side or a rear line, it shall be considered a rear line.

RECORDED: The due recording in the Essex County Registry of Deeds, or, as to registered land, the due filing in the Essex County Land Registration Office.

REGISTERED MARIJUANA DISPENSARY (“RMD”), also known as a Medical Marijuana Treatment Center: A not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

RESTAURANT: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjunct to the main indoor restaurant facility. The term “restaurant” shall not include “fast food restaurant.”

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

RETAIL, SMALL: The sale of goods, including but not limited to a bank or financial institution, but not otherwise specifically listed in the Table of Use Regulations and which is not in excess

of 2,500 square feet. The size of the use shall include the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

**RETAIL, LARGE:** The sale of goods, including but not limited to a bank or financial institution, but not otherwise specifically listed in the Table of Use Regulations and which is greater than 2,500 square feet but not in excess of 25,000 square feet. The size of the use shall include the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

**SANITARY SEWER:** A public sanitary sewer of the Town of Groveland.

**SELF OR MINI-STORAGE FACILITY:** A building composed of individual storage units that are rented to consumers for the periodic storage of items that are not picked up and dropped off on a regular basis as part of an ongoing business. A storage facility may include exterior parking for oversized personal property (such as recreational vehicles and vessels) provided the personal property is registered with the Town and the parking area is screened from the view of any adjacent residence and any public way.

**SETBACK:** The required unoccupied open space on a lot measured from the street line, side lot line, or rear lot line, as the case may be, to the nearest point of any structure or projection thereof, measured in a line perpendicular to such lot or street line; provided however a landscaping or boundary wall that does not retain unbalanced fill, fences less than seven (7) feet in height, play structures or decorative yard items and summer awnings are permitted in any setback, subject to height limitations. In the case of a corner lot, setback shall refer to the distance from each street line, considered separately, to the nearest point of any structure.

**SHOPPING/RETAIL SERVICE CENTER:** A grouping of retail business and/or service uses, allowed by right or by special permit, on a single site with common parking facilities which is planned, constructed and managed as a total entity.

**SIDE LINE OF A LOT:** A line separating a lot from other lots or from land in a different ownership, other than a street line or a rear lot line.

**SIGN:** See Section 11.

**SPECIAL PERMIT GRANTING AUTHORITY:** The Board of Appeals, unless otherwise designated.

**STAND ALONE KIOSK, DRIVE-THROUGH OR WALK-UP:** A kind of open and available building or structure, either standing alone or attached to a main building, used to provide immediate automated service to customers of an institution which may be accessed by driving through or walking up to the building or structure. This shall not include restaurants.

**STORAGE FACILITY, SELF OR MINI-WAREHOUSE:** A building where individual portions of the building are rented to consumers for the temporary storage of business or personal items.

**STORY:** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above

**STORY ABOVE GRADE PLANE:** Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered a story above grade plane where the finished surface of the floor above the basement meets any one of the following:

1. Is more than six (6) feet above grade plane.
2. Is more than six (6) feet above finished ground level for more than fifty (50) percent of the total building perimeter.
3. Is more than twelve (12) feet above the finished ground level at any point.

**STREET, ROAD OR WAY:** An area of land dedicated, approved by the Planning Board, or legally open for public travel under at least one (1) of the following classifications:

- A public way duly laid out by the Town of Groveland, the Essex County Commissioners, or the Commonwealth of Massachusetts, or a way which the Groveland Town Clerk certifies is maintained by public authority and used as a public way; or
- A way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law; or
- A way in existence, having in the opinion of the planning board, road commissioner, and water commissioner, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon; or
- A public way or private way as described above shall not be deemed to be a “street” to any lot of land that does not have rights of access to and passage over said way.

**STREET LINE:** The boundary of a street right-of-way or layout.

**STRUCTURE:** That which is built or constructed. However, this definition does not include landscaping or boundary walls that do not retain unbalanced fill, fences less than seven (7) feet in height, play structures or decorative yard items.

**TEMPORARY STRUCTURE:** Tent, construction shanty, or similarly portable or demountable structure intended for continuous use for not longer than one (1) year.

**TEMPORARY USE:** Use, operation or occupancy of a parcel of land, building or structure for a period not to exceed one (1) calendar year.

**TRANSPORT TERMINAL:** Yards or structures for the storage and/or servicing of two (2) or more commercial vehicles.

**TRANSFER STATION:** A place where solid waste or recyclables are collected and sorted in preparation for processing and/or transferred from one hauler to another for the purpose of taking it to a landfill or other qualified refuse or recycling facility.

**WAREHOUSE AND OPEN STORAGE:** The storage of goods, either indoors or out,

for distribution but not for sale, where the goods being stored are picked up and dropped off on a regular basis as part of an ongoing business.

WAY: See “street, road or way.”

WHOLESALE FACILITY: Sale of goods except at retail, without outdoor storage.

### **SECTION 3. ZONING DISTRICTS**

#### **3.1. Zoning Districts.**

For the purpose of this By-law, the Town of Groveland is hereby divided into the following types of districts:

Residence District	(R-1)
Residence District	(R-2)
Residence District	(R-3)
Limited Business District	(LB)
Business District	(B)
Industrial District	(I)

In addition, the following overlay districts are also hereby established as set forth in this By-law:

Aquifer Protection District  
Flood Plain District  
Wireless Communications District

#### **3.2. District Boundaries; Zoning Map.**

The Districts are located and bounded as shown on a Map, entitled, “Zoning Map of the Town of Groveland, Massachusetts dated June 20, 2002,” which is on file in the office of the Town Clerk, and are defined more particularly below. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this By-law. Any conflict between the Zoning Map and the written description of any district in the written terms of this By-law shall be resolved according to the written terms.

#### **3.3. Description of District Boundary Lines.**

##### **3.3.1. Residential District (R-1).**

3.3.1.1. Beginning at a point 250 feet west of the centerline of Salem Street on the Groveland-Haverhill line; thence proceeding in a southeasterly direction along a line parallel to and 250 feet west of the centerline of Salem Street to a point on the westerly bound of the Industrial Zone; thence in a southerly direction along the westerly bound of the Industrial Zone and a portion of another R-1 Zone, defined in 3.3.1.3. below to a bound on the

Groveland-Georgetown line; thence in a southerly direction along the Groveland-Georgetown line to the Groveland-Boxford line; thence in a northwesterly direction along the Groveland-Boxford line to the Groveland-Haverhill line; thence in a northeasterly direction along the Groveland-Haverhill line to the point of the beginning.

- 3.3.1.2. Beginning at a point 250 feet southeast of the centerline of Center Street on the Groveland-West Newbury line; thence in a southeasterly direction along the Groveland-West Newbury-Newbury line to the Groveland- Georgetown line; thence in a southwesterly direction along the Groveland- Georgetown line to the easterly bound of the Industrial Zone, thence in a northwesterly direction along the easterly bound of said Industrial Zone to the northwest bound of the Industrial Zone, thence in a westerly direction along the Industrial Zone to a point 250 feet east of the centerline of School Street, thence in a northerly direction along a line parallel to and 250 feet east of the centerline of School Street to a point 250 feet southeast of the centerline of Center Street; thence in a northeasterly direction along a line parallel to and 250 feet southeast of the centerline of Center Street to the point of beginning, with the exception of the following:

Excluding all Massachusetts Department of Fish and Game Land, but including all private land that may be used for residential purposes.

- 3.3.1.3. Beginning at a point on the Groveland-Georgetown town line, 600' west from the sideline of Salem Street where it intersects the Georgetown town line; thence in a westerly direction along the Groveland-Georgetown town line to a bound at the corner of Groveland-Georgetown Town Line; thence in a northerly direction along the Residential R-1 Zone described above, in subsection 3.3.1.1, to the boundary of the Industrial Zone which is 208' +/- from the Georgetown corner; thence in an easterly direction, along the southerly boundary of the Industrial Zone, 200' from and parallel to the Georgetown town line to a point 550' west of the sideline of Salem Street; thence in a southeasterly direction along the Business Zone, 283' +/- to the point of beginning.

### 3.3.2. Residential District (R-2).

The Residential District R-2 is all areas of Town not described by other Districts.

### 3.3.3. Residential District (R-3).

All of the land bounded by Gardner Street, on the east; King Street, on the north; the Business B Zone – Section 3.3.4, on the west; and Main Street on the west and south.

### 3.3.4. Business District (B).

- 3.3.4.1. Starting at a point at the intersection of Main Street and Broad Street, then northwesterly 150' perpendicular to Main Street; then running parallel to,

and 150' from, the centerline of Main Street southwesterly to a point 425' west of the intersection of Marjorie Street and Main Street; then 150' to the centerline of Main Street; then running westerly along the centerline of Main Street to a point 50' west of the intersection of Chestnut Street and Main Street; then, northerly, perpendicular to Main Street, 150' to a point; then west and southwest 150' from and parallel to the center line of Main Street to a point 400' southwest of the Bates Bridge; then 150' southeast to the intersection of School Street and Main Street; then southeasterly along the centerline of School Street to a point 150' perpendicular to Main Street; then northeasterly 150' from and parallel to the centerline of Main Street to a point 150' from the westerly side of the Elm Park Right of Way; then southeasterly 150' from and parallel to the westerly side of Elm Park to the northerly boundary of Spring Street; then 150' easterly along the sideline of Spring Street to the sideline of Elm Park; then northerly along the sideline of Elm Park to a point 200' from the centerline of Main Street; then easterly 200' from and parallel to Main Street to the centerline of Chestnut Street; then northerly along the centerline of Chestnut Street to a point 150' from the centerline of Main Street; then northeasterly, along a line 150' from and parallel to the centerline of Main Street, to a point 150' southeast of the intersection of Broad Street and Main Street; then 150', northwesterly, to the point of beginning.

3.3.4.2. Beginning at the centerline of Main Street at its intersection with Washington Street, and extending 150' westerly and 150' easterly of the centerline of Washington Street; and thence southerly and parallel with Washington Street, in a 300-foot strip, to the centerline of Center Street.

3.3.4.3. Beginning at a point on the Groveland-Georgetown line, said point being at the westerly side line of Salem Street; thence in a westerly direction 600' along the Groveland-Georgetown line; thence in a northwesterly direction 283' along the R-1 Zone to the Industrial Zone; thence in an easterly direction, 200 feet north of and parallel to the town line, along the Industrial I Zone, about 550' to the west sideline of Salem Street; thence in a southeasterly direction along Salem Street about 320' to the point of beginning.

### 3.3.5. Limited Business District (LB).

3.3.5.1. The Limited Business Zone shall extend to a depth of one hundred twenty-five (125) feet when measured from the following line: [The Limited Business Zone shall be on the southeasterly side of Elm Park] beginning at the intersection of the centerlines of Gardner Street and Elm Park (Route 97); thence in a southerly direction along the centerline of Elm Park (Route 97) to the intersection of the centerlines of Elm Park (Route 97) and School Street (Route 97); thence in a southerly direction along the centerline of School Street (Route 97) to a point sixty-five (65) feet south of the intersection of the centerlines of Elm Park (Route 97), School Street (Route 97), and Gardner Street.



### 3.3.6. Industrial District (I).

- 3.3.6.1. Beginning at a point on the easterly sideline of School Street at the corner of parcel 94/96, about 680' south of the centerline of Ashcroft Terrace; thence running easterly approximately 1142' to the southwesterly line of the Mass Electric Company easement; thence southeasterly along said easement about 2,800', to the Groveland-Georgetown line; thence running southwesterly along the Groveland-Georgetown line to the northerly side of Salem Street; thence running northwesterly by the northerly line of Salem Street to the point of beginning.
- 3.3.6.2. Beginning at a point on the westerly side line of Salem Street, 320' northwest of the Groveland-Georgetown line; thence in a westerly direction, 200' north of and parallel with the town line, about 6,111' to the Residential R-1 Zone; thence in a northerly direction about 3,500' to a point on Center Street, 1400' east of the intersection of Salem and Washington Street; thence in a northerly direction about 2,100' on a line 150' east of the thread of the stream known as Grindle Brook, which point is about 1,075' from the intersection of Main Street and Washington Street; thence in an easterly direction about 2,800' to a point on the westerly side line of Mass Electric Company easement; thence in a southerly direction, along the westerly side line of Mass Electric Company easement, about 2,280' to a point 150' north of Center Street; thence in a westerly direction about 2,100', along a line 150' north and parallel to Center Street; thence in a southerly direction 150' to the north side line of Center Street; thence in a westerly direction about 870', along the north side line of Center Street, to a point; thence in a southerly direction, 200' west of and parallel with Murray Avenue, approximately 1800' to a point 200' west of Murray Avenue, on the south side of Salem Street; thence in an easterly direction along the south side line of Salem Street about 3,000'; thence in a southeasterly direction along Salem Street a distance of about 2,800' to the point of beginning.
- 3.3.6.3. Beginning at a point on the Groveland-Georgetown town line, 600' west from the sideline of Salem Street where it intersects the Georgetown town line; thence in a westerly direction along the Groveland-Georgetown town line to a bound at the corner of Groveland-Georgetown Town Line; thence in a northerly direction along the Residential R-1 Zone described above, in subsection 3.3.1.1, to the boundary of the Industrial Zone which is 208' +/- from the Georgetown corner; thence in an easterly direction, along the southerly boundary of the Industrial Zone, 200' from and parallel to the Georgetown town line to a point 550' west of the sideline of Salem Street; thence in a southeasterly direction along the Business Zone, 283' +/- to the point of beginning.

## SECTION 4. USE REGULATIONS



#### 4.1. Permitted Uses.

No land shall be used and no building or structure shall be erected or occupied other than in conformance with the provisions of this By-law. Any use of land, building, or structures not expressly permitted is hereby prohibited. The uses permitted by this Bylaw shall include accessory uses to those permitted principal uses.

#### 4.2. Multiple Uses

Multiple uses may be located in the same structure and/or on the same lot in separate structures/areas provided all requirements of this By-law have been satisfied. Only one dwelling unit shall be allowed on one lot or in one structure, unless specifically permitted by this By-law.

#### 4.3. Use Permit

- 4.3.1. No building erected, altered, or in any way changed as to construction or use, under a permit or otherwise shall be occupied or used, and the use of any land shall not be changed, without a permit authorizing such use signed by the Building Inspector. Said permit shall not be issued until such building and the use of such building and/or land comply in all respects with this By-law. A use permit shall not be required for new accessory uses or changes to accessory uses of a building or land, except as specifically required by this Bylaw.
- 4.3.2. A fee shall be paid to the Town of Groveland upon application for such permit, according to the schedule, as approved by the selectmen, posted in the town clerk's office.
- 4.3.3. If the Building Inspector refuses to issue a permit, the applicant may appeal to the permit granting authority, under the provision of G.L. c. 40A, §§8 and 15, as amended.

#### 4.4. Building Permit

- 4.4.1. Application shall be made to the building inspector and a permit shall be issued by the building inspector before any building or structured is changed or any new building or structure is erected in any zoning district.
- 4.4.2. A fee shall be paid to the Town of Groveland upon application for such permit, according to the schedule, as approved by the selectmen, posted in the town clerk's office.
- 4.4.3. If the Building Inspector refuses to issue a permit, the applicant may appeal to the permit granting authority, under the provision of G.L. c. 40A, §§8 and 15, as amended.

#### 4.5 Table of Uses. (1)

R-1 Residential	B Business
R-2 Residential	I Industrial
R-3 Residential	LB Limited Business
SP-A Special Permit Board of Appeals	SP-P Special Permit Planning Board
P Permitted (2)	NP Not Permitted

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>LB</b>	<b>B</b>	<b>I</b>	<b>Site Plan Review (3)</b>
<b>Residential</b>							
Assisted Living Facility	NP	NP	NP	NP	SP-P	SP-P	Yes
Single Family Dwelling	P	P	P	P	P	NP	No
Two Family/Duplex Dwelling	P	P	P	P	P	NP	No
Multi-Family Dwellings (4)	NP	NP	NP	NP	NP	NP	Yes
Planned Unit Development	SP-P	SP-P	SP-P	NP	NP	SP-P	Yes
<b>Community Facilities</b>							
Cemetery	P	P	P	P	P	P	No
Churches and Parish Houses	P	P	P	P	P	P	No
Educational-Exempt	P	P	P	P	P	P	No
Educational Non-Exempt	NP	NP	NP	NP	SP-A	SP-A	Yes
Library	P	P	P	P	P	P	No
Municipal Buildings	P	P	P	P	P	P	No
Museums	P	P	P	P	P	P	No
Parks	P	P	P	P	P	P	No
Post Office	P	P	P	P	P	P	No
Public Utilities	P	P	P	P	P	P	No
Public Works Yards	P	P	P	P	P	P	No
Municipal Recreation Outdoors	P	P	P	P	P	P	No
Compost Facility	NP	NP	NP	NP	NP	P	No
<b>Agricultural</b>							
Agricultural uses exempt under M.G.L. c. 40A, § 3.	P	P	P	P	P	P	No
Farm Non-Exempt	SP-A	SP-A	SP-A	NP	NP	NP	Yes
Farm Stand Non-Exempt	NP	NP	NP	NP	SP-A	SP-A	Yes
Greenhouse/Nursery Non-Exempt	NP	NP	NP	NP	SP-A	SP-A	Yes

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>LB</b>	<b>B</b>	<b>I</b>	<b>Site Plan Review (3)</b>
<b>Business/Industrial</b>							
Adult Day Care	NP	NP	NP	NP	SP-A	SP-A	Yes
Animal Clinic/Veterinary Hospital	NP	NP	NP	NP	SP-A	SP-A	Yes
Auto Salesroom	NP	NP	NP	NP	NP	SP-A	Yes
Bank - Commercial/Retail	NP	NP	NP	NP	SP-A	P	Yes
Banquet Facility	NP	NP	NP	NP	SP-A	SP-A	Yes
Bed and Breakfast Establishment	SP-A	SP-A	SP-A	SP-A	SP-A	NP	Yes
Building Supply	NP	NP	NP	NP	NP	SP-A	Yes
Bulk Storage	NP	NP	NP	NP	NP	SP-A	Yes
Business Offices	NP	NP	NP	P	P	P	Yes
Car Wash	NP	NP	NP	NP	NP	SP-A	Yes
Child Care Facility	P	P	P	P	P	P	Yes
Computer Data Storage	NP	NP	NP	NP	NP	P	Yes
Contractor Yard	NP	NP	NP	NP	NP	SP-A	Yes
Convenience Retail	NP	NP	NP	NP	SP-A	SP-A	Yes
Dry Cleaners	NP	NP	NP	NP	SP-A	SP-A	Yes
Express Parcel Pickup	NP	NP	NP	NP	SP-A	SP-A	Yes
Funeral Home	NP	NP	NP	NP	SP-A	SP-A	Yes
Hardware Store	NP	NP	NP	NP	P	P	Yes
Hotel/Motel/Inn	NP	NP	NP	NP	SP-A	SP-A	Yes
Kennel, Commercial	NP	NP	NP	NP	NP	SP-A	Yes
Laundromat	NP	NP	NP	NP	SP-A	SP-A	Yes
Light Manufacturing	NP	NP	NP	NP	NP	P	Yes
Medical Equipment Wholesale	NP	NP	NP	NP	NP	P	Yes
Medical/Dental Office Building or Clinic	NP	NP	NP	P	P	P	Yes
Motor Vehicle Body Repair	NP	NP	NP	NP	NP	SP-A	Yes
Motor Vehicle Repair	NP	NP	NP	NP	NP	SP-A	Yes
Motor Vehicle Light Service	NP	NP	NP	NP	NP	SP-A	Yes
Nursing/Convalescent Home	NP	NP	NP	NP	NP	SP-A	Yes
Parking, Private	NP	NP	NP	NP	NP	SP-A	Yes
Pharmacy, excluding medical marijuana dispensaries	NP	NP	NP	P	P	P	Yes
Print Shop	NP	NP	NP	NP	SP-A	SP-A	Yes
Wireless Communication Facilities (5)	NP	NP	NP	NP	NP	SP-A(4)	Yes

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>LB</b>	<b>B</b>	<b>I</b>	<b>Site Plan Review (3)</b>
<b>Business/Industrial</b>							
Registered Marijuana Facility (6)	NP	NP	NP	NP	NP	SP-A	Yes
Restaurant, Drive-In	NP	NP	NP	NP	SP-A	SP-A	Yes
Restaurant-Fast Food	NP	NP	NP	NP	SP-A	SP-A	Yes
Restaurant	NP	NP	NP	NP	SP-A	SP-A	Yes
Retail – Large	NP	NP	NP	NP	NP	SP-A	Yes
Retail – Small	NP	NP	NP	NP	P	P	Yes
Self or Mini Storage Facility	NP	NP	NP	NP	NP	SP-A	Yes
Shopping/Retail Service Center	NP	NP	NP	NP	NP	SP-A	Yes
Sporting Goods Manufacturing	NP	NP	NP	NP	NP	SP-A	Yes
Stand Alone Kiosk/Drive though/Walk up	NP	NP	NP	NP	SP-A	SP-A	Yes
Transport Terminal	NP	NP	NP	NP	NP	SP-A	Yes
Warehouse	NP	NP	NP	NP	NP	SP-A	Yes
Wholesale Facility	NP	NP	NP	NP	NP	SP-A	Yes
<b>Recreational</b>							
Club	NP	NP	NP	NP	SP-A	SP-A	Yes
Commercial Recreation - Indoor	NP	NP	NP	NP	SP-A	SP-A	Yes
Commercial Recreation - Outdoor	NP	NP	NP	NP	SP-A	SP-A	Yes
<b>Accessory Uses</b>							
Accessory Apartment	P	P	P	P	P	NP	No
Customary Home Occupation (9)	P	P	P	P	P	NP	No
<b>Prohibited Uses</b>							
Billboards	NP	NP	NP	NP	NP	NP	N/A
Boarding House	NP	NP	NP	NP	NP	NP	N/A
Business Compost Piles	NP	NP	NP	NP	NP	NP	N/A
Campgrounds	NP	NP	NP	NP	NP	NP	N/A
Dumps	NP	NP	NP	NP	NP	NP	N/A
Fertilizer Plant	NP	NP	NP	NP	NP	NP	N/A
Manufacturing (other than Light Manufacturing)	NP	NP	NP	NP	NP	NP	N/A
Junk Yards	NP	NP	NP	NP	NP	NP	N/A

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>LB</b>	<b>B</b>	<b>I</b>	<b>Site Plan Review (3)</b>
<b>Prohibited Uses</b>							
Landfills	NP	NP	NP	NP	NP	NP	N/A
Mining Operations	NP	NP	NP	NP	NP	NP	N/A
Open Air Contractor Yards	NP	NP	NP	NP	NP	NP	N/A
Outdoor Movie Theatre	NP	NP	NP	NP	NP	NP	N/A
Race Tracks	NP	NP	NP	NP	NP	NP	N/A
Recreational Marijuana Establishments	NP	NP	NP	NP	NP	NP	N/A
Rendering Plants	NP	NP	NP	NP	NP	NP	N/A
Slaughterhouse	NP	NP	NP	NP	NP	NP	N/A
Trailers/Mobile Homes (7)	NP	NP	NP	NP	NP	NP	N/A
Transfer Stations	NP	NP	NP	NP	NP	NP	N/A

(1) Uses not specifically set forth herein shall not be allowed within the Town of Groveland. Where more than one use category applies to a particular use, the more specific category shall control.

(2) Uses permitted as-of-right in this table must adhere to the following hours:  
Normal Operating Hours (Business District and Limited Business District): 7AM to 10 PM, Sunday to Saturday.  
Normal Operating Hours (Industrial District): 7AM to 11PM, Monday to Saturday.  
These hours may be extended by special permit from the Zoning Board of Appeals.

(3) Applicable only if use requires construction of a new building or structure.

(4) The uses noted as NP under this multi-family use shall not prohibit the construction of multi-family housing pursuant to the Planned Unit Development Overlay District or the Conservation Subdivision Design in accordance with the provision thereunder.

(5) Only permitted in accordance with the regulations in Section 6.3 of this Bylaw (Wireless Communications Facilities Overlay).

(6) Only permitted in accordance with the regulations in Section 7.4 of this Bylaw (Registered Marijuana Dispensaries).

(7) Except as permitted by M.G.L. c. 40A, § 3 and Section 7.2 of this Bylaw (Trailers and Temporary Housing).

(8) Only as permitted in accordance with Section 7.1 of this Bylaw (Accessory Apartments).

(9) Only as permitted in accordance with Section 7.3 of this Bylaw (Customary Home Occupations).

## **SECTION 5. NONCONFORMING USES AND STRUCTURES**

This 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 on such by-law as provided in G.L. c.40A, §5. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

### **5.1. Nonconforming Single and Two-Family Residential Structures.**

Nonconforming single and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the building inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- a) Alteration to a structure located on a lot with insufficient area which structure as altered will comply with all current setback, lot coverage, and building height requirements.
- b) Alteration to a structure located on a lot with insufficient frontage which structure as altered will comply with all current setback, lot coverage, and building height requirements.
- c) Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, lot coverage and building height requirements.

In the event that the building inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the board of appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

### **5.2. Nonconforming Structures Other Than Single and Two-Family Residential Structures.**

The board of appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

### **5.3. Variance Required.**

Except as provided in subsection 5.1., above, 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 setback, shall require the issuance of a variance from the board of appeals.

#### 5.4. Nonconforming Uses.

The Board of Appeals may award a special permit to change or extend a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

#### 5.5. Abandonment or Non-use.

A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this By- law.

#### 5.6. Reconstruction after Catastrophe or Demolition.

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

- a) Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
- b) Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure.
- c) In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure; (b) exceed applicable requirements for yards, setback, and/or height; or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the board of appeals prior to such demolition.

#### 5.7. Reversion to Nonconformity.

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

### **SECTION 6. OVERLAY DISTRICTS**

#### 6.1. Floodplain Overlay District.

##### 6.1.1 Purpose.

The purpose of this section, in addition to the purposes enumerated in Section 1 of this By-law, is to provide that lands in the Town of Groveland subject to seasonal or periodic flooding as described herein shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof. For the purpose of the flood plain district regulations, the zoning board of appeals is designated as the special permit granting authority.

#### 6.1.2. Establishment.

The Floodplain District is established as an overlay district to all other districts. Where there is a conflict between provisions of this Section and other Sections of this By-law, the provisions of this Section shall control.

#### 6.1.3. District Delineation.

The Flood Plain District includes all special flood hazard areas within the Town designated as Zone A and AE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town are panel numbers 25009C0092F, 25009C0093F, 25009C0094F, 25009C01113F, 25009C0114F, 25009C0231F, 25009C0232F, 25009C0233F, 25009C0251F dated July 3, 2012. The exact boundaries of the District may be defined by the 100-year flood base elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

#### 6.1.4. Permitted Uses and Structures.

Land in the flood plain district may be used for any purpose otherwise permitted in the underlying district, except as follows:

6.1.4.1. No building or structure may be erected in a flood plain district; provided, that the special permit granting authority, after a hearing with due notice given, may grant a special permit for the construction or use of a building or structure which:

- a. Will not be used for sustained human occupancy;
- b. Will not substantially interfere with the natural flow of water; and
- c. Will not constitute a danger to the public health or safety.

6.1.4.2. The special permit granting authority may grant a special permit for the use of land for any purpose permitted in the underlying district, provided that such land is not subject to flooding. The special permit



granting authority may consider the elevation of the particular land, its history of flooding, and any other relevant evidence. The special permit granting authority may request and consider information on the question from any other public official, board or agency. The special permit granting authority may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public.

#### 6.1.5. General Criteria.

- 6.1.5.1. No dumping, filling, dredging, excavation, transfer or removal of any material which will reduce the natural flood water storage capacity of the land or will interfere with the natural flow of water over the land shall be permitted.
- 6.1.5.2. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with G.L. c. 131, §40; the requirements of the Massachusetts State Building Code, including those provisions pertaining to construction in floodplains and coastal high hazard areas; the Massachusetts Wetlands Protection Regulations; the Massachusetts Inland Wetlands Restriction (currently 310 CMR 13.00 et seq.); and the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage (Title 5). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of those regulations.
- 6.1.5.3. In Zone and AE, along watercourses that have a regulatory floodway designated on the Essex County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 6.1.5.4. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of a base flood discharge.
- 6.1.5.5. All subdivision proposals must be designed to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or

5 acres, whichever is the lesser, within unnumbered A zones.

#### 6.1.6. Application Process

- 6.1.6.1. Any person desiring to erect or place a building or structure or perform earth removal or filling activities within the flood plain district shall submit an application for a special permit to the special permit granting authority. The application shall be accompanied by eight (8) copy of a plan, prepared by a registered engineer, of the building or structure and of the premises on which it is to be situated showing the land contours at two-foot intervals related to elevations above mean sea level, indicating the benchmarks used, and certified by a registered land surveyor. The plan shall demonstrate that the following requirements are met:
- a. The floor levels of areas to be occupied by human beings shall be at least three (3) feet above the September 1938 flood profile shown on the U. S. Army Corps of Engineers plan and profile map of the Merrimack River, miles 14.0 to 17.0;
  - b. Other land in the flood plain district is protected against detrimental or offensive uses of the premises, and that no sewage effluent is disposed into the area below three (3) feet above the September 1938 flood profile.
  - c. Safe vehicular and pedestrian movement to and from the premises is provided over ways above three (3) feet above the September 1938 flood profile.
  - d. The methods of drainage of the area covered by the permit are adequate under normal and flood conditions to maintain the flow of water below three (3) feet above the September 1938 flood profile.
  - e. The methods by which the premises are filled or otherwise elevated, as may be required, will assure that the premises are free from danger to the health or safety of the occupants thereof, and shall not interfere with the natural function of the flood plain. Fill cannot be placed within the floodway.

#### 6.1.6.2 Application Disbursement/Comment.

At the time the application is submitted the applicant shall forward a copy of the application, together with the plan, to each of the Building Inspector, the Board of Health, and the Conservation Commission. All of the aforementioned plans shall be provided to

the indicated town boards and officials at least thirty (30) days prior to the opening of the public hearing on the application. Comments on these plans should be sent to the special permit granting authority by the respective boards. If replies are not received by the special permit granting authority at the time of the public hearing, all missing recommendations shall be construed to be favorable to the applicant.

## 6.2. Aquifer Protection Overlay District

### 6.2.1. Purpose.

The purposes of this Aquifer Protection District are to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town; to preserve and protect existing and potential sources drinking water supplies of the Town and surrounding communities; to conserve the natural resources of the Town; and to prevent temporary and permanent contamination of the environment. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Planning Board.

### 6.2.2. Scope of Authority.

The Aquifer Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Aquifer Protection District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Aquifer Protection District. Where a conflict exists between the regulations of the underlying and overlay district, the regulations with the most restrictive provisions shall apply.

### 6.2.3. Definitions.

For the purposes of this section, the following terms are defined below:

**AQUIFER:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**AQUIFER PROTECTION DISTRICT:** The zoning district defined to overlay other zoning districts in the Town of Groveland. The Aquifer Protection District includes specifically designated recharge areas.

**DEP:** Department of Environmental Protection or present state regulatory agency.

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

**MINING:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

**POTENTIAL DRINKING WATER SOURCES:** Areas which could provide significant potable water in the future.

**RECHARGE AREAS:** Areas that collect precipitation or surface water and carry it to aquifers, Recharge areas include areas designated as Zone I, Zone II, or Zone III.

**TOXIC or HAZARDOUS MATERIAL:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Groveland. Toxic or hazardous materials include, without limitation; synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under G.L. c. 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

**ZONE I:** The 400 foot protective radius around a public water system well or well field which must be owned by the water supplier or controlled through a conservation restriction.

**ZONE II:** The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined in 310 CMR 22.00.

**ZONE III:** The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II as defined in 310 CMR 22.00.

#### 6.2.4. Establishment and Delineation of Aquifer Protection District.

For the purposes of this district, there are hereby established within the town certain groundwater protection areas, consisting of aquifers or recharge areas designated as Zone I, II and III, which are delineated on a map. This map is at a scale of 1 inch to 1,000 feet and is entitled "Town of Groveland, Aquifer Protection District," dated October 2, 1997, revised January 27, 1999. This map is hereby made a part of the town zoning bylaw and the Town Zoning Map and is on file in the Office of the Town Clerk.

#### 6.2.5. District Boundary Disputes.

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation. The district boundary is defined by hydrogeologic research, testing and field analysis; therefore, a professional engineer, hydrologist, geologist or soil scientist may define or redefine the recharge boundary; however, the Zone II district boundary and methodology must be approved by DEP. The determination of the location and extent of Zone II shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's Guidelines and Policies for Public Water Systems. The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the town may engage a professional engineer, registered land surveyor, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

#### 6.2.6. Permitted Uses.

##### 6.2.6.1. Uses in Zone I.

Only uses related to the operation and maintenance of the public water supply are permitted in the Zone I defined in 310 CMR 22.00. All other uses are prohibited.

##### 6.2.6.2. Uses in Zone II and III.

The following uses are permitted within Zones II and III of the Aquifer Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- a) conservation of soil, water, plants, and wildlife;
- b) outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c) foot, bicycle and/or horse paths, and bridges;
- d) normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e) maintenance, repair, and enlargement of any existing structure, subject to Section 6.2.7 (prohibited uses) and Section 6.2.8 (special permitted uses);
- f) residential development, subject to Section 6.2.7 (prohibited uses)

and Section 6.2.8 (special permitted uses);

- g) farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 6.2.7 (prohibited uses) and Section 6.2.8 (special permitted uses);
- h) construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;
- i) underground storage tanks related to these activities are not categorically permitted.

#### 6.2.7. Prohibited Uses.

6.2.7.1. The following uses are prohibited within all zones of the Aquifer Protection District. The following list is not exhaustive and shall be read in conjunction with Section 6.2.6 above and Section 6.2.8 below, such that if the use is not permitted by Section 6.2.6 or 6.2.8 it shall be deemed prohibited:

- a) landfills and open dumps as defined in 310 CMR 19.006;
- b) automobile graveyards and junkyards, as defined in G.L. c.140B, §1;
- c) landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to G.L. c. 21, §26 through 53; G.L. c. 111, §17; G.L. c. 83, §6 and 7, and regulations promulgated thereunder;
- d) petroleum, fuel oils, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and other subsequent amendments;
- e) storage of liquid hazardous materials, as defined in G.L. c.21 E, and liquid petroleum products, unless such storage is:
  - 1) above ground or floor level; and
  - 2) on an impervious surface; and
  - 3) either in container(s) or above ground container(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a covered containment system designed to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest containers storage capacity, whichever is greater.
- f) storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

- g) earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) except for excavations for building foundations, roads, or utility works, where substances removed are redeposited within 45 days of removal on site to achieve a final grade not less than 6 feet above the historical high water table.
- h) discharge via floor drain(s), with or without pretreatment (such as an oil/water separator), to the ground, a leaching structure, or septic system, in any industrial or commercial facility if such floor drain is located in either:
  - 1) an industrial or commercial process area; or
  - 2) a petroleum, toxic, or hazardous materials and/or waste storage area.
- i) discharge to the ground of non-sanitary waste water including industrial and commercial process waste water, except:
  - 1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - 2) treatment works approved by the DEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);
  - 3) publicly owned treatment works.
- j) storage of commercial fertilizers, as defined in G.L. c. 128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

6.2.7.2. The following uses are prohibited within Zone I and II of the Aquifer Protection District. The following list is not exhaustive and shall be read in conjunction with Section 6.2.6 above and Section 6.2.8 below, such that if the use is not permitted by Section 6.2.6 or 6.2.8 it shall be deemed prohibited:

- a) facilities that generate, treat, store, or dispose of hazardous waste that are subject to G.L. c.21C and 310 CMR 30.00, except for the following:
  - 1) very small quantity generators as defined under 310 CMR 30.000;
  - 2) household hazardous waste centers and events under 310 CMR 30.390;
  - 3) waste oil retention facilities required by M.G.L. c. 21, § 52A;
  - 4) water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;
- b) storage of sludge and septage, unless such storage is in

compliance with 310 CMR 32.30 and 310 CMR 32.31;

- c) storage of animal manure unless covered or contained in accordance with the specifications of the Natural Resource Conservation Service;
- d) stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district.

6.2.7.3. The following uses are prohibited in Zones II and III of the Aquifer Protection District. The following list is not exhaustive and shall be read in conjunction with Section 6.2.6 above and Section 6.2.8 below, such that if the use is not permitted by Section 6.2.6 or 6.2.8 it shall be deemed prohibited:

- a) storage tanks or associated pipe systems for hazardous materials, including fuel oils for domestic use in direct contact with the ground.

#### 6.2.8. Uses and Activities Requiring a Special Permit.

The following uses and activities are permitted in Zone I, II and III only upon the issuance of a special permit by the SPGA under such conditions as they may reasonably require:

- 6.2.8.1. Enlargement or alteration of existing uses that do not conform to the Aquifer Protection District.
- 6.2.8.2. Those activities that involve the handling of pesticides, herbicides, fertilizers, fuels and potentially toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 6.2.7).
- 6.2.8.3. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.
- 6.2.8.4. Any activity that involves the withdrawal of water from the Aquifer Protection Zones I and II for uses other than a Public Water Supply Source including but not limited to irrigation, livestock, recreation pool filling, water slides, residential and commercial uses. Such



activities may also be controlled under DEP Water Management Act.

#### 6.2.9. Procedures for Issuance of Special Permit.

- 6.2.9.1. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Town Engineer/Consultant, Department of Public Works, and Water Commission that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.
- 6.2.9.2. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Town Engineer/Consultant, Department of Public Works, and Water Commission for their written recommendations. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
- 6.2.9.3. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 6.2.8 of this bylaw, and any regulations or guidelines adopted by the SPGA. The proposed use must:
  - a) In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Aquifer Protection District; and
  - b) Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- 6.2.9.4. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the municipality.
- 6.2.9.5. The applicant shall file eight (8) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum

include the following information where pertinent:

- a) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
- b) For those activities using or storing such hazardous materials, a Hazardous Materials Management Plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
  - 1) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
  - 2) provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; and
  - 3) evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
- c) Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

6.2.9.6. The SPGA shall hold a hearing, in conformity with the provision of G.L. c. 40A, §9, within 65 days after the filing of the application and after the review by the Town Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication, posting and by first-class mailings to “parties of interest” as defined in G.L. c. 40A, §11. The decision of the SPGA and any extension, modification, or renewal shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by §11.

#### 6.2.10. Enforcement.

- 6.2.10.1. The provisions of this bylaw shall be enforceable by the appropriate police powers of the Town, subject to any legal course available to an affected party.
- 6.2.10.2. Enforcement procedure shall be initiated by filing a written notice of the alleged violation with Water Department and the Building Inspector. Written notice of any violations of this Article shall be given by the Building Inspector to the responsible person as soon as possible after

detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated, the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. Copies of such notice shall be submitted to the Building Inspector, Zoning Board of Appeals, Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Town Engineer/Consultant, Department of Public Works, and Water Commission. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

6.2.10.3. Upon receiving written notice of a violation the owner/operator of the property shall cease any activity that constitutes a violation. Within (30) thirty days of receiving notice submit plans and time table to remove or remedy the violation with measures to be taken to prevent future violation.

6.2.10.4. Failure to comply with the provisions of this may result in the levy of fines of not less than \$200.00 and not more than \$300.00 per day that the violation exists in accordance with G.L. c.111, §§ 31 and 122.

#### 6.2.11. Severability.

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

### 6.3 Wireless Communication District

#### 6.3.1 Purpose.

The purpose of this wireless communications facilities bylaw is to (1) minimize the visual and environmental impacts of personal wireless communications facilities (hereinafter “WCF”); (2) minimize the overall number and height of such facilities to only what is essential; (3) promote shared use of existing facilities to reduce the need for new ones; (4) and encourage the most appropriate use of the land and to guide sound development while promoting the health, safety and general welfare of the Town. The Special Permit Granting Authority is the Zoning Board of Appeals.

#### 6.3.2 Establishment.

There is hereby created a Wireless Communication Overlay District consisting of all Industrial land as shown on the official Zoning Map for the Town dated June 20, 2002 and the following parcels located in the RB residential district as

shown on the official Zoning Map for the Town and on Assessors' Map #6, Lot 1, Lot 1C (Municipal Complex site), Map 11, Lot 112 (5.6 acres of land located to the rear of Groveland Street adjacent to town water tank) and Map 17, Lot 69 (1 acre site located to the rear of Groveland Street and the present location of the town's water tank). Within the overlay district all of the underlying zoning requirements continue to apply, with the exception of the maximum height allowance, which is established in Section 6.3.3 below. The following additional uses shall be allowed:

- 6.3.2.1 Indoor WCFs, allowed as-of-right anywhere in the town subject to the dimensional requirements, performance and design standards of this subsection. Indoor WCFs shall be fully enclosed within a building or structure. No part of an indoor WCF may be visible from the exterior of the building or structure;
- 6.3.2.2 Building-mounted and modifications to existing free-standing WCFs allowed anywhere in the Town subject to Site Plan Review from the Planning Board and the dimensional requirements, performance and design standards of this subsection, subject to the provisions of Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012 and implementing regulations;
- 6.3.2.3 New free standing WCFs, allowed only in the Wireless Communication Overlay District subject to a special permit from the Zoning Board of Appeals and site plan review from the Planning Board and subject to the dimensional requirements, performance and design standards of this subsection.

### 6.3.3 Dimensional Requirements for WCFs.

#### 6.3.3.1 Free-standing WCFs shall:

- 6.3.3.1.1 Not exceed one hundred twenty (120) feet in height, measured from the ground to the highest point of the tower or its projections;
- 6.3.3.1.2 Be set back from the property lines of the lot on which it is located by at least one hundred (100) feet measured from the center of the structure of the WCF base;
- 6.3.3.1.3 Be located a minimum of three hundred (300) feet from the nearest residential building within a residentially zoned district; and
- 6.3.3.1.4 Be separated from each other by a minimum of two (2) miles, provided that the Zoning Board of Appeals may waive this separation to a lesser distance if the applicant

can demonstrate that the two-mile requirement will have the effect of prohibiting service from a significant portion of the community.

6.3.3.2 Building-mounted WCFs shall not:

6.3.3.2.1 Exceed fifteen (15) feet above the roof top of a supporting building, including any penthouse, parapet or other similar structure extending above the roof top; and

6.3.3.2.2 Exceed fifteen (15) feet above the highest point of a water tower.

6.3.3.3 Based on a clear display that additional height of the tower or reduced setbacks of the tower from buildings or property lines will not adversely affect any purpose of this bylaw and will in fact help to promote the objectives set forth herein, particularly as it relates to co-location, the Zoning Board of Appeals may, by special permit, allow the height of the tower to be increased, or the required setbacks or separation reduced, up to a maximum of twenty-five (25%) percent.

6.3.4 Performance Standards/General Requirements.

The following performance standards and general requirements shall apply to all WCFs:

6.3.4.1 Compliance with Federal and State Regulations: All WCFs shall be erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including radio frequency emission regulations as set forth in Section 704 of the 1996 Federal Telecommunications Acts.

6.3.4.2 Co-location of WCFs: WCFs shall be designed to accommodate the maximum number of users technologically practical. Shared use of free-standing, building-mounted, or indoor WCFs by commercial carriers is required unless such shared use is shown to be not technologically practical. The intent of this requirement is to reduce the number of separate facilities which will require location within the community.

6.3.4.2.1 All owners and operators of land used in whole or in part for a WCF and all owners and operators of such WCF shall, as a continuing condition of installing, constructing, erecting and using a WCF, permit other public utilities or FCC licensed commercial entities seeking to operate a WCF to install, erect, mount and use compatible WCF

equipment and fixtures on the equipment mounting structure on reasonable commercial terms; provided, however, that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing WCF, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional WCF or fixtures.

#### 6.3.4.3 Removal of Abandoned WCF.

Any WCF that is not operational for a continuous period of twelve (12) months shall be considered abandoned, and the WCF shall be removed by the owner of the WCF or the owner of the property, and the site restored to its original condition, with the exception of any landscaping that has been provided due to installation of said WCF, within ninety (90) days of receipt of notice from the Building Inspector notifying the owner of such abandonment.

- 6.3.4.3.1 If such WCF is not removed within ninety (90) days, such WCF shall be deemed to be in violation of this Zoning Bylaw and the appropriate enforcement authority may begin proceedings to enforce and/or cause removal. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

#### 6.3.5 Design Standards.

The following design standards shall apply to all exterior free-standing WCFs, as appropriate:

- 6.3.5.1 All exterior WCF equipment and fixtures shall be painted or otherwise screened or colored to minimize their visibility to occupants or residents of surrounding buildings, streets and properties. WCF equipment and fixtures visible against a building or structure shall be colored to blend with such building or structure. WCF equipment and fixtures visible against the sky or other background shall be colored to minimize visibility against such background. The maximum amount of vegetation shall be preserved during construction of any WCF.
- 6.3.5.2 All free-standing WCFs shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use.
- 6.3.5.3 The only type of free-standing WCFs allowed shall be monopoles, with associated antenna and/or panels. In addition, so-called stealth or camouflaged towers may also be permitted. Whenever

technologically feasible, antennas shall be mounted flush against a pole, provided that such mounting does not compromise the potential for co-location. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.

- 6.3.5.4 To the extent feasible all network interconnections from any WCF shall be installed underground, or inside an existing structure.
- 6.3.5.5 A Security Barrier shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town. Fencing shall not be of razor wire.
- 6.3.5.6 There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall comply with Section 11 of this By- law.
- 6.3.5.7 Night lighting of free-standing WCFs shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
- 6.3.5.8 There shall be a maximum of one (1) parking space for each free standing WCF, 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.
- 6.3.5.9 Accessory buildings and/or storage sheds shall be limited to one building per use per tower. If more than one (1) use, the accessory buildings shall be connected by a common wall. Each building shall not exceed three hundred (300) square feet in size and ten (10) feet in height, and shall be of the same design and color.

#### 6.3.6 Special Permit.

- 6.3.6.1 Application Process. All special permit applications for WCFs shall be made and filed on the appropriate application form. For an application to be considered complete, it shall comply with Section 14.6 and G.L. c. 40A, and shall also provide five copies of the following information:

- (a) A color photograph or rendition of the proposed monopole with its antenna and/or panels. A rendition shall also be prepared providing eight (8) view lines in a one (1) mile radius from the site, and any other viewpoints deemed necessary by the permit granting authority; shown beginning at true north and continuing clockwise at forty-five degree intervals.

- (b) A description of the monopole and the technical, economic and



other reasons for the proposed location, height and design.

(c) Confirmation that the monopole complies with all applicable Federal and State standards, including, but not limited to, the Federal Aviation Administration, Federal Communications Commission, Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

(d) A description of the capacity of the monopole including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.

(e) If the permit granting authority determines it necessary, an amount of money from applicant shall be placed in an Engineering Review Revolving Account for use by the permit granting authority to retain a technical expert in the field of RF Engineering.

(f) The Special Permit Granting Authority may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

(g) Within fourteen (14) days prior to the public hearing, the applicant shall arrange to locate a crane, or an alternative temporary structure approved by the Special Permit Granting Authority, at the site in a manner that replicates the exact height and location of the proposed monopole. The crane or structure shall remain in position for no less than three (3) consecutive days, for at least twelve (12) hours per day unless the zoning board agrees that fewer hours per day may be allowed.

#### 6.3.7 Review Criteria.

In addition to applying any Special Permit general conditions described in this zoning by-law, and the standards, requirements, or conditions set forth herein above, the Board shall review the special permit application in accordance with the following criteria:

(a) An applicant proposing a free-standing WCF shall prove to the satisfaction of the Board that the visual, noise level, economic and aesthetic impacts of the facility on the community will be minimal. The applicant must also demonstrate that the facility needs to be located at the proposed site due to technical, topographical or other unique circumstances. In determining whether to issue a special permit, the Board shall consider the following factors: height of the proposed WCF; the nature of uses adjacent and nearby properties; surrounding topography; surrounding tree coverage and foliage; the visual and noise impact of the facility on the abutting neighborhoods and streets; and the impact on existing vistas and natural resources.

(b) No free standing WCF shall be erected or installed except in compliance with the provisions of this Section. Any proposed extension in the height, or



construction of a new or replacement of a facility, shall be subject to a new application for a special permit. The addition of cells, antenna or panels to an existing facility does not require the issuance of a special permit but is subject to site plan review.

#### 6.3.8 Conditions of Approval.

6.3.8.1 The following conditions of approval shall apply to all grants of applications for WCFs that require a special permit as indicated by Section 6.3.2 herein:

a) Annual certification must be provided to the Town's Director of Code Enforcement which demonstrates continuing compliance with the standards, rules and regulations of the Federal Communications Commission, Federal Aviation Administration, National Institute of Standards and Technology, Massachusetts Aeronautics Commission, Massachusetts Department of Public Health, and other applicable federal, state and local laws.

b) If a free-standing, exterior WCF is to be placed on municipal property the following conditions must be satisfied:

1) Certificate of Insurance for liability coverage in the amounts of \$1,000,000.00 must be provided naming the Town as an additional insured;

2) An agreement whereby the user indemnifies and holds the Town harmless against any claims for injury or damage resulting from or arising out of the use or occupancy of the Town owned property by the user.

3) A cash bond in a reasonable amount determined and approved by the Board shall be in force to cover removal of WCF and restoration of site to the condition that the premises were in at the onset of the lease, when use of said WCF becomes discontinued or obsolete. The amount is to be payable to the Town in the event that the user breaches the agreement in Section 6.3.4.3.

6.3.8.2 A maintenance bond shall be posted for the access road, site and monopole in amounts approved by the Board.

6.3.8.4 In addition to the above, the Board may impose additional conditions as needed to minimize any adverse impacts of the proposed WCF.

#### 6.3.9 Exemptions.

The following types of WCFs are exempt from this Section:

6.3.9.1 Amateur radio towers used in accordance with the terms of any amateur Radio service license issued by the Federal Communications Commission, provided that the tower is not used or licensed for any

commercial purpose.

6.3.9.2 Facilities used for the purposes set forth in G.L. c. 40A, §3.

6.3.9.3 Facilities used solely by the municipality for the purpose of public safety.

#### 6.3.10 Definitions.

**ANTENNA:** The surface from which wireless radio signals are sent and received by a personal wireless service facility.

**CO-LOCATION:** The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

**ACCESSORY BUILDINGS:** An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

**GUYED TOWER:** A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**LATTICE TOWER:** A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

**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.

**MOUNT:** The structure or surface upon which antennas are mounted, including the following four types of mounts:

Roof-mounted. Mounted on the roof of a building.

Side-mounted. Mounted on the side of a building.

Ground-mounted. Mounted on the ground.

Structure-mounted. Mounted on a structure other than a building.

**PANEL ANTENNA:** A flat surface antenna usually developed in multiples.

**RADIO FREQUENCY ENGINEER:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

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

WIRELESS COMMUNICATION FACILITY: Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

## SECTION 7. SPECIAL USE REGULATIONS

### 7.1. Accessory Apartments. *(Adopted on April 30, 2018 and approved by the Attorney General on November 15, 2018)*

#### 7.1.1. Purpose and Intent

The purpose and intent of the Accessory Apartment bylaw is to provide for a range of housing types in the Town of Groveland through the alteration and reuse of existing buildings, to enable homeowners to accommodate the needs of elderly family members or family members with disabilities, and to provide suitable housing for caregivers while maintaining the single-family character of the neighborhood.

#### 7.1.2 Applicability

Accessory apartments shall be authorized by the Building Inspector/Zoning Enforcement Officer through the issuance of a Certificate of Occupancy in all single family residential dwellings provided the conditions and requirements of the following sections are met.

#### 7.1.3 General Requirements

7.1.3.1 A permit may be granted by the Building Inspector/Zoning Enforcement Officer to accommodate an accessory apartment by the installation of a common wall or the partitioning of or extension of existing habitable area. There shall be no more than one (1) accessory apartment for a total of two (2) dwelling units within a single-family dwelling per lot.

7.1.3.2 Use Limitation. The principal dwelling unit or accessory apartment must be occupied by the owner. For the purposes of this section “owner” shall mean one (1) or more of those individuals who hold record title to the lot on which the principal dwelling unit and the accessory apartment are located. Occupancy of the unit not occupied by the owner is limited to a family member related by blood, marriage or adoption to the owner(s).

7.1.3.3 Floor Area Limitations. The habitable area of the principal dwelling unit shall not be less than sixteen hundred (1600) square feet. The habitable area of the accessory apartment shall be limited to a maximum of nine hundred (900) square feet. The Groveland Zoning Board of Appeals may by special permit allow an increase of up to ten (10) percent in the accessory apartment habitable area square footage limitation if the configuration of the

structure makes strict compliance with this requirement difficult. The Groveland Zoning Board of Appeals, by special permit, may also allow reasonable deviation from the stated conditions and requirements where necessary to install features that facilitate access and mobility for disabled persons, provided that the Board of Appeals finds that such deviation is not contrary to the public interest and is consistent with purpose and intent of this bylaw.

7.1.3.4 There shall be no borders or lodgers within either the principal dwelling unit or the accessory apartment , or on the same lot with an accessory apartment.

7.1.3.5 The total number of bedrooms of the principal dwelling unit and accessory apartment combined may not exceed the capacity of the permitted and compliant septic system serving the units per Title V requirements. This section shall not apply to properties that are connected to the public sewer system.

7.1.3.6 Utilities such as water, electric and gas as necessary for the accessory apartment shall be extensions of the existing utilities serving the principal single family dwelling and shall not be separately metered, unless required by the utility provider.

7.1.3.7 Parking shall be provided for as determined by the parking Table 9.1.2.

7.1.3.8 To the extent possible, exterior passage ways and access ways shall not detract from the single-family appearance of the dwelling. All stairways to additional stories shall be enclosed within the exterior walls of the structure and will be located on the side or rear of the structure.

7.1.3.9 Floor plans of the proposed accessory apartment and principal dwelling unit and a site plan showing the structure(s) on the lot shall be filed with the application for a permit with the Building Inspector/Zoning Enforcement Officer. Plans shall demonstrate that exterior changes to the structure will not significantly alter the appearance of the single family dwelling.

#### 7.1.4 Occupancy Requirements

7.1.4.1 Prior to issuance of a Building Permit and Occupancy Certificate, the owner shall send a notarized letter to the Building Inspector/Zoning Enforcement Officer affirming that the owner will occupy either of the principal dwelling unit or the accessory apartment as the owner's primary residence, except for temporary absences of no more than six months in any calendar year.

7.1.4.2 Prior to issuance of a Building Permit and Occupancy Certificate, the owner shall send a notarized letter to the Building Inspector/Zoning Enforcement Officer stating that to the best of his or her

knowledge the accessory apartment will not violate any deed restrictions applicable to the subject lot or principal dwelling unit.

7.1.4.3 A letter of approval of the accessory apartment issued by the Building Inspector/Zoning Enforcement Officer or a Special Permit where applicable, shall be recorded by the owner in the Southern Essex District Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Inspector/Zoning Enforcement Officer within sixty (60) days of the issuance of the Occupancy Permit or Special Permit for the accessory dwelling unit.

7.1.4.4 When a lot with a structure which has received a permit for an accessory apartment is sold, the new owner, if he or she wishes to continue to exercise the permit, must, within sixty (60) days of the sale, submit a notarized letter to the Building Inspector/Zoning Enforcement Officer affirming that he or she will occupy either of the principal dwelling unit or the accessory apartment on the premises as his or her primary residence, except for temporary absences of no more than six months in any calendar year and acknowledging and agreeing to abide by all conditions to the previously issued Occupancy Certificate and Special Permit, if applicable.

7.1.4.5 Any accessory apartment lawfully in existence at the time of the adoption of this By-Law shall be allowed to continue.

## 7.2. Trailers.

### 7.2.1. Applicability.

No person shall park, store, occupy or utilize a trailer for living or business purposes except:

7.2.1.1. Such trailer may be parked or stored in a garage or other accessory building, or in the rear half of a lot owned or occupied by the owner of the trailer; providing however, that the trailer must be located at least twenty-five (25) feet from the rear and side lot lines and its use for living or business is prohibited.

7.2.1.2. The owner of land may permit occupancy of such land by a nonpaying guest, using a trailer for living purposes, for a period not exceeding four (4) weeks in any calendar year. A permit for this purpose must be obtained from the board of selectmen before the land may be so occupied.

7.2.1.3. As a temporary office or dwelling incidental to construction or development of the premises on which the trailer is located. Such

use, however, is conditioned upon prior approval of the board of health and prior issuance of a permit from the board of appeals. Such permit shall run for a period of one (1) year and may be extended for a period of one (1) year, but in no case may the trailer be so occupied for longer than a period of two (2) years, during which time the construction of the dwelling is to be completed. The approval of the board of health or the permit from the board of appeals may be revoked for cause at any time.

### 7.3. Customary Home Occupation

*(Adopted on April 30, 2018 and approved by the Attorney General on June 22, 2018)*

#### 7.3.1. Purpose and Intent.

It is the specific intent of this section to allow customary home occupations for the purpose of allowing small businesses to operate within a residential dwelling or accessory structure on the same premises as a dwelling, to be carried out by the person or persons who reside there. The purpose of these standards is to strictly limit the size, type, and intensity of a proposed home occupation so that the residential character of the properties is not negatively impacted or altered.

#### 7.3.2. Permitting.

Residents wishing to operate a customary home occupation must obtain a customary home occupation permit from the Building Inspector/Zoning Enforcement Officer. The Building Inspector/Zoning Enforcement Officer shall issue a customary home occupation permit to those applicants that meet all the requirements of this section.

#### 7.3.3. Standards and Requirements.

7.3.3.1. The customary home occupation shall be subordinate to the principal use of the dwelling and shall not appreciably change the residential character of the structure or the lot on which it sits.

7.3.3.2. No person other than the legal resident(s) of the dwelling may be employed to work on the premises.

7.3.3.3. Activities associated with the customary home occupation shall be limited to the interior of the dwelling or accessory structure.

7.3.3.4. No exterior storage of goods, materials tools or equipment shall be allowed. Storage of junk, scrap, waste or hazardous materials related to the

customary home occupation is strictly prohibited.

7.3.3.5. No more than one commercial vehicle owned by the business is allowed to be parked on the premises excluding vehicles which are the primary vehicles of the legal residents of the property.

7.3.3.6. No offensive noise, smoke, vibration, dust, odors, heat, light, or glare shall be produced by the home occupation.

7.3.3.7. Signs shall comply with Section 11 of this bylaw.

7.3.3.8. Customer/client visits are permitted by appointment only.

7.3.3.9. Deliveries/pick-ups related to the business shall be limited to one per day except as allowed by Section 7.3.3.8.

7.3.3.10. Off street parking must be provided for customers/clients if customers/clients are anticipated as part of the business. Resident vehicles shall not be parked on street to accommodate customer/client parking needs or requirements.

7.3.3.11. The owner of a customary home occupation will register the home occupation business with the Town Clerk. Said registration shall not constitute authorization to conduct the business.

#### 7.4 Special Requirements for Registered Marijuana Dispensaries

##### 7.4.1. Purposes.

7.4.1.1. To provide for the establishment of Registered Marijuana Dispensaries in appropriate places and under strict conditions.

7.4.1.2. To minimize the adverse impacts of Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts and other land uses potentially incompatible with said Registered Marijuana Dispensaries.

7.4.1.3. To regulate the siting, design, placement, security, safety, monitoring, modification and removal of Registered Marijuana Dispensaries.

##### 7.4.2. Applicability.

7.4.2.1. The commercial cultivation, production, processing, assembly,

packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical use is prohibited unless permitted as a Registered Marijuana Dispensary under this Section.

7.4.2.2. No Registered Marijuana Dispensary shall be established except in compliance with the provisions of this Section.

7.4.2.3. Nothing in this By-law shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

7.4.2.4. If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

#### 7.4.3. Definitions

Where not expressly defined in the Zoning Bylaws, terms used this Section shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

#### 7.4.4. Reserved

#### 7.4.5. General Requirements and Conditions for all Registered Marijuana Dispensaries.

7.4.5.1. All Registered Marijuana Dispensaries shall be contained within a building and outside cultivation area that are properly secured.

7.4.5.2. A Registered Marijuana Dispensary shall not be located in buildings that contain any medical doctor offices or the offices of any professional practitioner authorized to prescribe the use of medical marijuana.

7.4.5.3. The hours of operation of Registered Marijuana Dispensaries may be regulated by the Special Permit Granting Authority, provided that the RMD may only be open to the public between 7AM to 9PM.

7.4.5.4. No burning of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Registered Marijuana Dispensary that would create noxious odors.



- 7.4.5.5. No Registered Marijuana Dispensary shall be located inside a building containing residential units, or inside a movable or mobile structure.
- 7.4.5.6. No Registered Marijuana Dispensary shall be located on a lot within 300 feet of a residential zoning district boundary line, a house of worship, a school, playground or a day care facility. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses to the nearest point of the property line of the proposed RMD.
- 7.4.5.7. Signage for the Registered Marijuana Dispensary shall include the following language: "Registration card issued by the Massachusetts Department of Public Health required". The required text shall be a minimum of two inches in height.
- 7.4.5.8. Registered Marijuana Dispensaries shall provide the Groveland Police Department, Zoning Enforcement Officer , and Special Permit Granting Authority with the names, phone numbers, and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.

#### 7.4.6. Special Permit Requirements.

- 7.4.6.1. A Registered Marijuana Dispensary shall only be allowed by special permit from the Groveland Zoning Board of Appeals in accordance with MGL c.40A, §9 subject to all applicable laws, regulations, requirements, conditions and limitations.
- 7.4.6.2. A special permit for a Registered Marijuana Dispensary shall indicate which of the following uses will be conducted on the proposed site:
  - a) Cultivation of Marijuana for Medical Use (horticulture);
  - b) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments and other products;
  - c) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients.
- 7.4.6.3. In addition to the application requirements set forth in Sections 7.4.5 and 7.4.6 of this By-law, a special permit application for a Registered Marijuana Dispensary shall include the following:
  - a) Copies of all required State RMD permits/licenses issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the operation of a Registered Marijuana Dispensary;

- b) The name and address of each owner of the RMD;
- c) Evidence of the Applicant's right to use the facility for a Registered Marijuana Dispensary, such as a lease or a deed;
- d) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of the individuals.
- e) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor,
- f) Proposed security measures for the Registered Marijuana Dispensary, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

7.4.6.4. **Mandatory Findings.** The Special Permit Granting Authority shall not issue a special permit for a Registered Marijuana Dispensary unless it finds that:

- a) The facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c.40A, §11;
- b) The facility demonstrates that it will meet all permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- c) The applicant has satisfied all of the conditions and requirements of Sections 7.4.5 and 7.4.6 herein.

7.4.6.5. **Annual Reporting.** Each Registered Marijuana Dispensary permitted under this By-law shall as a condition of its special permit file an annual report with the Special Permit Granting Authority and the Town Clerk no later than January 31st of each year, providing a copy of all current applicable state licenses for the Facility and/or its owners and demonstrating continued compliance with the conditions of the Special Permit. Upon request of the Special Permit Granting Authority, a duly- authorized representative of the Registered Marijuana Dispensary shall appear before the Special Permit Granting Authority to testify as to the contents of such report.

In addition, the permit holder shall file a copy of any Incident Report

required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations. The permit holder shall further file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.

- 7.4.6.6. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership or lease of the premises as a Registered Marijuana Dispensary. The special permit shall be particular to the applicant and may be transferred to another entity for the same location only with permission from the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section. 7.4.

7.4.7. Abandonment or Discontinuance of Use.

- 7.4.7.1. A Special Permit for an RMD shall lapse if not exercised within one year of issuance.
- 7.4.7.2. A Registered Marijuana Dispensary shall be required to remove all material, plants, equipment and other paraphernalia:
- a) Prior to surrendering its state issued licenses or permits; or
  - b) Within six months of ceasing operations; whichever comes first

7.5 Temporary Moratorium on Recreational Marijuana Establishments

(Approved on April 30, 2018 and amended on December 3, 2019)

7.5.1 Purpose

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017). The Cannabis Control Commission issued regulations on March 23, 2018 regarding recreational (non-medical) use of Marijuana and has begun accepting applications for licensing of non-medical marijuana establishments. Currently under the Zoning By-laws, a non-medical Marijuana Establishment (hereinafter, a "Recreational Marijuana Establishment"), as defined in G. L. c. 94G §1 and 935 CMR 500.00, is not specifically addressed. Currently under the Zoning By-law, a non-medical Marijuana Establishment (hereinafter, a "Recreational

Marijuana Establishment”), as defined in G. L. c. 94G §1, is not specifically addressed.

Regulations promulgated by the Cannabis Control Commission provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning By-law regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

#### Section 7.5.2 Definition

“Marijuana Establishment” shall mean a “marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business” as such terms are defined in 935 CMR 500.02.

#### Section 7.5.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning By-law to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through June 30, 2019. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new zoning bylaws in response to these new issues.

### 7.6 Marijuana Establishments Prohibited

*(Approved on December 3, 2019 and ratified by the voters on May 6, 2019)*

Consistent with G.L. c.94G, §3(a)(2), all types of non-medical “marijuana establishments” as defined in 935 CMR 500.002, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related businesses, hereinafter, “recreational marijuana establishments” shall be prohibited within the Town of Groveland. This prohibition shall apply in the Town upon approval by the voters at a Town Election.

## SECTION 8. DENSITY AND DIMENSIONAL REGULATIONS

*(Adopted on April 30, 2018 and approved by the Attorney General on August 24, 2018)*

### Table of Dimensional Requirements.

District	Min. Area SF	Min. Frontage Feet	Min. Setbacks			Max. Height Feet	Max. % Lot Coverage	Max. % Impervious Area	Percent of Minimum Required Lot Area as Contiguous Buildable Area <sup>(6)</sup>
			Front	Side	Rear				
<b>R-1</b>	43,560 <sup>(1)</sup>	150 <sup>(1)</sup>	30 <sup>(5)</sup>	15	15	35	20	50	60 <sup>(7)</sup>
<b>R-2</b>	30,000 <sup>(2)</sup>	150 <sup>(2)</sup>	30 <sup>(5)</sup>	15 <sup>(4)</sup>	15	35	25	50	60 <sup>(7)</sup>
<b>R-3</b>	20,000 <sup>(3)</sup>	100 <sup>(3)</sup>	30 <sup>(5)</sup>	10	10	35	30	50	75
<b>B</b>	20,000	100	30	10	30	35	40	70	60 <sup>(7)</sup>
<b>LB</b>	20,000	100	20	10	30	35	40	70	60 <sup>(7)</sup>
<b>I</b>	43,560	150	50	25	25	35	25	50	60 <sup>(7)</sup>

#### **Notes:**

1. Two-family or Duplex structures require a min. of two hundred (200) feet of frontage and 60,000 SF Area in the R-1 District.
2. Two-family or Duplex structures require a min. of two hundred (200) feet of frontage and 40,000 SF Area in the R-2 District.
3. Two-family or Duplex structures require a min. of one hundred thirty (130) feet of frontage and 27,000 SF Area in the R-3 District.
4. On a lot with less than one hundred fifty (150) feet of frontage and in existence at the time this By-law is passed, no building shall be erected within ten (10) feet of a side lot line.
5. See Section 8.2.3.
6. Contiguous Buildable Area as defined in Section 2, Definitions. All structures shall be located within the Contiguous Buildable Area and within all setback requirements of the lot.
7. Fifty (50) percent if parcel is serviced by Town water and sewer.

### 8.2. Additional Dimensional Requirements.

#### 8.2.1. Lot Regularity.

A circle with a diameter equal to eighty (80) percent of the applicable required frontage must be able to be located within the lot lines of any lot. Structures may be constructed outside of this circle, provided that all other requirements of this by-law are met.

#### 8.2.2. Frontage.

Frontage shall be measured at the street line from side lot line to side lot line except on a

curve where the frontage shall be measured from side lot line to side lot line along the curve. Frontage must provide access to the lot from the right-of-way counted for frontage unless otherwise approved by the Planning Board on a Definitive Plan submitted in accord with G.L. c. 41 or approved by the Planning Board in the same manner as a Definitive Plan.

#### 8.2.3. Street Line.

In any residential district no building or roadside stand shall be erected or placed within thirty (30) feet of a street line unless it is determined that the line of houses existing at the time this by-law is adopted is less than thirty (30) feet from the street line, and no building or accessory use or farm or poultry farm building other than a dwelling, or roadside stand, or private garage, shall be built within sixty (60) feet of a street line.

#### 8.3. Appurtenant Open Space.

No minimum setback or other open space required for a building by this by-law shall, during the existence of such a building, be occupied by or counted as open space for another building.

#### 8.4. Public Water Supply.

No structure shall be erected within a four-hundred (400) foot radius of the centerline of the drill hole of any town owned well used for public water supply.

#### 8.5. Lot Size Reduction.

8.5.1. No lot shall be reduced in size so as to not conform to this By-law unless authorized by a variance from the zoning board of appeals.

8.5.2. No legally nonconforming lot shall be further reduced in size unless authorized by a variance from the zoning board of appeals.

#### 8.6 Dwellings Per Lot.

Not more than one (1) building designed or available for use for dwelling purposes shall be erected or placed or converted to use on any lot in a subdivision, or elsewhere in the town, without the consent of the Planning Board, and such consent shall be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision.

### **SECTION 9. OFF STREET PARKING AND LOADING STANDARDS**

#### 9.1. Parking Requirements.

##### 9.1.1. General.

Off-street parking requirements in Residence Districts, Business and

Industrial Districts shall be as set forth in the following Parking Requirements Table. For Business, Commercial, and Industrial uses, a minimum of one (1) parking space per employee is required, plus additional spaces listed in the table below. For Businesses with multiple shifts, the number of employees is calculated as the number of employees for the two largest shifts. The minimum number of non- employee parking spaces is 2 (two). Required parking shall be provided on the same lot as the main use it is to serve, except as allowed in Section 9.2.

9.1.2. Table of Off Street Parking Requirements.

<b>Principal Use</b>	<b>Parking Spaces Required</b>
Dwelling	1 per dwelling unit with 1 or fewer bedrooms 2 per dwelling unit with two or more bedrooms
Hotel or Motel	1 per room plus 1 per 250 sq. ft. of public meeting area
Bed & Breakfast	2 spaces, plus 1 per guest unit.
Assisted Living; Nursing Home; Group Home; Rest Home	1 per 2 beds

<b>Principal Use</b>	<b>Parking Spaces Required</b>
Educational/Schools: Nursery/Child Care Elementary/Middle/Junior High School College and University	1 per 250 sq. ft. of floor area 1.2 per employee .25 per student 1 per 250 sq. ft. of floor area
Retail Small	1 space per 250 sq. ft. floor area
Retail Large	1 per 250 sq. ft. of floor area
Bank	1 per 200 sq. ft. of floor area
General Business or professional office; personal service establishment	1 per 300 sq. ft. of floor area
Libraries, museums, art galleries	2.5 per 1,000 sq. ft. of floor area
Medical or Dental Office	4.3 per 1,000 sq. ft. of floor area
Restaurant	1 per 4 seats
Restaurant Drive Through	1 per 70 sq. ft. floor area
Religious; Lodge or Club; Civic Center or other Place of Assembly.	1 per 75 sq. ft. assembly area or 1 per 4 seats whichever is higher
Motor Vehicle, general & body repair.	1 per each service bay
Motor vehicle light service	2 per service bay
Mixed use	Sum of various uses computed separately
Transport terminal	1 per 250 sq. ft. devoted to office use plus one per company vehicle operating from premises
Animal Hospital/ Groomer/Commercial Kennel	1 per 250 sq. ft. floor area
Industrial	1 per 2,000 sq. ft. net floor area for the first 20,000
Commercial Indoor and Outdoor Recreation Facilities/ Municipal Facilities	1 per 75 sq. ft. assembly area or 1 per 4 seats whichever is higher
Marina-commercial site parking for moored, docked, and trailered boats, including charter boats and boats carrying passengers for hire.	0.7 spaces per crew member and passenger of a charter boat or boat carrying passengers for hire that embark from the site. 1 trailered boat space and 0.6 spaces per trailered boat.



<b>Principal Use</b>	<b>Parking Spaces Required</b>
Theater	1 space per 4 floor seats
Any Use permitted in this By-law not in this table	To be determined by the Planning Board

## 9.2. Shared Parking Facilities.

Parking required for two (2) or more buildings or uses (such as a shopping center or industrial park) may be provided in combined facilities where it is evident that such facilities shall continue to be available for the several buildings or uses and where the parking provided meets all of the requirements of this section for each of the uses in the combination.

- 9.2.1. Evidence shall be submitted that parking is available within five hundred (500) feet of the premises, which lot satisfies the requirements of this By-law and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.
- 9.2.2. A contract, agreement, or suitable legal instrument acceptable to legal counsel, shall be filed with the application for building permit, occupancy permit, or special permit which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.
- 9.2.3. Any reduction in area required for parking because of these joint use provisions may be required as reserved landscaped open space; such area shall be computed at the rate of one hundred eighty (180) square feet per parking space.
- 9.2.4. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this By-law if subsequently the joint use of parking facilities shall terminate.

## 9.3. Location and Layout of Parking Facilities.

- 9.3.1. Each required car space shall not be less than nine (9.0) feet wide nor less than twenty (20) feet long exclusive of aisles and driveways. No curb cut for parking facilities shall exceed thirty (30) feet in width. Required parking may be enclosed in a structure or may be provided in an open lot.
- 9.3.2. Adequate access to required parking spaces for each main use for town emergency vehicles shall be provided from the lot frontage, provided that where the main use is located two hundred fifty (250) feet or more from the lot frontage, the Building Inspector shall, prior to the issuance of a Building

Permit or Occupancy Permit therefore, refer the permit application to the Fire Chief and Police Chief for an advisory opinion. Any exception to the foregoing requirement for access from the lot frontage shall only be allowed by Planning Board approval of a special permit.

- 9.3.3. All required parking spaces shall be graded, surfaced and drained to the satisfaction of the planning board to the extent necessary to avoid a nuisance of dust, erosion or excessive water flow across public streets or any other nuisance.
- 9.3.4. All roads, drives, parking areas and walks shall be constructed so as to afford adequate access to town ways. The recommendation of the Police Chief or Fire Chief shall be used in determining the adequacy. More than one (1) means of entering and exiting may be required by the Planning Board on a parcel where more than fifty (50) dwelling units are proposed or where indicated by safety and traffic conditions. Proper maintenance of all private roads, drives, parking areas and walks on a site, including snow removal, shall be the responsibility of the owner.
- 9.3.5. No Parking shall be allowed in the front setback.
- 9.3.6. Parking shall be a minimum of 10 feet from the side and rear lot lines.
- 9.3.7. Parking shall be screened from residential uses using fencing or evergreen vegetation or as determined appropriate by the Planning Board SPGA.
- 9.3.8. The aisle width between parking shall be 24 feet. The aisle may be reduced if angle parking with one way traffic is used.
- 9.3.9. No more than 20 spaces shall be provided in a row without separation by a landscaped area of at least 8 feet. In the case of double rows, this separation shall mean 20 spaces on each side of the bay areas.
- 9.3.10. Parking areas containing over 20 spaces shall have at least one shade tree per 8 parking spaces. Where a sidewalk abuts a parking area, there shall be a minimum of a 3 foot grass strip. Low Impact Development techniques such as Bio-Retention areas and infiltration shall be used where feasible.
- 9.3.11. Section 9.3 shall not apply to detached single family dwellings or two family dwellings or duplexes.

#### 9.4. Special Permit.

Any parking requirement set forth herein may be reduced upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit. Such cases might include:

- 9.4.1. Use of a common parking lot for separate uses having peak demands occurring at different times;
- 9.4.2. Age or other characteristics of occupants of the facility requiring parking which reduces auto usage;
- 9.4.3. Peculiarities of the use which make usual measures of demand invalid;
- 9.4.4. Availability of on-street parking or parking at nearby municipally owned facilities.
- 9.4.5. Where a special permit is granted, a reserve area, to be maintained indefinitely as landscaped open space, may be required sufficient to accommodate the difference between the spaces otherwise required and the spaces reduced by special permit. The parking/site plan shall show (in dotted outline) how the reserve area would be laid out in to provide the otherwise required number of spaces.

## 9.5. Loading Areas.

### 9.5.1. General.

All buildings requiring the delivery of goods as part of their function shall be provided with bays and suitable space for the off street maneuvering and loading of vehicles. An application for the erection of a new nonresidential building which is in the category of retail trade, wholesale trade, storage, manufacturing, or the like, or for the alteration or extension of an existing building of such type shall include a plan for loading facilities for the entire structure in accordance with the following table of loading requirements.

### 9.5.2. Table of Loading Requirements.

Gross Floor area (sq. ft.)	Number of Bays Required
20,000 to 50,000	1
50,000 to 100,000	2
100,000 to 150,000	3
150,000 to 300,000	4
Each 100,000 over 300,000	1 additional

### 9.5.3. Layout and Design of Loading Facilities.

- 9.5.3.1. Loading bays shall not be less than twelve (12) feet in width, sixty-five (65) feet in length, and fourteen (14) feet in height, exclusive of driveway and maneuvering space. Required off-street loading bays and maneuvering spaces shall be located entirely on the same lot as the building being served.

9.5.3.2. Individual loading spaces, maneuvering areas, entrances and exits shall be suitably identified with lines and arrows, as deemed necessary by the Planning Board.

9.5.3.3. Screening and Landscaping Requirements. Loading areas shall be screened from adjacent properties or from other uses on the same site by fencing or evergreen vegetation or as determined appropriate by the Planning Board.

9.5.4. Location.

Any enclosed loading space shall be located at least 30 feet from any street line and any open loading space shall be so designed that trucks when loading or unloading will not project over any street line. Loading spaces shall be located at the side or rear of the building.

9.5.5. Backing onto or Queuing on the Street.

No loading area shall require vehicles exiting the area to back onto a public way. No loading area shall require vehicles waiting to be off-loaded to park in a queue on a public way.

9.5.6. Special Permit.

The Planning Board may vary any requirement of this section upon the grant of a special permit, where such relief will not result in substantial detriment to the neighborhood or the town.

## **SECTION 10. RESIDENTIAL DEVELOPMENT**

### **10.1. Inclusion of Affordable Housing.**

#### **10.1.1. Purpose and Intent.**

The purposes of this By-law are to increase and maintain in perpetuity the supply of housing that is available and affordable to low, moderate and upper-moderate income households; to prevent the displacement of Groveland residents; to outline and implement a set of policies and objectives for the development of affordable housing in compliance with G.L. c. 40B §§ 20-24 and various initiative programs developed by state, county and local government; and to establish that the affordable housing units that result from this bylaw be considered as Local Initiative Units in compliance with the requirements for the same as specified by the Department of Community Affairs, Division of Housing and Community Development. The Special Permit Granting Authority is the Planning Board.

#### **10.1.2. Definitions.**

The following definitions shall apply in this By-law. Where a term is undefined herein, the definition set forth in the Affordable Housing Guidelines adopted pursuant to this By-law, if any, shall control. All other undefined terms in this section either be governed by Definitions of this By-law or shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

**AFFORDABLE HOUSING GUIDELINES:** Written policies and criteria, recommended by the Groveland Housing Authority, or their designee, and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to this Bylaw.

**AFFORDABLE HOUSING PLAN:** means a document that constitutes the applicant's showing of compliance with the requirements of this section.

**LOCAL HOUSING FUND:** An account established by: (a) the Town for the specific purpose of creating affordable housing, including use by the Groveland Housing Authority for the purchase of land or units, or the development of new or rehabilitation of existing dwelling units for affordable housing occupants; or (b) a housing trust or community development corporation designated by the Town and created under the laws of the Commonwealth of Massachusetts.

**AFFORDABLE HOUSING UNIT:** A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of the Lawrence median income as reported by the U.S. Department of Housing and Urban Development, including units listed under G.L. c.40B sect. 20-24 and the Commonwealth's Local Initiative Program.

**RENTAL UNITS:** shall be made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income of 80% of median income would be paying 30% of gross income on rent and tenant-paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities.

**FOR SALE UNITS:** shall be made available at a sales price that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income of 80% of area median income would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of sales price.

**QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER OR TENANT:** an individual or family with household incomes that do not

exceed 80% of the median income, with adjustments for household size, as determined by regulations promulgated by the United States Department of Housing and Urban Development (HUD) and the Commonwealth's Local Initiative Program, or any successor federal or state program.

PROJECT: Any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in Section 10.1.3 herein. Where the project is a life care facility development, as set forth herein, the term "dwelling unit" shall be construed to mean "assisted living unit".

#### 10.1.3. Applicability.

This Section shall apply to:

##### 10.1.3.1. Division of Land.

The division of land into four (4) or more lots shall require a special permit from the SPGA. A special permit shall be required for land divisions under G.L. c.40A § 9 as well as for "conventional" or "grid" divisions allowed by G.L. c.41 § 81-L and § 81-U, including those divisions of land that do not require subdivision approval.

##### 10.1.3.2. Multiple Units.

Any project that results in any net increase of four (4) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space, whether on one or more contiguous parcels, shall require a special permit from the SPGA.

##### 10.1.3.3. Assisted Living Facility.

Any assisted living facility development that includes four (4) or more assisted living units and accompanying services.

##### 10.1.3.4. Intentional Avoidance.

The intentional segmentation of projects designed to avoid the requirements of this bylaw (e.g. subdividing one large tract into two smaller tracts, each of which will contain fewer than 4 units or phasing a development such that each phase will contain fewer than 4 units) is expressly forbidden. Parcels held in common ownership as of the passage of this bylaw cannot later defeat the requirements of this regulation by segmenting the development.

#### 10.1.4. Mandatory Provision of Affordable Units.

The SPGA shall, as a condition of approval of any development referred to in Section 10.1.3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this bylaw and more fully described in Section 10.1.5.

#### 10.1.5. Provision of Affordable Units.

10.1.5.1. The SPGA shall deny any application for a special permit for development under this By-law if the applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units, except as the provisions of Section 10.1.5.2 below shall apply:

If the average sale price of project units is affordable to households earning the following median income:	The percentage of units which are subject to rents and selling prices per section 10.1.2 shall be:	The percentage of units which are subject to marketing and continued affordability provisions per section 10.1.2 shall be:
Less than 80%	0%	10%
80% to 119.9%	10%	10%
120% to 239.9%	12.5%	12.5%
240% to 359.9%	15%	15%
Over 360%	18%	18%

10.1.5.2. For projects resulting in a net increase of four (4) to nine (9) dwelling units, the applicant may choose to make a cash payment to the Local Housing Fund based on Section 10.1.8 of this By-law.

10.1.5.3. The units in a division of land or multiple unit development subject to this By-law shall be established as affordable housing units in any one or combination of methods provided for below:

- a) constructed or rehabilitated on the locus subject to the special permit (see Section 10.1.6); or
- b) constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 10.1.7); or
- c) an equivalent fees-in-lieu-of payment may be made (see Section 10.1.8); or
- d) an applicant may offer, and the SPGA may accept, donations of land in fee simple, on or off-site, that the SPGA in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The SPGA may require, prior to accepting land as satisfaction of the requirements of this By-law, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

- e) The applicant may offer, and the SPGA may accept, any combination of the Section 10.1.5.3(a) – (d) requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this By-law.

10.1.6. Provisions Applicable to Affordable Housing Units On and Off-Site.

- 10.1.6.1. Siting of Affordable Units. All affordable units constructed or rehabilitated under this bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- 10.1.6.2. Fractional Determination. In determining the total number of affordable units to be constructed or rehabilitated, a fractional unit of 0.4 or more shall be regarded as a whole unit. If an equivalent fee-in-lieu-of payment is to be made the fee shall be a fractional proportion of the fee for a whole unit.
- 10.1.6.3. Affordable units shall be dispersed throughout the project and shall be indistinguishable from market rate units in external appearance. The affordable units shall have the same design, appearance, construction, insulation, mechanical systems, and quality of materials and finishes as market units, except that affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Affordable units shall have the same finishes and appliances as the market rate units except where the SPGA specifically approves, in advance, a request for different finishes and/or appliances.

10.1.6.4. Minimum Size.

The affordable units shall contain square footage which is no less than 90% of (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is the smaller:

1 bedroom	900 square feet
2 bedrooms	1200 square feet
3 bedrooms	1500 square feet
4 bedrooms	1800 square feet

10.1.6.5. Timing of Construction or Provision of Affordable Units or Lots.

Where feasible, affordable housing units shall be provided coincident



to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

<u>Market-rate Unit %</u>	<u>Affordable Housing Unit %</u>
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%
Fractions of units shall not be counted.	

#### 10.1.6.6. Local Preference.

Local preference for 70% of the sales units shall be given to residents of Groveland. Verified proof of current or past residency for at least 12 of the previous 36 months shall satisfy this requirement.

#### 10.1.6.7. Marketing Plan for Affordable Units.

Applicants under this By-law shall submit a marketing plan or other method approved by the Town through its local Housing Plan, to the SPGA for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

#### 10.1.6.8. Restrictions.

Affordability restrictions shall be embodied in applicable deed covenants, restrictive covenant agreements, other contractual agreements, land trust arrangements, and/or other mechanisms designed to ensure compliance with this section.

#### 10.1.6.9. Compliance.

Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the SPGA shall deem appropriate.

#### 10.1.7. Provision of Affordable Housing Units Off-Site.

As an alternative to the requirements of Section 10.1.6 or 10.1.8, an applicant subject to the bylaw may develop, construct or otherwise provide affordable

units equivalent to those required by Section 10.1.6 off-site. All requirements of this bylaw that apply to on-site provision of affordable units shall also apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the special permit review and approval process.

#### 10.1.8. Fees-In-Lieu of Affordable Housing Unit Provision.

10.1.8.1. As an alternative to the requirements of Section 10.1.6 or Section 10.1.7, an applicant may contribute to the Local Housing Fund to be used for the development of affordable housing in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

#### 10.1.8.2. Calculation of fees-in-lieu-of units.

The applicant for development subject to this By-law may pay fees in lieu of the construction of affordable units. For the purposes of this By-law, and based on Greater Lawrence region averages, the fee in lieu of the construction or provision of affordable units is determined to be 50% the difference between the median sale price of market rate unit and the maximum sale price of a comparable affordable dwelling unit, or \$80,000, per unit, whichever is smaller.

#### 10.1.8.3. Schedule of fees in lieu of payments.

Fees in lieu of unit payments shall be made according to the schedule set forth in Section 10.1.6.5, above.

#### 10.1.9. Maximum Income and Selling Prices.

##### 10.1.9.1. Initial Sale.

To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

10.1.9.2. The maximum housing cost for affordable units created under this by-law is as established by the Commonwealth's Division of Housing and

Community Development, or Local Initiative Program.

10.1.10. Preservation of Affordability; Restriction on Release.

10.1.10.1. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

10.1.10.2. Resale Price.

Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 10.1.10.1, above. For example, if a unit appraised for \$100,000 is sold for \$75,000 as a result of this bylaw, it has sold for 75 percent of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$150,000, the unit may be sold for no more than \$112,500—75 percent of the appraised value of \$150,000.

10.1.10.3. Right of First Refusal.

The purchaser of an affordable housing unit developed as a result of this bylaw shall agree to execute a deed rider prepared by the Town, consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

10.1.10.4. The SPGA shall require, as a condition for special permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 10.1.10.3, above. The Building Inspector shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

10.1.11. Conflict with Other By-laws.

The provisions of this bylaw shall be considered supplemental of existing zoning by-laws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

10.2. Conservation Subdivision Design (CSD).

#### 10.2.1. Purpose.

The Primary Purposes for CSD are the following:

- a) To allow for greater flexibility and creativity in the design of residential developments;
- b) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archeological resources in a manner that is consistent with a municipality's master and open space plan, if any;
- c) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
- d) To minimize the total amount of disturbance on the site;
- e) To further the goals and policies of the master and open space plans;
- f) To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.

The Secondary Purposes for CSD are the following:

- a) To preserve and enhance the community character;
- b) To preserve and protect agriculturally significant land;
- c) To protect the value of real property;
- d) To protect community water supplies;
- e) To provide for a diversified housing stock;
- f) To provide affordable housing to persons of low and moderate income.

#### 10.2.2. Eligibility.

##### 10.2.2.1. Minimum Size of Tract.

To be eligible for consideration as a CSD, the tract shall contain a minimum of five (5) acres.

##### 10.2.2.2. Zoning Classification.

Only those tracts located within the Residential Districts R-1 & R-2 shall be eligible for consideration as a CSD.

#### 10.2.2.3. Contiguous Parcels.

To be eligible for consideration as a CSD, the tract shall consist of a parcel or set of contiguous parcels.

#### 10.2.2.4. Land Division.

To be eligible for consideration as a CSD, the tract may be a subdivision or a division of land pursuant to G.L. c. 41, §81P, provided, however, that CSD may also be permitted where intended as a condominium on land not so divided or subdivided.

#### 10.2.3. Special Permit Required.

The Planning Board may authorize a CSD pursuant to the grant of a special permit.

#### 10.2.4. Pre-Application Procedure

##### 10.2.4.1. Conference.

The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Road Commissioner, Water and Sewer Board, Fire Department, Police Department, and Municipal Light Department. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed CSD, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, the Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a CSD special permit.

##### 10.2.4.2. Submittals.

In order to facilitate review of the CSD at the pre-application stage, applicants are strongly encouraged to submit the following information:

- a) *Site Context Map*. This map illustrates the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it should show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
- b) *Existing Conditions/Site Analysis Map*. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map locates and describes noteworthy resources that should be left protected through sensitive subdivision layouts. These resources include wetlands, river front areas, flood plains and steep slopes, but may also include mature un-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. By overlaying this plan onto a development plan the parties involved can clearly see where conservation priorities and desired development overlap/conflict.
- c) *Other Information*. In addition, applicants are invited to submit the information set forth in Section 10.2.5 in a form acceptable to the Planning Board.

#### 10.2.4.3. Site Visit.

Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the SCD. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Road Commissioner, Water & Sewer Board, Fire Department, Police Department, and Municipal Light Department.

#### 10.2.4.4. Design Criteria.

The design process and criteria set forth below in Section 10.2.4 should be discussed by the parties at the pre-application conference and site visit.

#### 10.2.5. Design Process.

At the time of the application for a special permit CSD in conformance with Section 10.2.5, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and a Certified Professional Engineer and considered in determining the layout of proposed streets, house lots and open space.

#### 10.2.5.1. Step One: Identifying Conservation Areas.

Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, river front areas, and flood plains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

#### 10.2.5.2. Step Two: Locating House Sites.

Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

#### 10.2.5.3. Step Three: Aligning the Streets and Trails.

Align streets in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

#### 10.2.5.4. Step Four: Lot Lines.

Draw in the lot lines, unless the CSD is utilizing Condominium Ownership.

### 10.2.6. Application Process.

#### 10.2.6.1. Application.

An application for a special permit for a CSD shall be submitted on the form(s) provided by the Planning Board in accordance with the rules and regulations of the Board. Applicants for CSD shall also file with the Planning Board eight (8) copies of a Concept Plan. The Concept Plan shall include a Sketch Plan and a Yield Plan (see Section 10.2.6). The applicant shall submit both the Site Context Map and Existing Conditions/Site Analysis Map prepared according to Section 10.2.3.2 above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided,

including existing site contour maps and existing current soil maps.

a) Sketch Plan.

The Sketch Plan shall be prepared by a certified Landscape Architect, or by a multi-disciplinary team of which one member must be a certified Landscape Architect, and shall address the general features of the land, and give approximate configurations of the LOTS, open space, and roadways. The Sketch Plan shall incorporate the Four- Step Design Process, according to Section 10.2.4, above, and the Design Standards according to Section 10.2.8.3, below, when determining a proposed design for the development.

- 1) Quality Standards. The Sketch Plan shall be drawn at a scale of one hundred feet (100') to the inch or such other scale as the Board may accept. The plan shall be designated as a "conceptual plan".
- 2) Required Content. The Sketch Plan shall include the following:
  - A. The subdivision name, boundaries, north point, date, legend, title "Concept Plan," and scale.
  - B. The names of the record owner and the applicant, and the name of the Landscape Architect that prepared the plan.
  - C. The names, approximate location, and widths of adjacent streets.
  - D. The proposed topography of land shown at a contour interval no greater than ten (10) feet. Elevations shall be referred to mean sea level.
  - E. The location of existing landscape features including forests, farm fields, meadows, wetlands, river front areas, water bodies, archeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major long views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to Section 10.2.4.1. Proposals for all site features to be preserved, demolished, or moved shall be noted on the Sketch Plan.
  - F. All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified and all wetland flag locations shall be numbered and placed upon the Sketch Plan.
  - G. Lines showing proposed private residential lots, as located during Step-Four, Section 10.2.4.4, with approximate areas



and frontage dimensions.

- H. All existing and proposed features and amenities including trails, recreation areas, pedestrian and bicycle paths, community buildings, off-street parking areas, etc., shall be shown on the plan and described in a brief narrative explanation where appropriate.
- I. The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
- J. Proposed roadway grades.
- K. Official soil percolation tests for the purpose of siting wastewater treatment options are not required for the Concept Plan. However, a narrative explanation shall be prepared by a certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on- site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.
- L. A narrative explanation prepared by a certified Professional Engineer proposing systems for storm water drainage and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether non-structural or structural engineering methods will be used and the number of any detention/retention basins or infiltrating catch basins, it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any storm water management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.
- M. A narrative explanation prepared by a certified Professional Engineer, detailing the proposed drinking water supply system.
- N. A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
- O. All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.

- P. A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, with an accompanying narrative explaining their general purpose.
- Q. A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this by- law.
- R. If the municipal sewer system is to be used a narrative explanation prepared by a certified Professional Engineer, detailing the proposed sewer extension system shall be submitted.

b) Yield Plan.

Applicant shall submit a narrative explanation detailing the results of the determination of any proposed allocation of yield determined according to Section 10.2.6, Basic Maximum Number (of lots/units/bedrooms).

c) Relationship between Concept Plan and Definitive Subdivision Plan.

The Concept Plan special permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

1. an increase in the number of building lots;
2. a significant decrease in the open space acreage;
3. a significant change in the lot layout;
4. a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
5. significant changes to the storm water management facilities; and/or
6. significant changes in the wastewater management systems;
7. significant changes in the wetlands and/or wildlife habitat resource areas.

10.2.6.2. Procedures.

Whenever an application for a CSD special permit is filed with the Planning Board, the applicant shall also file within five (5) working days of the filing of the completed application, copies of the application accompanying the development plan, and other documentation, to the

Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Water and Sewer Department, Police Chief, Fire Chief, Town Engineer and/or Consultant, Board of Selectmen, Road Commissioner, and Municipal Light Department for their consideration, review and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the 35 day period, the Planning Board shall continue the public hearing to permit the formal submissions of reports and recommendations within that 35 day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

#### 10.2.6.3. Site Visit.

Whether or not conducted during the pre-application stage, the Planning Board shall conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

#### 10.2.6.4. Other Information.

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this By-law. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a special permit for a CSD with the public hearing required for approval of a definitive subdivision plan.

#### 10.2.7. Basic Maximum Number (of Lots/Units/Bedrooms).

The Basic Maximum Number shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of LOTS (or dwelling units) that could be placed upon the site under a conventional subdivision. The Yield Plan shall contain the information required for a Sketch Plan, as set forth above in Section 10.2.5.1. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots (or dwelling units) resulting from the design and engineering specifications shown on the Yield Plan.

#### 10.2.8. Reduction of Dimensional Requirements.

The Planning Board may authorize modification of lot size, shape, and other

bulk requirements for lots with a CSD, subject to the following limitations:

10.2.8.1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved, provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

10.2.8.2. Lot frontage shall not be less than 50 feet. The Planning Board may waive this requirement where it is determined that such reduced frontage will further the goals by this By-law.

10.2.8.3. Each lot shall have at least 2/3 of the required setbacks for the district unless a reduction is otherwise authorized by the Planning Board.

10.2.8.4. Lots may be reduced in area according to the following schedule:

Minimum Open Space (%)	District Minimum Lot Area (sq. ft.)	CSD Minimum Lot Area (sq. ft.)
50	District RA-43,560	20,000
33	District RB-30,000	20,000

10.2.8.5 Lots modified under this Section must be connected to the Groveland municipal water and sewer system.

#### 10.2.9. Open Space Requirements.

##### 10.2.9.1. Open Space.

A minimum of fifty percent (50%) of the tract shown on the development plan shall be open space. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- a) The percentage of the open space that is wetlands shall not normally exceed the percentage of the tract, which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this By-law.
- b) The open space shall be contiguous. Contiguous shall be defined as being connected. Open space will still be

considered connected if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this by-law and/or protect identified primary and secondary conservation areas.

- c) The open space shall be used for wildlife habitat and conservation and the following additional purposes [choose]: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths).
- d) Wastewater and storm water management systems serving the CSD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
- e) The open space shall be delineated by a line with a metes and bounds description.

#### 10.2.9.2. Ownership of the Open Space.

The open space shall be conveyed to:

- a) the Town or its Conservation Commission; or
- b) a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- c) a corporation or trust owned jointly or in common by the owners of lots within the CSD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles or

incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

#### 10.2.9.3. Design Standards.

The following Generic and Site Specific Design Standards shall apply to all CSD's and shall govern the development and design process:

a) Generic Design Standards.

- 1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and to configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- 2) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- 3) Proposed development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.
- 4) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- 5) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

b) Site Specific Design Standards.

1) Mix of Housing Types.

The CSD may consist of any combination of single-family, two- family and multifamily residential structures. A multifamily structure shall not contain more than four (4) dwelling units. Residential structures shall be oriented toward

the street serving the premises and not the required parking area.

2) Buffer Areas.

A buffer area of twenty-five (25) feet may be provided at the following locations:

- A. perimeter of the property where it abuts residentially zoned and occupied properties;
- B. certain resource areas on or adjacent to the tract like ponds, wetlands, streams and river front areas, rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes; and
- C. existing public ways.

Driveways necessary for access and egress to and from the tract may cross such buffer areas. No vegetation in this buffer area will be disrobed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The Planning Board may waive the buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein.

3) Drainage.

The Planning Board shall encourage the use of “soft” (non-structural) storm water management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.

4) Common/Shared Driveways.

A common or shared driveway may serve a maximum number of three (3) single-family units.

5) Screening and Landscaping.

All structural surface storm water management facilities shall be accompanied by a conceptual landscape plan.

6) On-Site Pedestrian and Bicycle Circulation.

Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including park land and open space) and adjacent land uses where appropriate.

7) Disturbed Areas.

Not more than twenty five (25) percent of the total tract shall be disturbed areas. A disturbed area is any land not left in its natural vegetated state.

#### 10.2.9.4. Decision of the Planning Board. .

The Planning Board may grant a special permit for a CSD if it determines that the proposed CSD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:

- a) whether CSD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
- b) whether the CSD promotes permanent preservation of open space, agricultural land forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources;
- c) whether the CSD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- d) whether the CSD reduces the total amount of disturbance on the site;
- e) whether the CSD furthers the goals and policies of the open space and master plan(s);
- f) whether the CSD facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner; and
- g) whether the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.

#### 10.2.9.5. Increase in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the CSD shall not, in the aggregate, exceed thirty percent (30%) of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

- a) For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed ten percent (10%) of the Basic Maximum Number.
- b) For every two (2) dwelling units permanently restricted to occupancy by persons over the age of fifty-five, by a recorded restriction enforceable by the Town, one (1) dwelling unit may be added as a density bonus; provided, however, that this



density bonus shall not exceed 10% of the Basic Maximum Number.

- c) For every two (2) dwelling units permanently restricted to occupancy for a period of not less than fifteen (15) years by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, a recorded restriction enforceable by the Town, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

### 10.3. Planned Unit Development ("PUD").

#### 10.3.1. Purpose.

- 10.3.1.1. These are specifications and procedures only. The specifications and procedures shall apply in zoning districts, if any, allowing such special permit. For the purpose of the planned unit development By-law, the Planning Board is designated as the Special Permit Granting Authority.
- 10.3.1.2. Any planned unit development of three (3) living units or more shall be governed by this regulation in order to protect and promote the health, safety, convenience and general welfare of the inhabitants of the town.

#### 10.3.2. General.

- 10.3.2.1. Work on a planned unit development shall not begin until twenty (20) days have elapsed after the granting of a special permit by the Planning Board after a public hearing.
- 10.3.2.2. The Planning Board's public hearing shall be held within sixty-five (65) days after the filing of one (1) application and one (1) set of plans each with the Planning Board, the board of health and the town clerk. The Planning Board filing date shall be used to begin the sixty-five day period. The Planning Board shall render a decision within ninety (90) days following the public hearing for which notice has been given in accordance with G.L. c.40A, §11, including all posting, notices and mail requirements. Failure of the Planning Board to take final action upon an application for a special permit within said ninety (90) days following the date of public hearing shall be deemed to be a grant of the permit applied for. A vote of four (4) members of the five-member Planning Board shall be required to grant a special

permit for a planned unit development.

10.3.2.3. Such special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the town clerk that said twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Essex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

10.3.2.4. A special permit for a planned unit development shall lapse within two (2) years after the granting date of the special permit (the granting date being included in the two-year period), and including such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, §17, from grant thereof, if substantial construction has not begun except for good cause.

10.3.2.5. The content of a planned unit development plan shall be in conformance with Groveland's current Subdivision Rules and Regulations and the Aquifer Protection By-law to the extent considered necessary and appropriate by the Planning Board.

10.3.2.6. Any Planned Unit Development shall require the written recommendations of town boards and/or agencies as specified in Groveland's Subdivision Rules and Regulations. Any such board or agency to which petitions are referred for review shall make such recommendations as they deem appropriate and shall send copies thereof to the Planning Board and to the applicant; provided, however, that failure of any such board or agency to make recommendations within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

10.3.2.7. Upon the granting of a special permit or any extension, modification or renewal thereof, the Planning Board shall issue to the owners and to the applicant, if other than the owner, a copy of its decision, certified by the Planning Board, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of a special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and town clerk.

10.3.2.8. No planned unit development petition which has been

unfavorably and finally acted upon by the Planning Board shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the Planning Board, by a favorable vote of four (4) members, finds specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

10.3.2.9. Any petition for a planned unit development special permit which has been transmitted to the Planning Board may be withdrawn without prejudice by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the Planning Board.

10.3.2.10. The Planning Board shall have overall responsibility for project supervision and shall use Groveland Zoning By-laws, including the Aquifer Protection By-law, Subdivision Rules and Regulations, and other sources, both written and professional, as are considered necessary and appropriate.

10.3.2.11. If any of the regulations in this section are in conflict with other regulations contained in the zoning by-laws, the most stringent regulation shall apply.

### 10.3.3. Regulations.

After following the specified procedures, the Planning Board may grant a special permit for a planned unit development, provided that the following regulations are met:

- a) The maximum height of any building shall be thirty five (35) feet. Height shall be measured from the mean finished ground level to the highest point on the roof of the building. The maximum number of stories shall be two and one-half (2-1/2).
- b) There shall be at least two (2) parking spaces of appropriate size per dwelling unit. Parking areas shall be illuminated by a light intensity of 0.60 foot candles (average maintained). The lighting uniformity on parking areas shall be 4 to 1. All illumination on parking lots must be shielded so as not to shine upon abutting property.
- c) The number of dwelling units per building shall not exceed four (4).
- d) All dwelling units shall be in accordance with the Livable Floor

Area definition.

- e) Each dwelling unit shall have its own cooking and sanitary facilities.
- f) Fire alarm and emergency lighting systems shall be installed. Said systems shall be subject to the approval of the town's fire chief.
- g) Provisions shall be made for fire protection, specifically fire hydrants. Said provisions shall be subject to the approval of the town's fire chief.
- h) Provisions shall be made for access to all buildings by emergency vehicles at all times.
- i) At least seventy (70) percent of the total land area shall be open space which shall be exclusive of buildings, drives and parking.
- j) The floor-area ratio shall be 0.15 maximum. The floor-area ratio is defined as the gross floor area of the buildings less cellars, to the total land area.
- k) No structures shall be built within thirty (30) feet of any way or interior streets or access roads. No structure shall be built within fifty (50) feet of any property line. No structure shall be built within fifty (50) feet of any other structure.
- l) When access to a state highway is involved, no building permit shall be issued until the applicant submits to the town Building Inspector a copy of an approved permit for entrance to the state highway as issued by the Massachusetts Highway Department.
- m) Responsibility for maintenance of roads, drives, and parking areas, which shall include but not be limited to repair, snow removal, and general maintenance, shall be the responsibility of the owners of the buildings, unless and until such roads are accepted by the town. The town road commissioner shall be delegated to inspect the conditions of the drives, roadways, and parking areas at least annually and insure that appropriate action is taken to protect the inhabitants.
- n) Any sewerage treatment facility shall be subject to the approval of the town board of health, the Massachusetts Department of Public Health, and the Massachusetts Department of Natural Resources. Such facility shall be the responsibility of the owner of the building, unless such facility is accepted by the town. A plan of the approved system shall be filed with the town board of health and the Planning Board.
- o) No building shall be erected in a possible flood plain as determined by the Planning Board after consultation with appropriate agencies.

- p) No building shall be erected within three hundred (300) feet of the perimeter of any body of water (including wetlands, streams, ponds, etc.) as measured at its highest point within the last ten (10) years.
- q) Dwelling area requirements shall be consistent with the intent of the facility, and shall be subject to the approval of the Planning Board.
- r) The average number of dwelling units per acre in any planned unit development shall not exceed four (4).
- s) There shall be a minimum of ten (10) acres of land, within any parcel to be developed for a planned unit development.
- t) Commercial business establishments are expressly prohibited.
- u) All signs of a commercial nature are expressly prohibited.
- v) All future accessory buildings shall be subject to approval by the Planning Board.
- w) In zones II and III of the Aquifer Protection District (see Section 6 of these by-laws), no storage tank or associated pipe systems for hazardous materials, including fuel oils for domestic use, shall be in direct contact with the ground.
- x) All buildings/dwelling units shall be connected to the Groveland Sewer System.
- y) For the purpose of traffic control each new PUD shall be located a minimum distance of one (1) mile (5,280 feet) from an existing PUD as measured from the closest point of the boundary of each parcel for each project.
- z) The area (square footage) of all wetlands and steep slopes in excess of 20% within the parcel shall be excluded from the total area (square footage) of the entire parcel for the purpose of calculating the total number of units/dwellings that could be developed.

## **SECTION 11. SIGN REGULATIONS**

### **11.1. Intent.**

The intent of this By-Law is to regulate all exterior signs and all interior signs placed for exterior viewing from public ways and places. It is also intended to limit clutter of uncontrolled signage and to integrate signs with Groveland's unique and historic environment. No sign shall be erected, placed, established, painted, created, or maintained in the town except in conformance with these sign regulations.

### **11.2. Purpose.**

The following sign regulations are intended to facilitate clear, efficient communication to ensure that people receive the messages they need or want, avoid conflict between signs and the visual qualities of the environment, promote public safety, encourage good relationships between signs and the buildings to which they relate, maintain visual diversity in nonresidential areas by avoiding uniform design requirements, and support business vitality by accomplishing these purposes without imposing burdensome procedures and restrictions. The special permit granting authority for the purposes of this section is the Zoning Board of Appeals.

### 11.3. Definitions

The following words and phrases, as applied to this section only, shall have the meanings as set forth below:

**SIGN** - Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, attract attention to or announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. For purposes of this bylaw, the term “sign” shall not include the following:

- (a) Official traffic control devices required, maintained, or installed by a Federal, State, or local governmental agency or an active railroad.
- (b) House/building (address) number, including a nameplate displaying the surname of the occupant of a single-family residential dwelling.
- (c) Building marker indicating the name of a building and date and incidental information about its construction, which marker is cut into a masonry surface or made of bronze or other permanent material.
- (d) National flags, state or municipal flags, or the official flag of any institution.
- (e) War Veteran markers installed within the public right-of-way at locations approved by the Board of Selectmen.
- (f) Holiday lights and decorations.
- (g) Devices on residential properties that otherwise might be considered signs, but are only intended for the personal enjoyment of the residents thereof, and not intended to attract the attention of the public and not generally visible from a public way.

**AWNING SIGN** – Any sign painted, sewn or attached to an awning.

**BANNER** – Any sign of lightweight fabric or similar material that is affixed to a pole or a building at one or more edges or corners. National, state or municipal flags shall not be considered banners.

**BILLBOARD** – A large, standardized freestanding outdoor advertising structure, characterized by providing off-premise advertising space intended for viewing from extended distances, generally more than 50 feet.

**FREESTANDING 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 other structure.

**HANGING SIGN** – Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade or marquee sign.

**INFLATABLE SIGN** – Any sign capable of being expanded by air or other gas.

**OFFICIAL TRAFFIC CONTROL DEVICE** – A device required, maintained, or installed by a Federal, State, or local governmental agency or an active railroad for the purpose of guiding, directing, warning, or regulating traffic.

**OFF-PREMISE SIGN** – A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

**PENNANT** – Any lightweight plastic, fabric, or other material, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**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.

**ROOF SIGN** – Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**TEMPORARY SIGN** – Any sign that is used only for a limited period and not for permanent display.

**WALL SIGN** – Any sign attached parallel to, but within six 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.

**WINDOW SIGN** – Any sign that is placed on the exterior of a window, or upon the inside of the window glass and is visible from the exterior of the window, including signs placed inside a building that are visible beyond five feet from the exterior of the window.

#### 11.4. Prohibited Signs

Any sign not permitted in these sign regulations shall be prohibited. Moreover, the following signs shall be specifically prohibited:

- 11.4.1. Any sign within or that projects or extends within the right-of-way of a public or private street or way, including sidewalks, except for those specifically exempted by Section 11.5 herein.

- 11.4.2. Any sign that may be confused with an official traffic control device.
- 11.4.3. Pennants and banners, excepted as specifically permitted by this Bylaw.
- 11.4.4. Inflatable signs.
- 11.4.5. Flashing signs, any part of which moves or flashes, or signs of the traveling light or animated type, and all beacons and flashing devices whether a part of, attached to, or apart from a sign.
- 11.4.6. Changeable copy electronic message panels and/or signs displaying images or messages that change more than one time per day.
- 11.4.7. Roof signs.
- 11.4.8. Temporary and portable signs except as permitted in Section 11.08 herein.
- 11.4.9. Signs placed so as to create a hazard due to blocked sightlines from public and private roadways and driveways.
- 11.4.10. Off-premise signs.
- 11.4.11. Signs erected upon motor vehicles, trailers, or other moveable objects regularly or recurrently located with the intent of fixed display, except for signs mounted on motor vehicles which are clearly incidental to the use of such motor vehicles.
- 11.4.12. Sign illuminated between the hours of 11:00 pm and 7:00 am, unless such premise is open to the general public during these hours.
- 11.4.13. Signs illuminated to cast glare onto any portion of a way which would create a traffic hazard.
- 11.4.14. Signs that cause direct illumination of adjacent property.
- 11.4.15. Billboards.
- 11.4.16. Signs exceeding fifteen (15) feet in height.

#### 11.5. Exemptions

The following shall be exempt from regulation under this by-law:

- 11.5.1. Exemptions for sign placement within the right-of-way of a public or private street, including sidewalks, shall be limited to the following:
  - 11.5.1.1. Changeable copy electronic message panels utilized by the Police Department.
  - 11.5.1.2. Official legal notices, or public warning/informational bulletins posted by the Town, State, or Federal government.
  - 11.5.1.3. Signs posted by a public utility company.
  - 11.5.1.4. Temporary banner(s) suspended across a street, road or way if authorized by the Board of Selectmen.



11.5.1.5. Signs installed by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

11.5.2. Exemptions for sign placement on lots shall be limited to the following:

11.5.2.1. Signs required by a valid and applicable federal, state, or local law, regulation, or by-law.

11.5.2.2. Any sign inside a building, including signs attached to the inside of a window or door, not visible beyond five feet from the exterior of the window.

11.5.2.3. Any sign inside an athletic facility, including inward facing signs attached to the inside of a wall or fence.

11.5.2.4. Traffic directional signs, utilized solely as traffic control devices on private property, the face of which meet Department of Transportation standards and which have been shown on a site plan approved by the Planning Board.

11.5.2.5. Signs installed by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the right-of-way of an adjacent street.

## 11.6. Permitted Signs

### 11.6.1. Residential Districts:

In a residence district, no part of any sign (a) shall be more than five (5) feet above ground level, unless attached to a building; nor (b) shall be erected within ten (10) feet of any traveled way, unless insufficient setback exists, in which case signs shall be attached to a building wall facing the traveled way. The following signs are allowed in a residence district.

11.6.1.1. One (1) sign per dwelling unit located on a lot. No sign permitted under this subsection shall exceed two (2) square feet in area.

11.6.1.2. Planned unit developments and subdivisions are permitted one (1) sign which identifies the development or subdivision. No sign permitted under this subsection shall exceed twelve (12) square feet in area.

11.6.1.3. One (1) home occupation sign established in accordance with Sections 2 and 4.5, not to exceed two (2) square feet in area. A home occupation sign shall not count against the number of signs permitted under Section 11.6.1.1.

11.6.1.4. Temporary signs erected in accordance with Section 11.8. Temporary signs shall not count against the number of signs permitted under Section 11.6.1.1.

### 11.6.2. Business Districts:

The following signs are allowed in the Business and Limited Business

districts:

- 11.6.2.1. Lots in residential use are permitted to install signs only in accordance with the provisions of Section 11.6.1.
- 11.6.2.2. On lots in permitted uses in the Business and Limited Business Districts, other than residential uses, only one (1) sign oriented to each street on which the premises has access. Each such sign is limited to fifteen (15) square feet in area.
- 11.6.2.3. In mixed use or multi-tenant buildings or lots, the following signs are permitted:
  - (a) One (1) Freestanding Sign per lot not to exceed twenty (20) square feet in area, plus four (4) additional square feet per tenant located therein, not to exceed a total of thirty-six (36) square feet in area.
  - (b) One (1) Wall Sign, Awning, Hanging Sign, or Window Sign per tenant. Each such sign shall not exceed ten (10) square feet in area.

#### 11.6.3. Industrial District:

The following signs are permitted in the Industrial District:

- 11.6.3.1. Lots in residential use are permitted to install signs only in accordance with the provisions of Section 11.6.1.
- 11.6.3.2. On lots in permitted uses in the Industrial district, other than residential uses, only one (1) sign oriented to each street on which the premises has access. Each such sign are limited to twenty (20) square feet in area.
- 11.6.3.3. In mixed use or multi-tenant buildings, the following signs are permitted:
  - (a) One (1) Freestanding Sign per lot, not to exceed twenty (20) square feet in area, plus an additional four (4) square feet for each tenant located therein, not to exceed a total of forty (40) square feet in area.
  - (b) One (1) Wall Sign, Awning, Hanging Sign, or Window Sign per tenant. Each such sign shall not exceed twelve (12) square feet in area.

#### 11.7. Permits Required

A building permit is required for the placement, construction, erection, or modification of any sign except temporary, home occupation, and exempt signs as defined in this section. The permit application shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each sign. A single application and permit may include multiple signs on the same premises.

11.8. Temporary Signs:

- 11.8.1. A maximum of three (3) temporary signs plus 1 for each additional separately identifiable unit over one (1) shall be allowed per lot. All temporary signs shall not exceed five (5) feet in height and shall not exceed six (6) square feet each.
- 11.8.2. Temporary signs shall be set back at least ten (10) feet from the edge of the traveled way, except where insufficient setback exists; in such cases, signs shall be attached to a building wall facing the traveled way.
- 11.8.3. Except as specified by Section 11.8.3.4, temporary signs shall be removed within fourteen (14) days after the event to which they relate and, in no event, shall be erected for more than sixty (60) days in any calendar year.
- 11.8.4. A temporary sign located on a property when (a) the owner consents and the property is being offered for sale or lease through a licensed real-estate agent; or (b) is offered for sale or lease directly by the owner, may continue to be located on the property for up to fourteen (14) days following the transfer of ownership of the property. A temporary sign located on a property when the above conditions are met and the property owner is opening the property to the public shall not be permitted for more than two (2) consecutive days or for more than four (4) days in any thirty (30) day period.
- 11.8.5. Where a permit has been issued as per Section 11.7 herein, a temporary sign may be utilized in place of the permanent sign so permitted, but only for a period not to exceed sixty (60) consecutive days prior to such time as the permanent sign is installed.

11.9. Nonconforming Signs.

- 11.9.1. Signs legally existing on the effective date of this article, or of any amendment hereto, may continue to be maintained; provided however that any such sign that fails to conform to the current requirements of this by-law shall not be enlarged or relocated.
- 11.9.2. Such signs shall be removed or brought into conformity upon the discontinuance of the business or the failure to be maintained in accordance with Section 11.10.
- 11.9.3. There shall be no increase in any nonconformity.

11.10. Maintenance.

All Signs shall be maintained in a safe, presentable and good structural condition at all times to the satisfaction of the Building Inspector in accordance with the State Building Code.

11.11. Computing Sign Area.

11.11.1. The area of a sign shall not include any supporting framework or bracing.

11.11.2. The area of multi-faced signed shall be calculated by adding the area of every face of a single sign structure visible from any single vantage point.

11.12. Enforcement.

Any sign installed or placed within the public right-of-way or on public property not in conformance with the requirements of these sign regulations, may be removed by the Town.

11.13. Relief for Larger or Additional Signs.

The Zoning Board of Appeals may issue a special permit for larger signs or additional signs, when it can be demonstrated that such signs are essential to the operation of a permitted use, and further, that such signs are not detrimental to the surrounding property nor injurious to the public welfare.

**SECTION 12. Reserved**

**SECTION 13. SITE PLAN**

13.1. Purpose.

The purpose of this section is to provide for individual detailed review of development proposals which have an impact on the natural or built environment of the Town in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impacts. The permit granting authority is the Planning Board.

13.2. Applicability.

The following types of activities and uses require site plan review by the Planning Board:

13.2.1. As specified in Section 4.5 of these By-laws;

13.2.2. Construction or expansion of a structure for multi-family (three or more dwelling units), business/industrial or recreational use;

13.2.3. Construction or expansion of parking to serve a multi-family (three or more dwelling units), business/industrial or recreational use.

13.3. Application and Review Procedures.

Applicants for site plan approval shall submit ten (10) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Board of Health, Department of Public Works, Building Inspector, Fire Department, and Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within ninety (90) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit, use permit, or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 90 days lapse from the date of the submittal of the site plan without such written approval.

13.3.1. Application for Building Permit. An application for a building permit to perform work as set forth in Section 13.2 available as of right shall be accompanied by an approved site plan.

13.3.2. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 13.2 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section 13.2 shall contain the following condition: The work described herein requires the approval of a site plan by the Planning Board pursuant to Section 13 of the Zoning By-law. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

13.3.3. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

13.3.4. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

13.3.5. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

13.3.6. No deviation from an approved site plan shall be permitted without modification thereof.

#### 13.4. Preparation of Plans.

##### 13.4.1. Pre-Application (Optional).

Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a

regular meeting of the Planning Board. Site Plans shall be submitted on 24 inch by 36 inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.

#### 13.4.2. Application.

Applicants shall submit Site Plans prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Site Plans shall be submitted on 24 inch by 36 inch sheets and at appropriate scale for the size and complexity of the project. The minimum scale shall be 1"=40'.

#### 13.5. Contents of Plan.

The content of the site plan are as follows:

13.5.1. Ten (10) separate plans prepared at a scale of one (1) inch equals forty (40) feet or such other scale as may be approved by the planning board. Each plan may contain multiple sheets. The Planning Board may allow one or more of the plans to be combined on a single sheet if the size and complexity of the project warrants it. The plans are as follows:

- 13.5.1.1. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, open spaces if any, proposed structures, drives, parking, fences, walls, walks, loading facilities, and areas for snow storage after plowing. Appropriate setbacks to the property lines shall be shown on this plan. The first sheet in this plan shall be an area plan, at a scale of one (1) inch equals one hundred (100) feet or other scale approved by the planning board, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.
- 13.5.1.2. Grading plan, which shall contain existing and proposed structures, existing and proposed pavement, existing and proposed topography at two foot intervals, bench marks, erosion and sediment control features, wetland boundaries including floodplain areas, streams, brooks, ledge outcroppings, and other existing and proposed physical features.
- 13.5.1.3. Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes; the location, size, type, and slope of water, sewer, and drainage pipes; the

location of all fire hydrants, fire alarm and firefighting facilities on and adjacent to the site; all proposed recreational facilities

- 13.5.1.4. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
- 13.5.1.5. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, outdoor lighting, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

13.5.2. The lighting plan shall be in conformance with the following:

- 13.5.2.1. The goal of exterior lighting is to make the development feel safe and accent key elements of the project's design without adverse impacts to the abutting properties.
- 13.5.2.2. Lighting poles and structures should be appropriately scaled and styled for the project. Pedestrian areas should have poles 12 to 14 feet in height. Parking areas should have poles 20 to 25 feet in height. The pole heights should determine the overall spacing of the poles to provide a consistent illumination across the area. Higher poles may be allowed for lighting large areas such as athletic fields with review and approval by the Planning Board.
- 13.5.2.3. The fixtures shall be of the cutoff luminaries' type.
- 13.5.2.4. Offsite illumination to adjacent properties shall not exceed 0.2 foot candles as measured at the property line.
- 13.5.2.5. Building mounted or pole mounted flood lights are not allowed. Parking and pedestrian light fixtures should be compatible with the building lighting to provide for a contiguous appearance of the project.
- 13.5.2.6. A photometric analysis of the site and building lighting shall be prepared by a registered engineer or a lighting consultant.
- 13.5.2.7. Street lighting shall comply with the Groveland Subdivision Regulations.

13.5.3. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases

thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

13.5.4. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this By-law.

13.5.5. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to the Town of Groveland subdivision regulations.

13.5.6. The Planning Board may require a narrative statement detailing the impact of the proposed use on municipal services and the environment.

13.5.7. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

13.5.8. The Planning Board may require a Traffic Impact Analysis if the project generates more than 250 vehicles trips per or if deemed necessary by the Planning Board.

#### 13.6. Compliance.

The Planning Board may, upon written request of the applicant, waive any of the requirements of this Section where the project involves relatively simple development plans or constitutes a minor site plan. An application for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will not exceed a total gross floor area of 1000 square feet, or an application which will not generate the need for more than 10 additional parking spaces shall be deemed a "minor site plan." For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 13.5; provided, however, that the scale of the site plan may be 1' = 80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

#### 13.7. Approval.

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall



provide adequate access to each structure for fire and service equipment and adequate provision for utilities and storm water drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

- 13.7.1. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
- 13.7.2. Maximize pedestrian and vehicular safety both on the site and egressing from it; 13.7.3. Minimize obstruction of scenic views from publicly accessible locations;
- 13.7.3. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- 13.7.4. Minimize glare from headlights and lighting intrusion;
- 13.7.5. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.
- 13.7.6. Minimize contamination of groundwater from onsite wastewater disposal systems, storm water, or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
- 13.7.7. Ensure compliance with the provisions of this By-law, including parking and landscaping.

### 13.8. Limitations.

Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

### 13.9. Fees.

The Planning Board may require the payment of reasonable administrative fees and technical review fees for site plan review.

### 13.10. Administration.

- 13.10.1. The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this section, including additional regulations relating to the scope and format of reports required hereunder.
- 13.10.2. The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered completed unless accompanied by the required fees.
- 13.10.3. The Planning Board shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.

## **SECTION 14. ADMINISTRATION AND ENFORCEMENT**

### **14.1. Permits.**

This By-law shall be administered and enforced by the Building Inspector/Zoning Enforcement Officer. Pursuant to the State Building Code, the Building Inspector shall require such plans and specifications as shall be necessary to determine compliance with all pertinent laws of the Commonwealth. buildings, structures or signs shall not be erected, substantially altered, moved, or changed in use and land shall not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law.

### **14.2. Enforcement.**

The Building Inspector/Zoning Enforcement Officer shall institute and take any and all such action as shall be necessary to enforce full compliance with any and all of the provisions of this By- law and of building and occupancy permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to the Town Counsel.

- 14.2.1. If the Building Inspector is informed or has reason to believe that any provision of this Bylaw or any permit or decision thereunder has been, is being, or is about to be violated, the Building Inspector shall make an investigation of the facts, including the inspection of the premises where the violations may exist. Where written complaint is made to the Building Inspector, the Building Inspector shall take action upon such complaint within 14 days of receipt thereof and shall report such action in writing to the complainant.

- 14.2.2. If the Building Inspector finds no violation or prospective violation, any person aggrieved by said decision, or any officer or Board of the Town, may within 30 days appeal to the Board of Appeals.

14.2.3. If the Building Inspector finds a violation or prospective violation, the Building Inspector shall give immediate notice in writing to the owner and to the occupant of the premises and shall order the person(s) in lawful control of the premises to cease and desist and refrain from such violation. Any person aggrieved by said decision or, any officer or Board of the Town, shall, within 30 days, appeal to the Board of Appeals.

14.2.4. If after such order, such violation continues and no appeal to the Board of Appeals is taken within 30 days, and the Building Inspector may forthwith make application to court for an injunction or order restraining the violation and may take such other action as is necessary to enforce the provision of this By-law.

14.2.5. If after action by the Building Inspector, appeal is taken to the Board of Appeals, and after a public hearing, the Board of Appeals finds that there has been a violation or prospective violation, the Building Inspector may issue an order to cease and desist and refrain from such violation unless such order has been previously issued. If such violation then continues, the Building Inspector may forthwith make application to court for an injunction or order restraining the violation and may take such other action as may be necessary to enforce this By-law.

14.2.6. Construction or operations under a building permit or special permit shall conform to any subsequent amendment of this By-law unless the use or construction is commenced within a period of twelve months after issuance of the permit; additionally, in cases involving construction begun within such twelve-month period, such construction shall be continued through to completion as continuously and expeditiously as is reasonable.

#### 14.3. Penalties; Non-Criminal Disposition.

In addition to the procedures for enforcement as described in Section 14.2, above, the provisions of this By-law, including the conditions of a permit granted under this By-law, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this By-law, may be enforced by the Building Inspector by non-criminal complaint pursuant to the provisions of G.L. c. 40, §21D. Each day that each violation continues shall constitute a separate offense. The penalty for a violation of any provision of this By-law shall be One Hundred Dollars (\$100.00) for the first offense, Two Hundred Dollars (\$200.00) for the second offense, and Three Hundred dollars (\$300.00) for each subsequent offense.

#### 14.4. Board of Appeals.

##### 14.4.1. Establishment.

There is hereby established a Board of Appeals in the Town of Groveland

consisting of five (5) regular members to be appointed by the Board of Selectmen, as provided in G.L. c.40A. Three (3) associate members shall be appointed in like manner to serve, upon designation by the Chairman of the Board, in case of vacancy, inability to act, or conflict of interest on the part of a member of said Board.

#### 14.4.2. Powers.

The Board of Appeals shall have and exercise all the powers granted to it by G.L. c. 40A, 40B, and 41 and by this By-law. The Board's powers are as follows:

- 14.4.2.1. Unless otherwise specified herein, the Board of Appeals shall serve as the Special Permit Granting Authority for which express provision is made in this By-law.
- 14.4.2.2. To hear and decide appeals or petitions for variances from the terms of this By-law, with respect to particular land or structures, as set forth in G.L. c. 40A, §10.
- 14.4.2.3. To hear and decide appeals taken by any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, §§ 8 and 15.
- 14.4.2.4. To hear and decide Appeals by any person aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of G.L. c.40A or of this By-law. (See G.L. c. 40A, §8.)
- 14.4.2.5. To issue special permits to extend or alter a nonconforming use or structure, pursuant to G.L. c. 40A, §6, and Section 5 of this By-law.
- 14.4.2.6. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, §§20-23.

#### 14.4.3. Rules.

The Board may adopt rules not inconsistent with the General Laws and the provisions of this By-law for conducting its business and shall file a copy thereof with the Town Clerk.

#### 14.4.4. Meetings.

Meetings of the Board shall be held at the call of the Chairman and also when called in such other manner as the Board shall determine in its rules. The Chairman or, in his absence, the Acting Chairman, may administer oaths, summon witnesses and call for the production of papers.

#### 14.4.5. Filing of Appeals.

Appeals under G.L. c.40A, §8, must be filed within 30 days after the administrative decision or action from which the appeal is being taken. Initial applications for special permits or variances, where not in the nature of an appeal from an administrative order or decision, may be filed at any time.

#### 14.4.6. Notice of Appeals and Petitions.

Notice of any Appeals, application or petition to the Board of Appeals shall be filed with the Town Clerk, who shall forthwith transmit copies thereof to the officer or board from whose order or decision the appeal is taken, if any, and to the members of the Board of Appeals. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case from which the appeal was taken. Any such notice of appeal, application or petition shall specify the grounds thereof.

#### 14.4.7. Hearings.

Public hearings shall be held pursuant to G.L. c. 40A, § 11, on all appeals, applications for special permits and applications or petitions for variance.

#### 14.4.8. Decisions.

14.4.8.1. The Board of Appeals may, in conformity with the General Laws and the provisions of this By-law, reverse or affirm, in whole or in part, or may modify any order or decision and may make such order or decision as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issue of a permit.

14.4.8.2. The decision of the Board shall be made as follows:

- a) In the case of special permits: within 90 days after the close of the public hearing.
- b) In all other cases, within 100 days after the date of filing.
- c) Failure of the Board to act within the specified period shall be deemed to be the grant of the relief, application or petition sought.

14.4.8.3. The Board shall cause to be made a detailed record of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and setting forth clearly the reason or reasons for its decision, and of its other official actions, copies of all of which shall be immediately filed in the office of the Town Clerk and shall be public record. Notice of decisions shall be mailed forthwith to parties in interest as designated in G.L. c.40A, §11, to the Planning Board and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent.

#### 14.5 Planning Board

##### 14.5.1. Associate Member.

The Planning Board and the Board of Selectmen may jointly appoint an Associate member to the Planning Board as provided in Chapter 40A, Section 9 of Massachusetts General Laws. The term of each such appointment shall be for no more than one (1) year, and shall terminate on the June 30th immediately following such appointment. The Chairman of the Planning Board may designate the Associate member to sit on the board for purposes of acting on a special permit application, in the case of the absence, inability to act or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the board.

##### 14.5.2. Removal.

The Board of Selectmen and the Planning Board may together remove a duly-appointed alternate member for cause unless such removal is otherwise prohibited or restricted by law.

#### 14.6. Special Permits.

Special permits, where granted, must be in harmony with the general purpose and intent of this By-law, and they shall be subject to whatever appropriate conditions and safeguards the Special Permit Granting Authority may prescribe.

##### 14.6.1. Criteria.

Special permits shall be granted by the Special Permit Granting Authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the

neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any other specific factors and/or special permit requirements that may be set forth elsewhere in this By-law, the determination shall include consideration of each of the following:

- a) Social, economic, or community needs which are served by the proposal;
- b) Traffic flow and safety, including parking and loading;
- c) Adequacy of utilities and other public services;
- d) Neighborhood character and social structures;
- e) Impacts on the natural environment;
- f) Potential fiscal impact, including impact on Town services, tax base, and employment; and
- g) Consistency with the Town of Groveland Community Development Plan or the Town of Groveland Master Plan.

#### 14.6.2. Procedures.

An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

#### 14.6.3. Conditions.

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-law.

#### 14.6.4. Fees.

The Special Permit Granting Authority may require the payment of reasonable administrative fees and technical review fees for review of any special permit application.

#### 14.6.5. Lapse.

Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within three (3) years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, §17, from the grant thereof) with the Town Clerk.

### 14.7. Variances.

14.7.1. A variance from the terms of this By-law may be granted only where the Board of Appeals specifically finds that:

14.7.1.1. Owing to circumstances relating to the soil conditions, shape or

topography (but not size) of such land or structures, and especially affecting such land or structures (but not affecting generally the zoning district in which it is located), a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the petitioner; and

14.7.1.2. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this By-law.

14.7.1.3. Failure to establish any of the standards shall constitute grounds to deny a petition for a variance. A variance may not be granted if the circumstance creating the hardship was self-created. The loss of the protection afforded a nonconforming use under the provisions of this By-law is not a substantial hardship justifying the grant of a variance.

14.7.2. If the Board grants a variance, it may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structures. The Board may not impose conditions, safeguards or limitations based upon the continued ownership of the land or structures by the petitioner or any owner.

14.7.3. The Board of Appeals shall not approve any changes in the uses permitted in any zoning district or approve any modification of the requirements of this By-law that would have the effect of allowing the establishment of a use not otherwise permitted.

14.7.4. The Board of Appeals shall not hear, decide or grant use variances from the provisions of this By-law.

#### 14.8. Repetitive Petitions.

##### 14.8.1. Variances and Special Permits.

No appeal, application or petition which has been unfavorably and finally acted upon by the special permit granting or permit granting authority shall be acted favorably upon within two (2) years after the date of final unfavorable action unless said special permit granting authority or permit granting authority finds, by a unanimous vote of a board of three (3) members or by a vote of four (4) members of a board of five (5) members or two-thirds (%) vote of a board of more than five (5) members, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one (1) of the members of the Planning Board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will



be considered.

#### 14.8.2. Zoning By-laws.

No zoning ordinance or by-law which has been unfavorably and finally acted upon by a town meeting shall be considered by the town meeting within two (2) years after the date of such unfavorable action unless the adoption of such by-law is recommended in the final report of the planning board (Section 5, of Chapter 40A, as amended by Chapter 808, of the acts of 1975)