TOWN OF MILLBURY

ZONING BYLAWS

Accepted May 1, 2018/May 2, 2018

ZONING BY LAWS
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APPENDIX D
ZONING

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***Editor's note** - This appendix contains the town zoning by-law, adopted by the town on February 5, 1957 as compiled through March 17, 1973. Amendments subsequent to March 17, 1973 have been worked into their proper place and are indicated by history notes. Amendments subsequent to February 5, 1957 as reflected in the 1973 compilation area also indicated by history notes. The absence of a history note indicates that the section was derived unchanged from the 1957 by-law. Material enclosed in brackets has been added where necessary to correct obvious errors or to clarify the meaning where the same is ambiguous except that obviously misspelled words have been corrected without notation.

Cross references - Planning, Ch. 12; Millbury Board of Appeals Rules and Operating Procedures, App. A.

Editor's note - Article 40 of the By-Laws of April 1, 1978, repealed former Art. 1 of App. D, Sections 11. - 16, pertaining to administration and procedure and enacted, in lieu thereof, a new Art. 1 as herein set forth. The provisions of former Art. 1 were derived from the zoning by-law adopted Feb. 5, 1957 as amended by By-laws of Mar. 17, 1973, By-laws of May 4, 1974, Art. 91, and By-laws of Sept. 30, 1974, Art. 8(I).

ARTICLE I. ADMINISTRATION AND PROCEDURE

Section 11 Purpose.
The purpose of this by-law is to promote the health, safety, convenience, amenity and general welfare of the inhabitants of the Town of Millbury, through encouraging the most appropriate use of land, as authorized by Chapter 40A of the General Laws, and by Article 89 of the Amendments to the Constitution. (By-Laws of 4-l-78, Art. 40)

Section 12 Administration.

12.1 Inspector of Buildings. This by-law shall be administered and enforced by the Inspector of Building and/or his/her appointed assistants.
(By-Laws of 4-l-78, Art. 40; By-Laws of 5-l-90. Art. 17)

12.2 Compliance Certification. Buildings, structures or signs may not be erected, substantially altered, moved or changed in use, and land may not be substantially altered or changed in principal use without certification by the inspector of buildings that such action is in compliance with then-applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. Issuance of a building permit or certificate of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification. (By-Laws of 4-1-78, Art. 40)

12.3 Permit Application. Application for permits for construction shall be accompanied by two (2) prints of a plan of the lot, drawn to scale, showing the actual dimensions of the lot, exact location and size of any existing or proposed buildings, and streets and ways adjacent to the lot. Where such are involved, any parking areas for six (6) or more cars and their means of egress, and any required screening of landscaping, shall also be shown. (By-Laws of 4-1-78, Art. 40)

12.4 Site Plan Review. To protect the health, safety, convenience and general welfare of the inhabitants of the town by providing for a review of plans for uses and structures which may have significant impacts on traffic, municipal and public services and utilities, environmental quality, community values in the town and community economics.

12.41 Applicability. The site plan review provisions shall apply to the following types of structures and uses:

(a) Any new construction or expansion of a nonresidential building, structure, or use, or change in use in any district which affects at least three thousand (3,000) square feet of floor area or two thousand five hundred (2,500) square feet of land area, whichever is less, within any five (5) year period. "Change of Use" shall include the introduction of new materials or processes not previously associated with the existing use.

(b) Any new construction of a multi-family dwelling or expansion, renovation or change of use of an existing building or structure in any district where such construction, expansion, renovation, or change of use will result in the creation of one or more multi-family dwelling units.

(c) The construction or expansion of any parking facility resulting in seven (7) or more additional parking spaces for passenger and/or commercial vehicles, or the renovation of any existing parking facility containing seven (7) or more parking spaces for passenger and/or commercial vehicles, with the exception of normal maintenance.

(d) All special permit uses described in Section 14.11, Section 43, Section 46.1, Section 52 and the following uses:

- Building tradesmen and contractors;
- Printing and publishing;
- Manufacturing and processing;
- Warehousing and wholesale distribution;
- Research and development;
- Public utility;
- Motel and hotel;
- Heliport;
- Restaurant;
- Retail sales and services of new and used motorized vehicles;
- Veterinary, animal hospital or kennel;
- Large-Scale Ground-Mounted Solar Photovoltaic Installations

(By-Laws 5-7-91, Art. 30; By-Laws 5-5-92, Art. 31; By-Laws 5-7-2002, Art. 26, By-Laws 5-2-2006, Art. 39, By-Laws 5-1-2012, Art. 23, By-Laws 5-6-2014, Art. 41)

12.42 Basic Requirements.

(a) No building permit can be issued for the proposed development unless an application for site plan review and approval has been prepared in accordance with the requirements of this section, and unless such application has been approved by the Planning Board.

(b) No occupancy permits shall be granted by the building inspector until the Planning Board has given its approval that the development and any associated off-site improvements conform to the approved application for site plan review and approval, including any conditions imposed by the Planning Board.

(c) A temporary occupancy permit may be granted with the approval of the Planning Board subject to conditions for completion of work (which shall include a requirement for surety, in an amount and form to be determined by the Planning Board), imposed by the Planning Board.

(By-Laws 5-7-91, Art. 30)

12.43 Application and Review Procedures.

(a) Prior to the filing of an application, the applicant shall submit plans to the Town Planner who shall advise the applicant as to the pertinent sections of the zoning by-law and will schedule a pre-application with the Technical Review Committee if appropriate. Those proposing the construction or exterior expansion of a nonresidential building or structure exceeding 3,000 square feet or the construction of five or more multi-family units shall request a pre – application review with the Technical Review Committee. The Technical Review Committee consists of the Town Planner, Director of Public Works, Building Inspector, Fire Chief, Police Chief, Sewer Superintendent, and representatives from the Planning Board, Conservation Commission, Board of Health, and Water Company overseeing the municipal system. The purpose of the pre-application review is to minimize the applicant's cost of engineering by commencing communication with the Planning Department and other departments, boards and commissions at the earliest possible stage in the design process. In order to facilitate pre-application review, the applicant shall submit a concept drawing of the proposed development. The applicant shall submit ten (10) copies of the application to the Planning Board. No application for review shall be accepted as a submittal unless and until all information necessary for such review, as described in the Zoning Bylaws, is fully provided unless waivers are requested in writing. At the time of submission, the Board or its Agent shall make a determination, using a checklist, that the submission requirements are either complete or incomplete.

If the submission has been determined to be incomplete, the application shall be returned to the applicant either in person or by certified mail with a letter indicating that insufficient information has been provided making it impossible for the Planning Board to adequately review the application, or approve the application. Incomplete applications shall not be considered submittals and shall not be considered the start of any time limits within which the Board is required to act under various provisions of Massachusetts General Law, Chapter 40A. If the submission has been determined to be complete, the Applicant shall file the application with the Town Clerk by delivery or by certified mail, postage prepaid. The Town Clerk shall time and date stamp said application to fix the date of submission.

(b) Upon receiving a completed application, the Planning Board will transmit one (1) copy each to the building inspector, the engineering consultant, the police department, the fire department, the board of health and such other departments and boards as the Planning Board may determine necessary.

(c) These agencies must, within thirty-five (35) days of receiving said copy, report to the Planning Board on:

(l) The adequacy of the date and the methodology used by the applicant to determine impact of the proposed development.

(2) The effects of the proposed impacts of the proposed development. The agencies may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development. Failure by any such agency to report within the allocated time shall constitute approval by that agency of the adequacy of the submittal and also that, in the opinion of that agency, the proposed project will cause no adverse impact.

(d) The Planning Board shall not render a decision on the application until it has received and considered all reports requested from town departments and boards, or until the thirty-five (35) day period has expired, whichever is earlier.

(e) The Planning Board shall hold a public hearing on any properly completed application within sixty-five (65) days after filing, shall properly serve notice of such hearing and then must render its decision within ninety (90) days of the close of the hearing.

(f) In reviewing the impacts of a proposed development, the Planning Board shall consider the information presented in the application for site plan approval; all reports of town departments submitted to the Planning Board by any person, official, or agency, or acquired by the Planning Board on its own initiative or research.

(By-Laws 5-7-9l, Art. 30, 5-5-2009, Art. 31, By-Laws 5-4-2010, Art. 20)

12.44 Contents and Scope of Application. An application for site plan review and approval under this section must be prepared by qualified professionals, including a registered professional engineer and, where required by state law, a registered architect, and/or registered landscape architect, and shall include the following items and information:

(a) A site plan review at a scale of one inch equals twenty feet (1" = 20'), or such other scales as may be approved by the Planning Board. The site plan shall contain the following items and information:

- Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan. If the applicant is not the owner, a notarized statement authorizing the applicant to act on the owner's behalf and disclosing his interest shall be submitted.

- Name of project, property address, assessor's map and lot number, the date, north arrow, datum (NAD 83 and NAVD 88) names of abutters, and scale.

- Natural features including watercourses, water bodies, wetlands, soil properties, and any other environmental features of the landscape that are important to the site design process.
- Location of all existing and proposed easements, rights-of-way and other encumbrances.

- All floodplain information, including the contours of the one-hundred (100) year flood elevation based upon the most recent Flood Insurance Rate Map for Millbury, or as calculated by a professional land surveyor for unmapped areas.

- Location, width, curbing, and paving of all existing and proposed streets, rights-of-way, easements, alleys, driveways, sidewalks, and other public ways.

- Location of all pavement markings.

- Location of all existing and proposed on-site snow storage areas.

- The location and name of all streets and indicate whether the street is a public and private way.

- Lot Lines with dimensions.

- Zoning district lines.

- Five (5) signature lines for the Planning Board approval.

- Existing and proposed topography contour lines at one (l) foot intervals.

- Information on the location, size, type and number of existing and proposed landscaping features.

- Information on the location, size and capacity of existing and proposed on-site and abutting utilities (water, sewer, drainage, electrical, cable, etc.)

- The location, type, style of fixture, and intensity of lighting; the location, structural design and dimensions of all signage and any site amenities; the location and screening of refuse containers.

- The location and dimensions of all existing and proposed building and uses on-site and on abutting properties.

- Elevation and facade treatment plans of all proposed buildings.

- Information on the location, size, and type of parking, loading, storage and service areas.

- Zoning and other applicable setback distances; and zoning parking calculations.

- At least three property boundary markers, remotely separated, shall be indicated with Massachusetts Grid Plane Coordinates. The plan shall dentify the elevation and coordinates of these boundary markers.

(b) A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree.

(c) An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, building and roads for a distance of one hundred feet from the project boundaries.

(d) A locus plan at a scale of one inch equals 100 feet (1" = 100') showing the entire project and its relation to existing areas, buildings and roads for a distance of one hundred (100) feet from the project boundary, or such other distances as may be approved or required by the Planning Board.

(e) Building elevation plans at a scale of one-quarter inch equals one foot (1/4" = 1') or one-half inch equals one foot (1/2" = 1'), showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades.

(f) Development impact statements which shall describe potential impacts on the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement of site plan review, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts.

The Development impact statement shall consist of the following four elements:

(1) Traffic Impact Assessment:

Purpose: To document existing traffic conditions in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed object, and to identify measures proposed to mitigate any adverse impacts on traffic.

Format and Scope:

Existing traffic conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries.

Projected traffic conditions for design year or occupancy: Statement of design year or occupancy, background traffic growth on an annual average basis, impacts of proposed developments which have already been approved in part or in whole by the town.

Projected impact of proposed development: Project peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections or the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post-sections and streets likely to be affected by the proposed development (as defined in subsection 12.42(f)(1) above).

Traffic study data shall be no more than twelve (12) months old as of the date of application.

The maximum value of off-site extractions is 6 percent of development costs.

All off-site improvements required as a condition of site plan approval must be impacted by the proposed project.

(2) Environmental Impact Assessment:

Purpose: To describe the impacts of the proposed development with respect to on-site and off-site environmental quality.

Format and Scope: Identification of potential impacts: Description and evaluation of potential impacts on the quality of air, surface water, and ground water adjacent to or directly affected by the proposed development; on-site or off-site flooding, erosion, and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious areas; on-site or off-site hazards; radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and adjacent properties; impacts on solar access or adjacent properties; and off-site noise or light impacts.

Systems Capacity: Evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.

Proposed mitigation measures: Description of proposed measures for mitigation of any potential adverse impacts identified above.

(3) Fiscal impact assessment:

Purpose: To evaluate the fiscal and economic impacts of the proposed development on the town.

Format and Scope: Projections of costs arising from increased demands for public services and infrastructures..

Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided.

Projections of the impacts of the proposed development on the value of adjoining properties.

(4) Historic Impact:

Identification of impacts on significant historic properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development.

Development Goals: Evaluation of the proposed project's consistency or compatibility with existing local and regional plans.

(g) The Planning Board may waive any of the above listed requirements if it believes that said requirement is not necessary based on the size and scope of the project. The applicant may petition the Planning Board prior to making a formal application to request notification as to which section(s) of the site plan review by-law requirements are necessary. The Planning Board will then notify the applicant within thirty (30) days as to which sections relate to the proposed project based on the size and scope of the project.

(By-Laws 5-7-9l, Art. 30, By-Laws 5-2-2006, Art. 39, By-Laws 5-6-2008, Art. 35; Art. 36, By-Laws 5-5-2015, Art. 22)

12.45 Design Standards

All site plan review applicants shall adhere to the following general principles when designing a site plan for land within the Town of Millbury.

(a) Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Where tree coverage does not exist or has been removed, new planting may be required. Finished site contours shall depart only minimally from the character of the natural site and the surrounding properties.

(b) Relation of Building to Environment: Proposed development shall be related harmoniously to the terrain and to use, scale and siting of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. All building and other structures shall be sited to minimize disruption of the topography. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscaped elements and paved areas.

(c) Open Space: All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility to persons passing the site or overlooking it from nearby properties.

(d) Surface Water Drainage: There shall be no net increase in the volume of stormwater runoff across the boundaries of the site unless provisions have been made to tie into the public storm drains, where available, with the approval of the appropriate parties or authorities or, the Planning Board has determined that all reasonable provisions have been made to minimize any changes in stormwater runoff at the site. There shall be no adverse impacts to abutting properties from any increase in volume of stormwater runoff including erosion, silting, flooding, sedimentation or impacts to wetlands, ground water levels or wells.

(e) Insofar as possible, low impact development best management practices shall be utilized such that the site's natural features and environmentally sensitive areas, such as wetlands, native vegetation, mature trees, slopes, natural drainage courses, permeable soils, floodplains, woodlands and soils are preserved. Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff, maximize infiltration and reduce contact with pave surfaces are strongly encouraged.

(f) Where the site is not proposed to be covered with gravel, hardscape, or a building or structure, a planting plan to ensure permanent re-vegetation of the site shall be submitted. Areas to be planted shall be loamed with not less than six inches (6") compacted depth of good quality loam and seeded with turf grass seed or other appropriate ground cover in accordance with good planting practice.

(g) Ground Water Recharge and Quality Preservation: Ground Water Recharge shall be maximized and ground water quality shall be protected. Various techniques may be required to maximize recharge, and create a hydrologically functional lot or site, including the following: vegetated open channel systems along roads, rain gardens, buffer strips, use of amended soils that will store, filter and infiltrate runoff, bioretention areas, use of permeable pavement. In addition, reduction of impervious surfaces where possible, reduction of heat island effects, and use of water quality units such as grease traps or gas/oil separators will be encouraged.

(h) Where ground water elevation is close to the surface, extra site grading precautions may be required to maintain the protective function of the over burden.

(i) Utilities: The placement of electric, telephone, or other utility lines and equipment, such as water or sewer shall be underground and so located as to provide no adverse impact on the ground water levels, and to be coordinated with other utilities. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated precisely on the plans.

(j) Advertising: All signs and outdoor advertising features shall be reviewed as an integral element in the design and planning of all development on the site. At a minimum, all signs and advertising devices shall be in conformance with Section 34. Signs.

(k) Landscaping Within the Setbacks: Site plan applicants are required to landscape the setbacks as part of the site plan approval process. Site plan applicants are expected to maintain the landscaping approved for the site and replace any landscaping that has not fully established itself within two (2) growing seasons, after which all failed landscaping shall be replaced . Front yard setback landscaping shall consist of street trees and low-level plantings.
In accordance with Section 35.7, walls or hedges with in any required front yard area or within twenty feet (20') of the street, whichever is less, shall not exceed six feet (6') in height and fences shall not exceed thirty inches (30") in height except that the special permit granting authority may grant a Special Permit for higher fences where such will not endanger health or safety, or unreasonably impair vision or circulation of air. Landscaping within twenty (20') feet of a driveway shall consist solely of low-level plantings such that vehicular and pedestrian sight lines are not restricted.

(l) Circulation: With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls), width of interior drives, and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties. Insofar as practicable, parking should be located on the side or the rear of buildings.

(m) To minimize turning movements onto adjacent public ways, developers are encouraged to provide internal circulation systems (service roads) that connect to adjacent development (parking area to parking area). Site plans that propose service roads and /or connection of parking areas shall show on the plan how the connection of parking areas will be achieved.

(n) All parking and loading areas shall be striped and marked on the ground as a condition of site plan approval. All off-street parking and loading spaces shall be provided with safe and convenient access and shall not located within a public right-of-way or within required setbacks. Access locations shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Parking and loading shall be in conformance with Section 33. Parking and Loading Requirements.

(o) Curbing: Concrete curbs and gutters shall be installed around the perimeter of all driveways and parking areas. Granite curbs shall be installed in front of sidewalks abutting buildings.

(p) Shared Parking: The Planning Board may allow a reduction of the required number of spaces by up to twenty-five percent (25%) if it can be demonstrated that two (2) or more uses within a single development can share parking areas due to different hours of normal activity. When two (2) or more adjacent property owners agree in writing to share parking, the required number of parking spaces may be reduced by as much as twenty-five percent (25%) for each business.

(q) Parking Area Landscaping: Site plans involving more than nineteen (19) parking spaces shall provide interior landscaping covering not less than five percent (5%) of the total area of the parking lot. In total, there shall be provided one (1) shade tree placed within the parking lot for every five (5) spaces and complemented by shrubs and other planting material. Such trees shall be at least two (2 ½) inches in trunk diameter at the time of planting, and shall be located in planting beds at least six feet (6') in width or diameter. Snow removal activities should be considered when planning for parking area landscaping. In case it can be shown to the Planning board that the planting of trees is impractical, the Planning Board may authorize plantings and shrubbery instead of trees.

(r) Interior Walkways and Pedestrian Paths: Site plans involving more than thirty (30) parking spaces shall provide walkways and pedestrian paths that safely connect the parking areas to the principal uses they will serve. Such walkways shall be constructed with brick, decorative pavers, or other materials, and may be bordered with fencing or shrubbery to clearly separate pedestrians from automobile traffic. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas. Car stops shall be provided to prevent parked cars form damaging trees, shrubs and curbing, and shall not disrupt pedestrian walkways.

(s) Stormwater Management (Grading and Drainage): All site plan applicants must submit drainage calculations to show compliance with all applicable federal, state and local regulations and guidelines, including but not limited to the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Handbook, as it may be ameneded.

(t) Outdoor Lighting: All exterior lights shall be designed and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. Each outdoor luminaire shall be a full cutoff luminaire, and the use of decorative luminaires with full cutoff optics is desired. A full cutoff luminaire is an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture is projected below the horizontal plane. Developments shall eliminate glare onto adjacent properties through the use of lighting shields, earthen berms, or retention of existing natural vegetation. All outdoor lighting fixtures, including display lighting, shall be turned off within one hour after close-of –business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

(u) Other Site Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be designed with such setbacks, screen plantings, or other screening methods to prevent their being a hazard or being incongruous with the existing or contemplated environment and the surrounding properties. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and to maximize accessibility by fire, police and other emergency personnel and equipment. (By-Laws 5-2-2006, Article Art. 40; 5-2-2006 A.T.M)

(v) Additional Design Standards for Bramanville Village District

(1) Parking:

a. Off-street parking may be provided by a separate private property owner provided that a current, legally-binding agreement is executed between the two parties. A copy of the agreement shall be given to the Planning Board for their review and approval.

b. In mixed-use developments, an applicant may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. The Planning Board may waive up to fifty percent (50%) of the requirements for the principal use if the applicant can demonstrate that the peak demands for two uses are not concurrent.

(2) Buildings

a. All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;

b. Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone-face. Vinyl, unfinished metal or fiberglass as a primary finished surface shall not be used;

c. Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate given the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;

d. New retail buildings shall have one of the following features along the front surface at intervals sufficient to provide harmonious design, while providing variety: awning, marquee, arcade and/or colonnade;

e. Flat roofs may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet;

f. Rooftop mechanical equipment shall not be visible from the street;

g. Buildings with multiple non-residential tenants on the first floor shall articulate the façade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations in signage, awnings, marquees, colonnades or arcades.

(3) Signs

a. Primary signs shall be flat against the façade, or mounted projecting from the façade;

b. Signs shall be externally lit from the front. Back lighting of signs shall not be permitted;

c. Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint engraved on façade surface;
d. Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

(4) Site Design
a. Street level frontage shall be devoted to entrances, shop windows or other displays;
b. Clearly delineated pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
c. Where residential neighborhoods abut commercial, office or mixed-use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
d. Primary entrances to buildings shall be situated on pedestrian ways (e.g., sidewalks, plazas or open space) and shall have a minimum width of ten feet (10');
e. Adequate natural lighting and air circulation for businesses and residents shall be maintained;
f. New sidewalks shall be composed of cement;
g. Other pedestrian walkways, courtyards, patios, or similar shall be composed of natural materials (i.e. brick, bluestone, granite, flagstone, or similar);
h. Pedestrian-scale lighting shall be used on walkways.

(5) Open Space: Common open space shall have a shape, dimension, character and location suitable to assure its use for park and open space purposes for the public.
(By-Laws 5-5-09, Art. 44)

12.46 Specific Findings Required: Prior to granting approval or disapproval, the Planning Board shall make written findings with supporting documentation as specified below:

(a) Approval: The Planning Board may approve an application based on its review of the projected development impacts and the proposed methods of mitigating such impacts, if said board finds that the proposed development is in conformance with this by-law. Such findings shall pertain to the entire proposed development including any site plan or design modifications imposed by the Planning Board as a condition of its approval, and any off-site improvements proposed by the applicant or required by the Planning Board as a condition of its approval.

(b) Disapproval: The Planning Board must disapprove an application if it is unable to make the written findings required for approval. Not withstanding the above, the Planning Board may approve an application if the adverse impacts of the proposed development area are not significantly greater than the impacts of uses which are or can be made of the site under existing laws and regulations without a requirement of site plan review. (By-Laws 5-7-91, Art. 30)

12.47 Conditions, Limitations and Safeguards: In granting approval of an application, the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include among other matters and subjects:

(a) Controls on the location and type of access to the site.

(b) Controls on the number of vehicles that arrive or depart during the morning and/or evening peak hours (including controls on the maximum number of vehicles which may use the off-street parking areas during said periods).

(c) Requirements for off-site improvements to improve the capacity and safety or roads, intersections, pedestrian ways, water, sewer, drainage and other public facilities which are likely to be affected by the proposed development.

(d) Requirements of donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widening or improvements.

(e) Requirements for securing the performance of all proposed work, including proposed of-site improvements by either or both of the following methods:

    (1) A performance bond, a deposit of money, negotiable securities, or bank passbook in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required as conditions of approval;

    (2) A covenant running with the land, executed and duly recorded by the owner of record, whereby the required improvements shall be completed before the property may be conveyed by other than a mortgage deed.

(f) Conditions to minimize off-street impacts on traffic and environmental quality during construction.

(g) In granting site plan approval, the Planning Board may require reduction in scale of the proposed project including reductions in height or floor area or lot coverage. The Planning Board may require a construction schedule.

(By-Laws 5-7-91, Art. 30)

12.48 Administration:

(a) The Planning Board shall establish and may periodically amend the scope and format of the reports required relating to the administration of this section.

(b) The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered complete unless accompanied by the required fees.

(c) The Planning Board shall be responsible for deciding the meaning intent of nay provision of this section which may be unclear or in dispute.

(d) All expenses for advertising, engineering, legal review, professional planning review, construction inspection, recording and filing of plans and documents and all other expenses in connection with or for site plan review shall be borne by the applicant.

(By-Laws 5-7-91, Art. 30)

12:49 Enforcement of an Approved Site Plan

(a) It shall be the duty of the Building Inspector to enforce the conditions of the site plan approval. However, the Planning Board may require, as a condition of approval, that its consulting engineer oversee construction of certain aspects of a development to ensure compliance with the approved site plan and decision.

(b) The Planning Board may suspend site plan approval when work is not performed as required by the approved site plan.

(c) "As built" plans, certified by a registered professional engineer and registered land surveyor, that identify that bounds were installed at all lot corners and any change from the approved plan, shall be filed with the Building Inspector and the Planning Board before a Certificate of Completion shall be issued. The Applicant shall also file a CD or DVD containing a level III Standard digital file (SDF) of the project, per MassGIS standards for digital plan submittals to municipalities.

(d) The Building Inspector shall issue a Certificate of Completion when all construction has been performed and all other requirements have been met in compliance with the approved site plan. A copy of the Certificate of Completion will be filed with the Planning Board.

(e) No Certificate of Use and Occupancy shall be issued for any structure or use subject to site plan review unless a Certificate of Completion has been issued.

The Building Inspector may issue a Temporary Certificate of Use and Occupancy, under extenuating circumstances, for a period of six (6) months if the required construction has been substantially completed and the permitted uses of the development can be carried on in a safe and convenient manner.

(f) The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Chapter 40A, Section 17 except when a disapproval by the Planning Board is based upon non-compliance with the Millbury Zoning Bylaws, in which case an appeal can be taken to the Board of Appeals.

(g) In the case where there is a suspension of site plan approval by the Planning Board and a cease and desist order issued by the Building Inspector, work must cease immediately until the building Inspector issues a new start work order.

(g) All material modifications to a site made after issuance of the site plan approval shall require submission of a modified site plan, applied for in accordance with all regulations applicable at the time such application is properly made.

(By-Laws 5-2-2006, Article 41; By-Laws 5-6-2008, Art. 37; By-Laws 5-1-2012 Art. 26, By-Laws 5-5-2015, Art. 25)

12.5 Penalties. Criminal Disposition. Whoever violates any provision of the Millbury zoning by-laws may be penalized by indictment or complaint brought to the superior court, housing court, or Worcester district court. A penalty of three hundred dollars ($300.00) shall be imposed for each violation. Each day on which a violation exits shall be deemed to be a separate offense.

12.51 Penalties – Noncriminal Disposition. In addition to the procedures described above, the provisions of the by-law may be enforced by the building inspector or his designated agent by way of the non-criminal disposition procedure provided in Massachusetts General Laws, Chapter 40, Section 21D. Each day on which a violation exists constitutes a separate offense. The penalty for each offense shall be fifty dollars ($50.00).
(By-laws of 5-7-91, Art. 31)

Secton 13. Board of Appeals.

13.1 Establishment. The board of appeals shall consist of five (5) members and two (2) associate members, who shall be appointed by the selectmen and shall act in all matters under this by-law in the manner prescribed by Chapters 40A, 40B and 41 of the General Laws.
(By-Laws 4-1-78, Art. 40)

13.2 Powers. The board of appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this by-law. The board's powers are as follows:

13.21 Special permits. To hear and decide applications for special permits upon which the board is empowered to act under this by-law, in accordance with section 14.
(By-Laws 4-1-78, Art. I)

13.22 Variances. To hear and decide appeals or petitions for variances from the terms of this by-law, including variances for use, with respect to particular land or structures. Such variance shall be granted only in cases where the board of appeals finds all of the following:

(a) A literal enforcement of the provisions of this by-law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
(b) The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
(c) Desirable relief may be granted:
    (1) Without substantial detriment to the public good; and
    (2) Without nullifying or substantially derogating from the intent or purpose of this by-law.

(By-Laws 4-1-78, Art. 40)

13.23 Appeals. Other appeals will also be heard and decided by the board of appeals when taken by:

(a) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Ch. 40A, General Laws; or by
(b) The Central Massachusetts Regional Planning Commission; or by
(c) Any person including any officer or board of the Town of Millbury or of any abutting town, if aggrieved by any order or decision of the inspector of buildings or other administrative official, in violation of any provision of Chapter 40A, General Laws, or this by-law.
(By-Laws 4-1-78, Art. 40)

13.24 Comprehensive permits. Comprehensive permits for construction may be issued by the board of appeals for construction of low or moderate income housing by a public agency or limited dividend or non profit corporation, upon which the board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health, or subdivision requirements, as authorized by Section 20-23, Chapter 40B, General Laws. (By-Laws 4-1-78, Art. 40)

13.25 Withheld building permits. Building permits withheld by the inspector of buildings acting under Section 81-Y, Chapter 41, General Laws, as a means of enforcing the subdivision control law may be issued by the board of appeals where the board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question. (By-Laws 4-1-78, Art. 40)

13.3 Public Hearing. The board of appeals shall hold public hearings in accordance with the provisions of chapters 40A, 40B and 41 of the General Laws on all appeals and petitions brought before it.

13.4 Repetitive Petitions. Repetitive petitions for special permits, appeals and petitions for variances and applications to the board of appeals shall be limited as provided in Section 16, Chapter 40A, General Laws. (By-Laws 4-1-78, Art. 40)

Section 14. Special Permits.

14.1 Authority.

14.11 Planning Board Authority. The Planning Board shall act as the special permit granting authority for the following special permits:

(a) Multifamily use in Residential, Residential (Office), Suburban and Business I Districts (By-Laws 4-5-86, Art. 51, Section 2)
(b) Temporary structures in all districts.
(c) Special density provisions under section 32.8.
(d) Reduced parking requirements under section 33.1
(e) Accessory dwelling in Residential and Suburban Districts under Section 46.2. (By-Laws 5-2-2006, Article 42)
(g) Assisted Living Facility under section 42. (By-Laws 5-1-07, Art.49)
(h) Airfield or heliport in suburban districts.
(j) Water body protection under section 35.2.
(k) Vegetation removal under section 35.6.
(l) Reserved.
(m) Signs under section 34.23.
(n) Highway Corridor Overlay District (HCOD) under section 48.
(o) Wireless communications Facilities under Section 27.
(p) Adaptive Reuse Overlay Master Plan under Section 28.
(q) Wind Energy Systems under Section 50.
(r) Marijuana Establishment and Registered Marijuana Dispensary under Section 52.

(By-Laws 6-8-2004, Art. 42; By-Laws 4-l-78, Art. 40; By-Laws 4-5-80, Art. 75; By-Laws 4-5-86, Art. 51, Section 3; By-Laws 6-6-89, Art. 77, Section 8, By-Laws 10-28-97, Art. 1, By-Laws 5-5-09, Art. 35; By-Laws 5-4 -2010, Art. 19 & Art. 22, By-Laws 5-1-18/5-2-18 Art. 30)

14.12 Board of appeals authority. Except as specifically designated in section 14.11, the board of appeals shall act as the special permit granting authority. (By-Laws 4-l-78, Art. 40)

14.2 Public Hearing. Special permits shall only be issued following public hearings held within sixty-five (65) days after filing with the special permit granting authority an application, a copy of which shall forthwith be given to the town clerk by the applicant. (By-Laws 4-l-78, Art. 40)

14.3 Criteria. Special permits shall normally be granted by the Board of appeals if a condition exists peculiar to the particular case but not generally true for similar permitted uses on other sites in the same district, and it appears that nuisance, hazard or congestion will not be created, and there will not be substantial harm to the neighborhood or derogation from the intent of the by-law, and the stated district intent will be satisfied. In accordance with Section 14.11, the Planning Board shall grant special permits if the use is in harmony with the general purpose of the applicable bylaw, and the application complies with the general and specific provisions enumerated in the applicable bylaw. (By-Laws 4-l-78, Art. 40, 5-2-2006, Art. 43)

14.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use as the special permit granting authority may deem necessary to serve the purpose of this by-law. (By-Laws 4-l-78, Art. 40)

14.5 Expiration. Special permits shall lapse if a substantial use thereof or construction has not begun, except for good cause, within eighteen (18) months of special permit approval (excluding such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A, General Laws, from the grant thereof. (By-Laws 4-l-78, Art. 40)

14.6 Submittal Fee. A submittal fee is determined by the Planning Board and board of appeals on an annual basis. This money is used to set up funds available for fulfilling provisions of the Open meeting law, administrative review and clerical support. In the event that these monies are insufficient for said provisions; the applicant shall bear such additional expenses.
(By-Laws 6-6-89, Art. 83)

14.7 Expenses for Special Permit. All expenses for advertising, engineering review, legal review, professional planning review, construction inspection, recording and filing of plans and documents and all other expenses in connection with or for a special permit shall be borne by the applicant. (By-Laws 6-6-89, Art. 84)

14.8 Payment. Payment of any monies due to the Town of Millbury under the provisions of Article l, Section lA, Special Permits must be made prior to decision by the appropriate board. Failure to make payment is then determined as an incomplete application and must be denied.
(By-Laws 6-6-89, Art. 85)

14.9 Associate Member. The Planning Board and the board of selectmen shall jointly appoint an associate member of the Planning Board. The term for the associate member shall be two (2) years. The associate member shall act only in those cases as specified in Massachusetts General Laws, Chapter 40A, Section 9. (By-Laws 5-7-9l, Art. 87)

Editor's note - By-Laws of May 7, l99l, Art. 87, amended the Code by adding a new section l4.6. In order to avoid duplication of section numbers, the editor has redesignated this new section as section l4.9.
(By-Laws of 5-7-13, Art. 27)

Section 16. Applicability.

16.1 Other Laws. Where the application of this by-law imposes greater restrictions than those imposed by any other regulations, permits, easements, covenants or agreements, the provisions of this by-law shall control. (By-Laws 4-l-78, Art. 40)

16.2 Conformance. Construction or operation under a building or special permit shall conform to any subsequent amendment of this by-law unless the use or construction is commenced within a period of six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. (By-Laws 4-l-78, Art. 40)

16.3 Nonconformancy. The lawful use of any structure or land existing at the time of enactment or subsequent amendment of this by-law may be continued although such structure or use does not conform with provisions of the by-law, subject to the following conditions and exception: (By-Laws 4-l-78, Art. 40)

> **16.31 Abandonment.** A nonconforming use which has been abandoned or discontinued for a period of two (2) years or more shall not be re-established and any future use shall conform with the by-law. (By-Laws 4-l-78, Art. 40)

16.32 Change, extension or alteration. As provided in Section 6, Chapter 40A, General Laws, a nonconforming single or two family dwelling may be altered or extended, provided that the inspector of buildings determines that doing so does not increase the nonconforming nature of said structure. Other pre-existing nonconforming structures or uses may be extended, altered or changed in use on special permit from the board of appeals if the board of appeals finds that such extension, alteration or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. (By-Laws 4-1-78, Art. 40)

16.33 Restoration. Necessary repairs and rebuilding of nonconforming structure after damage by fire, storm or similar disaster, or condemnation are permitted provided that they are started within twelve (12) months and completed within twenty-four (24) months of the catastrophe, do not substantially change the character or size of the building or the use to which they were put prior to such damage, and do not increase the gross floor area previously existing. (By-Laws 4-1-78, Art. 40; By-Laws 5-7-91, Art. 51)

16.34 Isolated lots and subdivisions. Under Section 6 of Chapter 40A, General Laws, lots not held in common ownership with any adjoining land are generally not subject to subsequent amendments in dimensional requirements, and land shown on subdivisions or other plans endorsed by the Planning Board are exempted from subsequent zoning amendments in certain respects for five (5) years. In addition, lots in nonresidential districts and/or to be built upon for nonresidential use shall enjoy the same exemption as if being built upon for residential use in a residential district.

Any increase in lot area, frontage, yard or coverage requirements of this by-law shall not apply to erection, extension, alteration or moving of a structure on a legally created lot not meeting current requirements provided that the applicant documents that:

(a) At the time such increase requirement became applicable to it, the lot:

(1) Had at least five thousand (5,000) square feet of lot area and fifty (50) feet of frontage on a street; and

(2) Was held in ownership separate from all other lots having frontage within one thousand (1,000) feet on that same street; and

(3) Conformed to then existing dimensional requirements; and

(b) The lot is to be used for single-family or nonresidential use. Such conforming lots may be changed in size or shape or their land area combined without losing this exemption, so long as the change does not increase the actual or potential number of buildable lots.

(By-Laws of 4-1-78, Art. 40)

Section 17. 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 Section 15, Chapter 40A, General Laws, and any amendments therein. (By-Laws of 4-1-78, Art. 40)

Section 18. Court Appeals.

Any person aggrieved by a decision of the board of appeals or of any special permit granting authority, whether or not previously a party to the proceeding, or any municipal officer or board may as provided in section 17, Chapter 40A, General Laws, appeal to the superior court by bringing an action within twenty (20) days after the decision has been filed in the office of the town clerk. (By-Laws of 4-1-78, Art. 40)

Section 19. Separability.

The invalidity of any section or provisions of this by-law shall not invalidate any other section or provisions of this by-law. (By-Laws of 4-1-78, Art. 40)

ARTICLE 2. DISTRICT REGULATIONS

Section 21. Establishment of Districts

21.1 For the purposes of this By-law, the Town of Millbury is hereby divided into the following zoning districts:

Residential I
Residential II
Residential III
Residential Office Overlay District
Suburban I
Suburban II
Suburban III
Suburban IV
Bramanville Village
Business I
Business II
Industrial I
Industrial II (Industrial Park)
Aquifer and Watershed Protection overlay District
Floodplain Overlay District
Adaptive Reuse Overlay District
Route 146 Highway Corridor Overlay District

(By-Laws of 9-30-74, Art. 8(II); By-Laws of 4-2-77, Art. 63, Section 1; By-Laws of 4-4-81, Art.22; By-Laws of 4-5-86, Art.51, Section 4, By-Laws of 5-5-09, Art. 32, By-Laws of 5-5-09, Art. 42)

21.2 Zoning map. The boundaries of theses districts are defined and bounded as shown on the map entitled "Zoning Map" dated May 7, 1991, or as subsequently amended by vote of the Town Meeting on file with the Town Clerk. That map and all explanatory mater thereon is hereby made a part of this By-Law.
(By-Laws of 9-30-74, Art.9; By-Laws of 4-5-86, Art. 51, Section 5; By-Laws of 5-7-91, Art. 6a)

21.3 Where uncertainty may exist with regard to the boundaries at the various Zoning Districts, the following rules shall apply:

21.31 Unless otherwise indicated, district boundaries are the conter lines of streets, ways, alleys, parkways, waterwys, or rights-of-way of public utilities, and railroads, or perpendicular or radial thereto.

21.32 Other district boundary lines not listed in the preceding section shall be considered as lines paralleling a street and at distances from the side lines of such street which are stated on the zoning map.

21.33 Other district lines not listed above shall be considered as lot lines.

21.4 Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for any district in which the lot has frontage on a street may be extended not more than thirty feet into the other district.

21.5 When a lot is situated in part in the Town of Millbury and in part in an adjacent municipality, the provisions of this bylaw shall be applied to the portion of such lot in the Town of Millbury in the same manner as if the entire lot were situated in Millbury. (Bylaws of 5-2-2006, Art. 44)

Section 22. Residential Districts.

The intent of Residential Districts is to provide for a range of dwelling types in areas having existing development at relatively high densities and having public utility service, and in residential office overlay districts, to additionally provide for a limited range of compatible business uses. The Residential Office Overlay District overlies the presently existing Residential-I District. This underlying district remains unchanged, and all Residential-I regulations must be met, except where the requirements of the overlaying Residential Office District are more stringent, in which case the more stringent requirements shall govern.
(By-Laws of 4-2-77, Art. 63, Section 2; By-Laws of 4-4-87, Art. 51)

22.1 In a Residential District, only the following uses are permitted:

22.11 Permitted residential uses:
- One-family dwelling other than a mobile home;
- Boarding, loading or tourist homes.

(By-Laws of 5-1-90, Art. 68)

22.12 Permitted community service uses:
- School or college
- Religious, sectarian or denominational buildings or uses;
- Nursing, convalescent or rest home, or hospital;
- Cemetery;
- Municipal use not elsewhere more specifically cited;
- Philanthropic institutions.

22.13 Other Permitted Uses:

- Agricultural, horticultural or floricultural uses;
- Florist shop;
- Parking to service a permitted use;
- Standard golf course;
- In residential office overlay districts only, conversion of an existing structure for offices for legal, educational, accounting, engineering, medical, real estate, insurance or architectural uses, or other activities having similar externally observable characteristics, or for a funeral home or mortuary; but only if not involving extensions subsequent to July 1, 1977, totaling more than one thousand (1,000) square feet gross floor area.

(By-Laws of 4-2-77, Art. 63, Section 3; By-Laws of 4-1-78, Art. 40)

22.14 Permitted Accessory Uses:

- Home occupation, in accordance with section 41;
- Roadside stand for goods principally produced on the premises;
- Parking to service a permitted use, but not including more than one (1) commercial vehicle or any construction equipment or any truck over one and one-half (1 1/2) tons;
- Temporary structures to be used only as temporary construction offices in relation to and in conjunction with a current construction project and to be removed in the case of building construction upon the final issuance of all occupancy permits or in the case of other types of construction projects upon the completion of all construction work, in either case the temporary structure shall not remain on the property for more than twenty-four (24) months.
- Other customary accessory uses.

(By-Laws of 4-2-83, Art. 18)

22.2 In a Residential District the following uses are permitted if granted a special permit by the special permit granting authority:
(By-Laws of 5-2-17, Art. 27)

22.21 In a Residential I District

- Accessory dwelling in accordance with Section 46.2
- Assisted Living Facility in accordance with Section 42;
- Multifamily dwelling: provided that it is serviced by public sewerage and public water
- Nonprofit club or lodge;
- Par 3 golf course;
- Public utility without service yards;

- Residential social service facility, provided that all building code, health and zoning by-law requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.
- Temporary structure or uses not conforming to this by-law;
- Accessory scientific use in accordance with Section 46;
- In a residential office overlay district only, offices for legal, educational, accounting, engineering, medical, real estate, insurance or architectural uses, or other activities having similar externally observable characteristics, or for a funeral home or mortuary; if not allowed outright under Section 22.13.

(By-Laws of 5-27-75, Art. 83(2); By-Laws of 4-2-77, Art. 63, Section 4;
By-Laws of 4-1-78, Art. 40; By-Laws of 4-5-86, Art. 51, Section 6,
By-Laws of 5-2-06, Art. 45, By-Laws of 5-1-07, Art. 50)

22.22 In a Residential II District:

- Nonprofit club or lodge;
- Par-3 golf course;
- Public utility without service yards;
- Residential social service facility, provided that all building code, health and zoning by-law requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.
- Temporary structures or uses not conforming to this by-law;
- Accessory scientific use in accordance with Section 46;
- Accessory dwelling in accordance with Section 46.2.
- Multi-family dwelling: provided that it is serviced by public sewerage and public water
- Assisted Living Facility in accordance with Section 42;

(By-Laws of 4-5-86, Art. 51, Section 7, By-Laws of 5-2-06, Art. 45
(By-Laws 5-1-07, Art. 50)

22.23 In a Residential III District:

- Nonprofit club or lodge;
- Par-3 golf course;
- Residential social service facility, provided that all building code, health and zoning by-law requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.
- Temporary structures or uses not conforming to this by-law;
- Accessory scientific use in accordance with Section 46;
- Multifamily addition or renovation to an existing structure, under Section 14.11 (a) special permit from Planning Board.
- Accessory dwelling in accordance with Section 46.2
- Assisted Living Facility in accordance with Section 42;

(By-Laws of 4-5-88, Art. 51, Section 8, By-Laws of 5-2-06, Art. 45, By-Laws of 5-1-07, Art. 50)

22.24 Accessory Uses in Residential Districts. Kennels
(By-laws of 4-5-99, Art. 60)

22.3 In a Residential District, no lot shall be built upon or changed in size or shape except in conformity with the following:

District	Minimum Lot Area	Min.Lot Frontage	Minimum Yards Front/Side/Rear	Max. Lot Cover-age	Max. Bldg. Height
Residential	40,000sf*	100ft.	25 ft./10 ft./10ft.	30%	30 ft.

* The minimum lot area requirement may be reduced to 32,000 sf if the lot will be serviced by public water. The minimum lot area requirement may be reduced to 20,000 sf if the lot will be serviced by public sewerage. The minimum lot area requirement may be reduced to 12,500 sf if the lot will be serviced by public water and public sewerage.

* In the Residential III District for dwelling units in excess of one, increase the minimum lot area by 10,000 square feet per additional unit plus 5,000 per additional bedroom.

(By-Laws of 5-27-75, Art. 86(1); By-laws of 4-4-81, Art. 23; By-Laws of 4-5-86, Art. 51, Section 9; By-Laws of 4-4-87, Art. 51; By-Laws of 6-6-89, Art. 73)

Section 23. Suburban Districts

The intent of Suburban Districts is to provide for low-density one and two family development at moderate density where public services are provided and at low density where they are not.
(By-Laws of 4-4-81, Art. 23)

23.1 In a Suburban District, only the following uses are permitted:

23.11 Permitted Residential Uses:
- One family dwelling other than a mobile home;
- Boarding, lodging or tourist homes;
- Residential use in accordance with Section 47.

(By-Laws of 4-5-86, At 5l, Section 10; By-Laws of 5-1-90, Art. 69)

23.12 Permitted Community Service Uses:
- School or college;
- Religious, sectarian or denominational buildings or uses;
- Nursing, convalescent or rest home, or hospital;
- Cemetery;
- Municipal use not elsewhere more specifically cited;
- Philanthropic institutions

23.13 Other Permitted Uses:
- Agricultural, horticultural or floricultural uses;
- Earth Removal;
- Florist shop;
- Milk processing plant;
- Parking to service a permitted use;
- Standard or par-3 golf course.

(By-laws of 4-1-78, Art. 40, By-laws of 5-1-07, Art. 45)

23.14 Permitted Accessory Uses:
- Home occupation, in accordance with Section 4l;
- Roadside stand for goods principally produced on the premises;
- Parking to service a permitted use, but not including more than one (1) commercial vehicle or any construction equipment or any truck over one and one-half (1 1/2) ton;

- Temporary structures to be used only as temporary construction offices in relation to and in conjunction with a current construction project and to be removed in the case of building construction up on the final issuance of all occupancy permits or in the case of other types of construction projects upon the completion of all construction work, in either case the temporary structure shall not remain on the property for more than twenty-four (24) months;
- Other customary accessory uses.

(By-Laws of 4-23-83, Art. 18)

23.2 In a Suburban District, the following principal uses are permitted if granted a Special Permit for an exception by the special permit granting authority:

- Multifamily dwelling, provided that it is serviced by public sewerage and public water, and provided that access from a major street as herein defined does not require use of a minor street substantially developed for single-family homes. In a Suburban Zone for dwelling units in excess of one, increase the minimum lot area requirement by 10,000 s.f. per additional dwelling unit, plus 5,000 sf per additional bedroom.
- Non-profit club or lodge;
- Public utility, without service yards;
- Airfield or heliport;
- Veterinary, animal hospital, or kennel;
- Temporary structures or uses not conforming to this bylaw;
- Residential social service facility, provided that all building code, health and zoning by-law requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.
- Accessory scientific use in accordance with Section 46.
- Accessory Dwelling in accordance with Section 46.2;
- Assisted Living Facility in accordance with Section 42;

(By-Laws of 5-27-75, Art. 83(2); By-Laws of 4-1-78, Art. 40; By-Laws of 4-5-86, Art. 51, Sections 11, 12; By-Laws of 6-6-89, Art. 74, Section 5, By-Laws of 5-1-07, Art. 45, By-Laws of 5-1-07, Art. 50)

23.3 In a Suburban District, no lot shall be built upon or changed in size or shape except in conformity with the following:

23.31 In a Suburban I District*:

Min. Lot Max.Bldg. Area	Min. Lot Frontage	Min. Yds. Front/Side/Rear	Max. Coverage	Lot. Height
60,000 sf	150 Ft.	25 ft./10 ft./10 ft..	30%	30 ft.

* -See Section 47 for Aquifer and Watershed Protection Overlay District requirements.
-See Section 23.2 for multifamily formula.
(By-Laws of 4-5-86, Art. 51, Section l3)

23.32 In a Suburban II District:

Min. Lot Max.Bldg. Area	Min. Lot Frontage	Min. Yds. Front/Side/Rear	Max. Coverage	Lot Height
40,000* sf	150 ft.	25 ft./10 ft./10 ft.	30%	30 ft.

* -The minimum lot area requirement may be reduced to 32,000 s.f. if the lot will be serviced by public water. The minimum lot area requirement may be reduced to 15,000 s.f. if the lot will be serviced by public sewerage or if the lot is serviced by public water and public sewerage.
-See Section 23.2 for multifamily formula.
(By-Laws of 4-5-86, Art. 51, section 14)

23.33 In a Suburban III District:

Min.Lot Area	Min.Lot Frontage	Min. Yds. Front/Side/Rear	Max. Lot Coverage	Max. Bldg. Height
40,000* sf	150 ft.	25 ft./10 ft./10 ft.	30%	30 ft.

* -The minimum lot area requirement may be reduced to 32,000 s.f. if the lot will be serviced by public water. The minimum lot area requirement may be reduced to 20,000 s.f. if the lot will be serviced by public sewerage or if the lot is serviced by public water and public sewerage.
-See Section 23.2 for multifamily formula.
(By-Laws of 4-5-86, Art. 51, Section 15)

23.34 In a Suburban IV District

Min. Lot Area	Min. Lot Frontage	Min. Yds. Front/Side/Rear	Max. Lot Coverage	Max. Bldg. Height
40,000*sf	150 ft.	25 ft./10 ft./10 ft.	30%	30 ft.

* -The minimum lot area requirement may be reduced to 32,000 s.f. if the lot will be serviced by public water. The minimum lot area requirement may be reduced to 20,000 s.f. if the lot will be serviced by public sewerage or if the lot is serviced by public water and public sewerage.
-See Section 23.2 for multifamily formula.
(By-Laws of 4-5-86, Art. 51, Section 16)

Section 24. Bramanville Village District.

The intent of the Bramanville Village District is to enable the redevelopment and in-fill development of the central part of the historical Bramanville area in keeping with the historic development pattern, in order to create a vibrant, pedestrian-friendly village center by allowing high-density residential as well as small-scale commercial uses that serve the residents of the district and adjacent residential districts. This district shall work in concert with the Adaptive Reuse Overlay District bylaw, which enables mixed uses in the mill buildings only. While the encouragement of economic development is desired in this district, the type and scale should not compete with Millbury Center. This district should have its own unique identity on a village scale.

24.1 In the Bramanville Village District, only the following uses are permitted:

24.11 Permitted Residential Uses:

- Boarding, lodging, or tourist home;

24.12 Permitted Community Service Uses:

- School or college;
- Religious, sectarian or denominational buildings or uses;
- Day care center;
- Nursing, convalescent or rest homes;
- Non-profit club or lodge;
- Philanthropic institution;
- Municipal use not elsewhere more specifically cited;

24.13 Permitted Business Uses:

- Business or professional office;
- Bank or other financial institution without drive-thru;
- Retail sales and services, provided that not more than 5,000 square feet of total floor area is devoted to office, sales and storage purposes;

- Any of the following personal service establishments dealing directly with the consumer: dry cleaner, hand or self service laundry, tailor, shoe repair, barber or beauty salon, florist, small appliance repair shop, interior decorating studio, medical or dental laboratory, printing, photocopying or photography shop;
- Shop of plumber, carpenter, electrician, upholsterer or similar workshop or repair establishment, provided that there is no exterior storage or activity, and only on-site repair work;
- Restaurant without drive-thru;
- Bakery or café;
- Tavern or bar;

24.14 Other Permitted Principal Uses:

- Agricultural, horticultural, or floricultural uses;
- Parking to service a permitted use;
- Building containing multi-family dwelling units in combination with stores or other permitted business uses;

24.15 Permitted Accessory Uses:

- Bed and breakfast;
- Home occupation in accordance with Section 41;
- Roadside stand for goods principally produced on the premises;
- Accessory parking;
- Temporary structures to be used only as temporary construction offices in relation to and in conjunction with a current construction project and to be removed in the case of building construction upon the final issuance of all occupancy permits or in the case of other types of construction projects upon the completion of all construction work, in either case the temporary structure shall not remain on the property for more than twenty-four (24) months.
- Other customary accessory uses that are subordinate, customary and incidental to the principal use.

24.2 In the Bramanville Village District, the following uses are permitted if granted a special permit by the Special Permit Granting Authority:

- Multifamily dwelling (not associated with mixed use);
- Assisted living establishment in accordance with Section 42;
- Accessory dwelling in accordance with Section 46.2;
- Liquor store;
- Indoor recreational uses including skateboard park, arcade, bowling alley;
- Health or exercise club;
- Temporary structures or uses not conforming to this by-law;

24.3 In the Bramanville Village District, no lot shall be built upon or changed in size or shape except in conformity with the following:

District	Min. Lot Area	Min. Lot Frontage	Min. Yards Front/Side/Rear	Max. Lot Coverage	Max. Impervious Lot Coverage	Max. Bldg. Height
Bramanville Village	5,000 sf.	60 ft.	*/10/10	50%	25%**	40***

* The front yard setback requirement for a property containing exclusively residential uses shall be a minimum of eighteen feet (18') and a maximum of twenty-five feet (25'). The front yard setback requirement for a property containing non-residential uses or mixed-uses shall be a minimum of zero (0') feet and a maximum of eighteen feet (18').

**The maximum impervious lot coverage calculation is exclusive of lot coverage.

***The maximum building height for all uses shall not exceed forty (40) feet (including rooftop mechanics) and no building shall have more than three (3) stories.

(By-Laws of 5-5-09, Art. 43)

Section 25. Business Districts

The intent of Business Districts is to provide for commercial service in a pattern compatible with existing high-density commercial development (Business I) or appropriate for auto orientation where space permits (Business II).

25.1 In a Business I or II District, only the following uses are permitted:

25.11 Permitted Residential Uses:

- One or two family dwelling other than a mobile home;

25.12 Permitted Community Service Uses:

- School or college;
- Religious, sectarian or denominational buildings or uses;
- Nursing, convalescent or rest homes, or hospital;
- Public utility;
- Cemetery;
- Municipal use not elsewhere more specifically cited;
- Non-profit club or lodge;
- Philanthropic institutions;
- Airfield or heliport;
- Veterinary, animal hospital or kennel.

25.13 Permitted Business Uses:

- Business or professional offices;
- Retail sales and services, except used motor vehicle sales not in conjunction with new motor vehicle sales; building materials or construction equipment; and motor vehicle service station;
- Personal services;
- Restaurant;
- Funeral home or mortuary;
- Commercial amusements and recreation;
- Building tradesmen and contractors;
- Motel or hotel;
- Printing and publishing.

(By-Laws of 4-2-77, Art. 68, Section 1; By-Laws of 4-5-86, Art. 51, Section 18)

25.14 Other Permitted Principal Uses:

- Agricultural, horticultural, or floricultural uses;
- Earth Removal
- Parking to service a permitted use;
- Radio station;
- Milk processing plant;
- Standard or par-3 golf course.

(By-Laws of 4-1-78, Art. 40; By-Laws of 5-1-07, Art. 45)

25.15 Permitted Accessory Uses:

- Home occupation, in accordance with Section 41;
- Roadside stand for goods principally produced on the premises;
- Accessory parking;
- Temporary structures to be used only as temporary construction offices in relation to and in conjunction with a current construction project and to be removed in the case of building construction upon the final issuance of all occupancy permits or in the case of other types of construction projects upon the completion of all construction work, in either case the temporary structure shall not remain on the property for more than twenty-four (24) months.
- Other customary accessory uses.

(By-Laws of 4-2-83, Art. 18)

25.2 In a Business I or II District, the following uses are permitted if granted a special permit by the special permit granting authority:

25.21 Business I special permit uses:

- Multifamily dwelling;
- Motor vehicle service station in accordance with Section 43;
- Temporary structures or uses not conforming to this by-law;
- Residential social service facility, provided that all building code, health and zoning by-law requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.
- Accessory scientific use in accordance with Section 46.
- Veterinary or animal hospital or kennel
- Assisted Living Facility in accordance with Section 42;

(By-Laws of 5-4-99, Art. 60, By-Laws of 5-1-07, Art. 45
(By-Laws of 5-1-07, Art. 50)

25.22 Business II special permit uses:

- Motor vehicle service station in accordance with Section 43;
- Temporary structures or uses not conforming to this by-law;
- Residential social services facility, provided that all building code, health and zoning by-law requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.
- Accessory scientific use in accordance with Section 46;
- Used motor vehicle (other than truck) sales not in conjunction with new motor vehicle sales, subject to the location and egress requirements of Sections 43.11 and 43.12.
- Assisted Living Facility in accordance with Section 42;
- Building materials or construction equipment sales;
- Registered Marijuana Dispensary in accordance with Section52;

(By-Laws of 5-27-75, Art. 83(2); By-Laws of 4-2-77, Art. 68, section 2; By-Laws of 4-1-78, Art. 40; By-Laws of 4-5-86, art. 51, Section 17, By-Laws of 5-1-07, Art 45, By-Laws of 5-1-07, Art. 50, By-Laws of 5-7-13, Art. 25, By-Laws of 5-6-2014, Art 39.)

25.3 In a business district no lot shall be built upon or changed in size or shape except in conformity with the following:

Use & Bldg. District	Minimum Lot Area	Min. Lot Frontage	Minimum Yards Front/Side/Rear	Max. Lot Coverage	Max. Height
Dwellings B I/B II	12,500*sf	100ft.	25 ft./10 ft./10 ft.	30%	30 ft.
Other Uses					
B-I	no req.	no req.	no req.	no req.	40 ft.
B-II	16,500 sf	250 ft.	75ft.**/10**/10**ft.	40%	40 ft.

* For two-family dwellings or a single or two-family dwelling on the same lot as a non-residential use, increase lot area by 50%. For dwelling units in excess of 2 in the B-I district, see Section 32.8, Special Density Provisions

** Increase by 25% where abutting a residence or suburban district. Thirty percent of a required yard area shall be free of any paving and maintained with vegetation.

(By-laws 5-2-75, Art. 86 (1); Bylaws of 4-2-77, Art. 65, s. 1; Bylaws of 4-4-81, Art. 24; Bylaws of 4-5-86, Art. 51, S. 18; Bylaws of 5-1-90, Art. 70; Bylaws of 5-3-94, Art. 47 Bylaws of 5-5-09, Art. 43)

Section 26. Industrial Districts

The intent of industrial districts is to provide exclusively for environmentally compatible industry in areas suited to that use by access, absence of conflicting use, and services.

26.1 In an industrial district, only the following uses are permitted:

26.11 Permitted Community Service Uses:
In Industrial I and Industrial II:

- School or college;
- Religious, sectarian or denominational buildings or uses.

In Industrial I only:

- Nursing, convalescent or rest home, or hospital;
- Public utility;
- Cemetery;
- Municipal use not elsewhere more specifically cited;
- Nonprofit club or lodge;
- Philanthropic institutions;
- Airfield or heliport;

26.12 Permitted Business Uses:
Industrial II only:

- *Business or professional offices
- *Printing and publishing
  (By-Laws of 5-4-2010, Art. 23)

Industrial I only:

- Building materials or construction equipment sales or storage;
- Personal services;
- Restaurant without counter service or drive thru;
- Funeral home or mortuary;
- Building tradesmen and contractors.

(By-Laws of 4-2-77, Art. 68, Section 3; By-Laws of 5-7-91, Art. 50)

26.13 Permitted Industrial Uses:

In Industrial I and Industrial II:

- Earth Removal;
- Manufacturing or processing, other than asphalt plants, including alternative and/or renewable energy systems;
- Warehousing, wholesale distribution not involving bulk storage .
- Research and development.
  (By-Laws of 5-4-2010, Art. 23)

In Industrial I only:

- Stone and monument works.

(Bylaws of 4-1-78, Art. 40; By-Laws of 5-7-91, Art. 50; By-Laws of 5-7-01, Art.45)

26.14 Other Permitted Uses:

In Industrial I and Industrial II:

- Agricultural, horticultural or floricultural uses;
- Parking to service a permitted use.

In Industrial I only:

- Radio station;
- Standard or par-3 golf course.

(By-Laws of 4-1-78, Art. 40)

26.15 Permitted Accessory uses in Industrial I and Industrial II:

- Home occupation, in accordance with Section 41;
- Roadside stand for goods principally produced on the premises;
- Residential uses incidental and necessary to an industrial establishment;
- Temporary structures to be used only as temporary construction offices in relation to and in conjunction with a current construction project and to be removed in the case of building construction upon the final issuance of all construction work, in either case the temporary structure shall not remain on the property for more than twenty-four (24) months.
- Other customary accessory uses.

(By-Laws of 4-2-83, Art. 18)

26.2 In an industrial district, the following uses are permitted if granted a special permit by the special permit granting authority (By-Laws of 4-11-78, art. 40):

26.21 Industrial I and Industrial II special permit uses:

- Freight or transportation terminal, if not within eight hundred feet (800') of more than two (2) dwellings;
- Temporary structure or uses not conforming to this by-law;
- Accessory scientific use in accordance with Section 46;

(By-Laws of 4-2-77, Art. 68, Section 4; By-Laws of 4-1-78, Art. 40; By-Laws of 5-7-91, Art. 50; By-Laws of 5-1-07, Art. 45, By-Laws of 5-7-13, Art. 26)

26.22 Industrial II special permit uses;

- Public utility;
- Motel or hotel;
- Heliport;
- Restaurant;
- Retail sales and service of new motor vehicles and light trucks, and retail sales and service of used motor vehicles and light trucks in conjunction with new motor vehicle and light truck sales.
- Independent Testing Laboratory in accordance with Section 52
- Marijuana Cultivator in accordance with Section 52
- Marijuana Product Manufacturer in accordance with Section 52
- Other Type of Licensed Marijuana-Related Business in accordance with Section 52

(By-Laws of 4-2-77, Art. 68, Section 5; By-Laws of 4-1-78, Art. 40, By -Laws of 9-19-95, Art. 8, By-Laws of 5-4-2010, Art. 23, By-Laws of 5-7-2013, Art. 26, By-Laws 5-1-18/5-2-18 Art. 32)

26.23 Industrial I special permit uses:

- Veterinary, animal hospital or kennel
- Assisted Living Facility in accordance with Section 42;

(Bylaws of 5-4-99, Art. 60, Bylaws of 5-1-07, Art. 50, By-Laws of 5-7-13, Art 26)

26.3 In an Industrial District, no lot shall be built upon or changed in size or shape except in conformity with the following:

District	Minimum Lot Area	Min. Lot Frontage	Minimum Yards Front Side,Rear	Max. Cover-age	Lot Max. Bldg. Height
Ind. I	80,000sf	150 ft.	30ft*/20ft**/20 ft**	40%	50ft.
Ind. II	80,000sf	200 ft.	30ft*/20ft**/20 ft **	35%	55ft.

*Thirty percent of required yard area shall be free of any paving and maintained with vegetation. Entire yard to be free of outdoor storage of materials.

**If abutting a residential or suburban district boundary, increase to one hundred feet (100'), of which fifty feet (50') shall be free of any paving or outdoor storage of materials, and maintained with vegetation.

(By-Laws of 9-30-74, Art. 8 (III); By-laws of 4-1-78, Art. 41; By-Laws of 5-7-91, Art. 86; By-Laws of 5-5-92, Art. 32, By-Laws of 5-5-09, Art. 43, By-Laws of 5-6-2014, Art. 37)

Section 27. Wireless Communications Facilities

27.1 Purpose and Intent, Definitions

27.1.1 Purpose and Intent

The Town recognizes the quasi-public nature of wireless communications systems and finds that these regulations are necessary to protect public safety, to protect the ecological, scenic, historical and recreational values of the Town and to ensure that adverse visual and operational effects will not contribute to blighting, deterioration or other deleterious effects upon the surrounding neighborhood.

It is the intent of this Section to provide for establishment and/or expansion of cellular telephone, mobile radio and personal communication and similar systems within the Town of Millbury while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening and in furtherance of the requirements of the Telecommunications Act of 1996. More specifically the Section has been developed in order to:

- Maximize use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of wireless communications facilities needed to serve the community.
- Encourage providers to co-locate their facilities on a single structure or site
- Minimize the location of facilities in visually sensitive areas
- Site facilities below visually prominent ridge lines
- Protect historic and residential areas from potential adverse impacts of such facilities
- Avoid potential damage to adjacent properties from facility failure through engineering and careful siting of facilities

No personal wireless service facility shall be placed, constructed or modified within the Town except upon issuance of a special permit from the Planning Board.

27.1.2 Definitions

A "wireless communications facility" shall mean transmitters, structures (including but not limited to towers) and other types of installations, including but not limited to antennae and accessory structures, used for the provision of wireless services, including but not limited to all commercial mobile services, and shall include "personal wireless communications facilities" within the meaning of 47 U.S.C. Sec. 332 (c)(7).

27.2 This Section shall not apply to "direct-to-home satellite services" or other similar antenna(e) which are no greater than six feet (6') in diameter.

27.3 Site Selection Preferences

These regulations are written to indicate that the Town of Millbury preferences for facility locations are as follows, in descending order of preference:

- On existing structures such as buildings, communications towers, smokestacks, utility structures, etc.
- In locations where existing topography, vegetation, buildings or other structures provide the greatest amount of screening
- On new towers in Industrial II zoning districts
- On new towers in Business II zoning districts, excluding the Business II district located in East Millbury
- On new towers in Industrial I zoning districts excluding any portion of the Industrial I district within the Route 146 Highway Corridor Overlay District
- On new towers in the Residential III, Suburban II, Suburban III and Suburban IV zoning districts
- On new towers in the Business I, Residential Overlay, Residential I, Residential II, and Suburban I zoning districts

Colocation is generally viewed as preferable to construction of a new support structure where it is assumed that colocation may often be less imposing. The Board's evaluation of each application is essential.

27.4 Additional Submittal Requirements

The following items and information are required to be submitted at the time an application under this section is filed:

a) A locus plan at a scale of 1" = 1000'
b) A report by a professional or radio frequency engineer describing the general design and capacity of any proposed installation, including:
    - The number and type of antenna(e) proposed;
    - A description of the proposed antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height, materials, color and lighting;
    - A description of the proposed antenna(e) function and purpose;
    - The frequency, modulation and class or service;
    - Direction of maximum lobes;
    - An evaluation of the potential to utilize existing facilities for the proposed facility
    - An evaluation of the feasibility of attaching the proposed facility to existing buildings;
    - Copies of all applicable permits, including but not limited to all State and Federal permits required for this project and a certification of compliance with the terms and provisions of the license issued for this purpose by the Federal Communications Commission (FCC).

c) Site Justification or Appropriateness Statement, including a description of the narrowing process that eliminated other potential sites;
d) Evidence that the applicant has filed a notice of proposed construction with the Federal Aviation Administration if the proposed facility exceeds 200 feet in height or in the event such notice is otherwise required.
e) Support materials that show: the location of structures of similar or greater elevation within one-half-mile (two thousand six hundred forty feet) radius of the proposed site/parcel; that the owners of those locations have been contacted and asked for permission to install the facility on those structures, and denied, or that such other locations do not satisfy requirements to provide the service needed. This would include, but not be limited to, smoke stacks, water towers, tall buildings, antenna or towers of other wireless communications companies, other wireless communications facilities (fire, police, etc.) and all other tall structures. Failure to present evidence of a good faith effort on the part of the applicant to utilize existing facilities shall be grounds for denial of the application.
f) Material describing a specific plan for a "balloon" or similar test, including the date and time, as well as a rain date and time, suitably and clearly described for inclusion in the legal notice in the newspaper and for inclusion in the notice to abutters.
g) A statement indicating how the proposal meets, in the opinion of the applicant, the intents and purposes identified in subsection 1 of this section.
h) Stamped, addressed envelopes to all abutting property owners (according to the latest available tax listing) within a one-thousand three hundred twenty foot (1,320') radius of the proposed facility location, in addition to other special permit notice requirements, to facilitate the Board's notification of the public hearing to those additional property owners.

27.5 Conditions for Granting

In addition to the conditions for granting contained in Section 14.3 and all other applicable sections of this bylaw, the Planning Board shall make findings on which to base its determination on the specific issues of:

a) how well the use and proposal meet all required conditions and specifications of the bylaw;
b) if the proposed facility is to be located in a residential zoning district, or within a distance equal to twice the height of the tower (from the ground to its highest point) but not less than 200 feet of a residential zoning district, whether the applicant has provided substantial evidence that the facility cannot, by technical necessity, feasibly be located in a non-residential zone
c) whether the proposal would sufficiently screen the facility from view, both through landscaping, placement and design, in order to minimize the visual appearance of the entire facility from areas within a one-thousand three hundred twenty foot (1,320') radius of the proposed facility location.

d) whether the proposed facility will be housed within or upon a special structure, which will be architecturally compatible with the surrounding residential area (including, for example, bell tower or church steeple), or whether, by virtue of its design, no such special structure is required in order to minimize the visual impact within a one-quarter-mile (1,320') radius. This provision applies to facilities in Residential and Suburban zoning districts, or within a distance equal to twice the height of the facility (from the ground to its highest point) but not less than three hundred feet (300'), from such zoning district.

27.6 General Requirements

27.6.1 Any principal part of the facility (excluding guy cables) shall be setback from the nearest property line by a distance of twice the height of the facility (as measured to its highest point, including antennae, etc.), or a distance of three hundred feet (300'), whichever is greater.

27.6.2 Any principal part of the facility (excluding guy cables) shall be setback from the nearest residential structure by a distance of twice the height of the facility (as measured to its highest point, including antennae, etc.), or a distance of three hundred feet (300'), whichever is greater.

27.6.3 No artificial lighting shall be installed unless required by the Federal Aviation Administration. If such lighting is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.

27.6.4 A tower shall be of monopole or similarly unimposing design. In the event other than a monopole is proposed, the Board will view a guyed pole more favorably than a broad lattice type or similar structure. The applicant shall successfully demonstrate to the satisfaction of the Board that the proposed facility will have minimal visual impact.

27.6.5 To minimize the number of wireless communications facility sites in the community in the future, the proposed facility shall be designed and constructed so it is reasonably capable of accommodating other users, including other wireless communication companies and local police, fire and ambulance companies, unless it is determined to be technically infeasible based on the Board's evaluation of information submitted.

27.6.6 No interference to existing television, cable television or radio signals, including emergency systems and public safety communications, shall be permitted from the tower or components thereon. If interference occurs, it shall be the responsibility of the site owner to immediately remedy it.

27.6.7 Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, towers facilities shall be painted non-contrasting gray or blue in color, or camouflaged with some other treatment deemed acceptable by the Board. Antenna(e) shall be non-contrasting or camouflaged.

27.6.8 The related unmanned equipment and/or other buildings shall not be more than twelve (12) feet in height. All ancillary uses (including, for example, but not limited to, a maintenance depot, vehicle storage, etc.) are prohibited.

27.6.9 All utilities proposed to serve the facility shall be installed underground.

27.6.10 Dish antennae shall be no more than six (6) feet in diameter, and shall be mesh (rather than solid). Panel antennae shall be no more than five (5) feet in height.

27.6.11 No facility shall be located within a distance equal to twice the height of the facility (as measured from the ground to its highest point) plus four hundred feet (400') of a wellhead area of a municipal water supply.

27.6.12 Landscaping shall be provided around the base of the facility, adjacent to a security fence at least six feet (6') in height. The landscaping shall consist of a planting strip at least 25 feet wide, with ground cover and/or grass, and shall include at least one row of six-foot (6') high evergreen trees adjacent or proximate to the fence, and a row of deciduous trees at least ten feet (10') in height and at least one-and-one-half-inch (1½ ") caliper planted no more than 20 feet apart on center, and deemed acceptable by the Board. Applicants may substitute alternative landscape plans that meet the purposes of this subsection to limit the visual impact of the lower portion of the tower and adjoining accessory facilities for the Board's consideration.

27.6.13 A covenant/deed restriction shall restrict future residences within the setback areas described in Section 27.6.2 above.

27.7 Although not an accessory use as defined by the bylaw, a wireless communications facility may be sited on a lot which already accommodates a lawful principle use. Due consideration will be given to the overall functioning of the lot, with particular respect to the items in Section 27.5 and other applicable sections of this bylaw, during the Board's review of the special permit application.

27.8 Any alteration or expansion of the facility or structure or the uses it supports (including the size, number or color of antennae or other components) shall require a modified special permit, applied for in accordance with all regulations applicable at the time such application is properly made.

27.9 If the facility is abandoned or no longer operable, it shall be removed within six (6) months of its abandonment.

27.10 The Planning Board may, by a vote of at least 4 members, each of whom is eligible to participate in the special permit vote, authorize deviation from strict compliance with the provisions of Section 27 where such deviation is in furtherance of the purposes and intents of the bylaw, and where such authorized deviation is expressly enumerated, justified and acted upon by the Planning Board.

27.11 Separability: The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision herein.
(By-Laws of 10-28-97, Art. 1, By-Laws of 5-5-09, Art. 43, By-Laws of 5-4-2010 Art. 19)

Section 28. Adaptive Reuse Overlay District

28.1 Purpose

The purposes of the Adaptive Reuse Overlay District are to encourage adaptive reuse of abandoned, vacant or underutilized mill buildings; to encourage flexibility in site and architectural design; and to allow for a mix of new land uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods.

28.2 Establishment of Adaptive Reuse Districts

The Adaptive Reuse Overlay District is hereby established and shall be construed as an overlay district. Within the Adaptive Reuse Overlay District, all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supercede such underlying requirements or provide an alternative to such requirements. The boundaries of the Adaptive Reuse Overlay District may be applied to any property containing two (2) or more acres of land, and containing a building of at least 5,000 square feet of gross floor area that was originally constructed before 1940, and originally used for manufacturing or an associated use. The Adaptive Reuse Overlay District shall consist of the following properties (properties are identified by address, assessor's map – lot number, and parcel size):

Address	Assessor's Map	Assessor's Lot	Parcel Size (acres)
11 Mill St	84	3	4.5
127 West Main St	79	29	4.33
115 West Main St	70	99	3
95 West Main St	70	94	2.28
West Main St	78	7	2.1
22 West St	45	2	6.3
West Street	45	213	2.4
65 Canal Street	54	90	18.35
Riverlin Street	46	101	3.5
Riverlin Street	38	63	26
4 Lincoln Ave. Ext	46	1	3.2

(By-Laws A.T.M. 6-8-2004, Art. 42, A.T.M. 5-3-2005, Art. 47)

28.3 Master Plan Required

Any proposal for development or redevelopment of property under this section shall Require the submittal of an Adaptive Reuse Master Plan. The Master Plan shall include the following elements:

1) A narrative and graphic description of existing conditions including, at a minimum:
   a) Buildings and their uses.
   b) Natural and man-made site features.
   c) Utilities
   d) Traffic and circulation patterns.
   e) Underground features such as tanks and soil conditions.

2) A narrative and graphic description of the proposed development that meets the requirements set forth in Section 12.44 of this bylaw including, at a minimum:
   a) Buildings to be restored, rehabilitated, or constructed.
   b) Buildings to be removed.
   c) Proposed uses including the density or intensity of the proposed use.
   d) Proposed internal and external traffic and circulation patterns.
   e) Proposed parking needs, including provisions for shared parking between uses, if applicable.
   f) Proposed utilities including water, sewer, electrical and communications service, stormwater, and solid waste containment and disposal.
   g) Proposed landscaping and signage features.

3) An analysis of impacts associated with the proposed development, including, at a minimum:

a) A traffic study showing the impact of the proposed development on the surrounding area. The traffic study shall include existing and expected volumes at build-out, the expected directional distribution of vehicles to and from the site, and existing and expected levels of service at all intersections located within 3,000 feet of the site.
b) A wetlands and flood analysis showing the disposition of on-site stormwater and its impacts on properties located downstream of the site.
c) Impacts upon the delivery of public services, including schools, if any.
d) Impacts upon historic properties or districts, if any.
e) Potential property taxes and other revenues that may be generated by the project.

28.4 Review Criteria

The Planning Board shall review and act upon a Master Plan proposal as a special permit, in accordance with the following criteria:

1) The provisions set forth in Section 14.3 of this bylaw;
2) The relation of the proposed land use (s) to the surrounding area;
3) The capacity of local infrastructure to accommodate the proposed development;
4) The impacts identified in the Master Plan, and the ability of the developer to mitigate those impacts.
5) The extent to which existing buildings are preserved.

28.5 Permitted Uses

The following uses are permitted by Special Permit from the Planning Board in the Adaptive Reuse Overlay District. No other use or structures shall be permitted, except as specifically provided herein.

1) Multi-family Dwellings;
2) Business or Professional Offices;
3) Retail Sales and Services, including Florist Shop,
4) Personal Services;
5) Restaurants, except the use of drive-up windows;
6) School or College;
7) Non-profit Club or Lodge;
8) Philanthropic Institutions;
9) Municipal Use;
10) Recreation and open space;
11) Accessory uses; and
12) Uses similar in nature and impact to those listed above, subject to such determination by the Planning Board; or
13) Any combination of the uses shown above.

(By-Laws A.T.M. 6-8-2004, Art. 42, A.T.M. 5-3-2005, Art. 48)

28.6 Non-Conforming Buildings and Structures

Within the Adaptive Reuse Overlay District, no existing building or structure that is shown on an Adaptive Reuse Master Plan shall be deemed non-conforming. Any addition to or expansion of an existing building or structure shall meet the height, bulk, and setback requirements of the underlying zone, except that the increased buffer provisions set forth in sections 24.3 and 25.3 shall not apply. The Planning Board shall waive setback requirements upon a showing that such waiver is necessary to comply with applicable building codes for health or safety purposes, or to comply with the requirements of the Massachusetts Architectural Barriers Board.

28.7 Use, Dimensional, and Parking Requirements

1. For reuse or substantial restoration of existing buildings or structures within the Adaptive Reuse Overlay District, the proposed residential density or non-residential intensity of proposed uses shall be based upon the demonstrated ability of the site to accommodate such density or intensity of use. The applicant shall demonstrate that the proposed off-street parking associated with the development is sufficient to accommodate the proposed uses. Parking area design shall comply with the provisions set forth in Section 33.3 of this bylaw.

2. For all new buildings and structures, the parking and loading requirements set forth in Section 33 of this bylaw shall apply:

3. For all new buildings and structures, the dimensional requirements of the underlying zoning district shall apply. For all new buildings and structures, the following use densities or intensities shall apply:

a) Multi-family dwellings: four (4) dwelling units per acre.
b) All other permitted uses: no building or structure shall be larger than the largest existing building on site, and the total lot coverage shall not exceed fifty (50%) percent.

4. The Planning Board may waive or modify dimensional requirements if it finds that such waiver or modification would result in a superior design that would result in an improvement or benefit to the site or its surrounding area.

5. Affordable Dwelling Units: For a period not less than thirty (30) years, a minimum of ten (10%) of the total number of dwelling units shall be restricted to persons qualifying as low or moderate income in accordance with the Massachusetts Department of Housing and Community Development definitions of low and moderate income. The following additional criteria shall apply:

a) Affordable units shall be integrated into the overall development so as to prevent the physical segregation of such units.

b) Town Counsel shall approve the use restriction or re-sale controls as to form. The restriction or re-sale controls shall adequately specify material provisions for affordability, monitoring and enforcement. A right of first refusal upon the transfer of such restricted units shall be granted to the Millbury Housing Partnership for a period not less than one hundred-twenty (120) days after notice thereof.

c) If no federal or state subsidy is used to fund the creation of the affordable units, the Planning Board may require the applicant to submit an application to the Local Initiatives Program so that the units can be added to the Chapter 40B Subsidized Housing Inventory maintained by the Massachusetts Department of Housing and Community Development (DHCD).

(Bylaws 6-8-2004 A.T.M. Art. 42, 5-3-2005 A.T.M. Art. 49, Bylaws 5-5-09, Art. 43)

ARTICLE 3. GENERAL REGULATIONS

Section 31. Adult Uses Bylaw

31.1 Authority and Purpose. This bylaw is enacted pursuant to MGL, Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect in generating crime and blight.

31.2 Definitions

1. **Adult Entertainment Enterprises:** To include Adult Retailers, Adult Dance Clubs, and Adult Theaters as defined herein.

2. **Adult Retailers:** An establishment having as a substantial or significant portion of its stock in trade devoted to books, magazines, videotapes, cd-roms, implements, or other matter or paraphernalia which are characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL, Chapter 272, Section 31, and which excludes minors by virtue of age.

3. **Adult Dance Club:** An establishment which, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in MGL, Chapter 272, Section 31, and which excludes minors by virtue of age.

4. **Adult Theater:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or excitement as defined in MGL, Chapter 272, Section 31, and which excludes minors by virtue of age.

31.3 Adult Entertainment Enterprises.

31.31. Adult entertainment enterprises may be allowed in Business II districts only by Special Permit granted by the special permit granting authority as provided under Article 1, Section 14 of the Millbury Zoning Bylaws in conformance with the following controls:

1. No adult entertainment enterprise shall be located less than five hundred feet (500') from the property boundary lines of any residential district.

2. No adult entertainment enterprise shall be located less than one thousand feet (1000') from the property boundary lines of any lots in religious facility use.

3. No adult entertainment enterprise shall be located less than one thousand feet (1000') from the property boundary lines of any lots in public or non-profit school, library, park, playground, or recreational use or in other areas in which large numbers of minors regularly travel or congregate.

4. No adult entertainment enterprise shall be located less than one thousand feet (1000') from any other adult entertainment enterprise.

5. No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult entertainment enterprise merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult entertainment enterprise, or be visible to the public from pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

6. A special permit under this section shall not be issued to any person convicted of violating the provisions of Section sixty-three of Chapter one hundred and nineteen or Section twenty-eight of Chapter two hundred and seventy-two, MGL.

31.4 **Severability.** Each provision of this bylaw shall be construed as separate to the end; that if any provision, or sentence, clause, or phrase thereof shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect. (Bylaws of 5/7/96, Article #78)

Section 32. Dimensional Regulations and Exceptions.

32.1 Exemptions. Certain lots in subdivisions or in separate ownership are exempt from some of these requirements through Section 6 of Chapter 40A, General Laws. In addition, lots in nonresidential districts and / or to be built upon for nonresidential use shall enjoy the same exemption as if being built upon for residential use in a residential district. (By-Laws of 4-1-78, Art.40)

32.2 Yards. Article 2 notwithstanding, no building need provide a front yard larger than the average of the front yards of all existing buildings within 600 feet on the same side of the street.

32.3 Street Lines. Where no street line has been established or can be readily determined, such line shall be assumed to be twenty-five feet from the center of the traveled roadway for the purpose of applying this By-law.

32.4 Corner Vision. No sign, opaque fence, hedge, or similar obstruction shall be permitted to block vision at eye level (2 1/2 to 8 feet above street grade) between streets within twenty (20) feet or less from their intersection.

32.5 Splitting Two-house Lots. Any lot on which more than one dwelling legally existed at the time of adoption of this provision may be divided and sold to separate owners provided that such division be made so as to create the minimum of non-conformance, provided that each resulting lot contains a dwelling, and provided that each dwelling has at least twenty foot frontage on a right-of-way to a public way.

32.6 One Structure Per Lot. No more than one (1) residential structure shall be erected on any lot, except that more than one (1) multifamily structure may be placed on a lot if the Planning Board, in its deliberations on an application for a special permit for multifamily dwellings under Section 14.11(a), determines that each such multifamily structure will be served by access equivalent to that required for single or two-family structures on separate lots under the rules and regulations governing the subdivision of land in Millbury, Massachusetts. Not more than one (1) principal nonresidential structure shall be erected on a lot unless each such structure is served by access determined by the Building Inspector to be functionally equivalent to that required for separate lots by the Planning Board under its Subdivision Regulations.

32.7 Dwelling Equivalents. Each two guest units in a hotel or motel, each four beds in a hospital or nursing home, and accommodations for four persons in a boarding house, residential social service facility, dormitory, or other group living arrangement shall be considered equivalent to a dwelling unit in determining required lot area.

32.8 Special Density Provisions. For multifamily dwellings in the Business I district, the lot area requirements of the Business II district shall apply, except that the special permit granting authority may grant a special permit for a reduction provided that the following are complied with:

(a) At least twenty (20%) percent of the lot area shall be maintained with lawns, shrubs, or other vegetative cover.

(b) The lot area provided shall not be less than twelve thousand five hundred (12,500) square feet, and also not less than the smaller of:

(1) One thousand two hundred fifty (1250) square feet per dwelling unit, plus five hundred (500) square feet per bedroom, plus the ground coverage for any nonresidential use; or

(2) For new structures only, seventy-five (75) per cent of the lot area per dwelling unit presently provided on the site, in cases where the site is presently occupied by a dwelling.

32.9 Accessory Structures: All accessory structures, including swimming pools (in ground, above ground, hot tubs and spas), sheds over one hundred twenty (120) square feet, and decks shall meet all minimum yard setback requirements for the applicable district.

32.10 Conformity of Lots. No lot, yard, frontage, required open space, or parking area shall be so reduced or maintained that yards, other open spaces, total lot area, or parking areas shall be smaller than prescribed by this by-law. After the date of adoption of this by-law, land in all districts shall be subdivided so that every lot conforms to this by-law.

32.11 Required Yards Cannot Be Used By Another Building. No part of a yard, parking space, or other open space required for any building or use for the purpose of complying with the provisions of this by-law shall be included as part of a yard, parking space, or other open space required under this by-law for another building except as provided in section 32.10.

32.12 Odd-Shaped Lots Prohibited. No building permit shall be issued for any new construction on a lot which has a regularity factor of less than four-hundredths (0.4). The regularity factor shall be determined by the formula:

$$\text{Regularity} = \frac{16 \times \text{Land Area (in square feet)}}{\text{Perimeter}^2 \text{ (in feet)}}$$

That part of the lot area in excess of the required lot area may be exclude from the Regularity Formula in determining the regularity factor. The perimeter containing the excess area shall not include the required frontage.

The Regularity Formula shall not apply to lots of record as of the date of adoption of this section.

(By-laws of 5-27-75, Art. 86(3); By-laws of 4-2-77, Art. 65, s.2; By-laws of 4-1-78, Art 40; By-laws of 4-3-82, Art. 52: By-laws of 6-4-83, Art. 5; By-laws of 6-6-89, Art. 75,s. 6; By-laws of 6-6-89, Art. 76, s. 7, By-laws of 6-6-89, Art. 78, s. 9; By-laws of 5-7-91, Art.52, By-laws of 5-2-06, Art. 47, By-laws of 5-5-09, Art. 37, By-laws of 5-5-09, Art. 38)

Section 33. Parking and Loading Requirements

33.1 General. Adequate off-street parking must be provided on paved surfaces to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be either on the same premises as the activity it services, or within five hundred feet (500') on a separate parcel, which may be used jointly with other premises for this purpose. In applying for a building or use permit, the applicant must demonstrate that the following minimums will be met unless these are reduced on special permit from the special permit granting authority upon determination that special circumstances render a lesser provision adequate for all parking needs. (By-laws of 4-1-78, Art. 40)

33.2 Schedule of Requirements. Nonresidential uses in the Business I District are exempt from these requirements (parking) if having a public entrance located within a two hundred foot (200') walking distance of an existing municipal off-street parking lot.

Dwellings: One (1) space per two (2) dwelling units if serving subsidized elderly housing, two (2) spaces per dwelling unit and three spaces (3) per two-bedroom, multi-family dwelling unit. One (1) additional space per bedroom shall be added for each multi-family dwelling unit containing an excess of two bedrooms.

Motel, motor court, lodging house: One (1) space per guest unit.

Offices, stores: One space per two hundred (200) square feet gross leasable floor area, but not fewer than three (3) spaces per retail establishment.

Restaurant, place of assembly: One (1) space per four (4) seats.

Bowling alley: Four (4) spaces per lane.

Nursing home, hospital: One (1) space per four (4) beds.

Industrial, wholesale: One (1) space per one and one-fourth (1 1/4) employees per shift. Others individually determined. (By-laws of 4-2-77, Art. 67.s.1,2; by-laws of 6-6-89, Art.70, s. 1; By-laws of 6-6-89, Art. 71, s. 2; By-laws of 5-5-09, Art. 33)

33.3 Parking Area Design. No off-street parking area shall be maintained within ten (10) feet of a street line. Within a required front yard no parking area or driveway shall be located closer to a side lot line than the required side yard setback. Single-family residences shall not share egress. For parking areas of six (6) cars or more the following shall apply: (By-laws of 5-4-74, Art. 92)

33.31 Parking area use shall not require backing onto a public way.

33.32 Center lines of driveways serving twenty (20) or more parking spaces, if egressing onto a major street, shall observe separations and visibility requirements as follows:

	Industrial II	**All Other Districts**
Separation		
Other such driveways		
Same side of road	400 feet minimum	200 feet minimum
opposite side of road	0 or 250 ft. min.	0 or 125 ft.
Intersecting street sideline	250 feet	125 feet
Visibility		
In each travel direction	400 feet	200 feet

In the Industrial I and Industrial II districts, no existing parcel shall be divided into lots with frontage which would preclude meeting the separation requirements unless access rights-of-way are provided to enable compliance. (By-laws of 9-30-74, Art. 8 (IV))

33.33. Such parking lots shall be screened from any abutting residential use by densely planted shrubs or a fence.

33.34. In a Residential or Suburban district, no such parking lot shall extend into a required yard.

33.35. In an Industrial II district - Industrial Park, driveway separation distances on the same side of the road and on opposite sides of the road shall be determined by the special permit granting authority through Section 14.11 (1), site plan review. (By-laws of 10-7-86, Art. 8)

33.4 Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off a public way, or be parked on a public way while loading or unloading, or waiting to do so.

Section 34. Signs

34.1 Purpose and Applicability

The purpose of this chapter is to protect the safety and orderly development of the community through the regulation of signs and sign structures. The orderly development of the community requires striking a balance between the needs of businesses to advertise, and the desire of residents to maintain an aesthetically pleasing environment. The regulation of signs is an important element in promoting local business while ensuring a safe and attractive community.

This chapter regulates any device intended to convey a message that may be viewed by the public from any street. This chapter shall not regulate traffic and directional signs, or any sign installed or required by the Town of Millbury, the Commonwealth of Massachusetts, the United States of America, or any unit of these respective governments.

34.2 General Provisions

1. Conformance to Codes. Any sign hereafter erected shall conform to the provisions of this bylaw and the provisions of the Building Code and any other applicable bylaw or regulation within the Town of Millbury.

2. Signs in Rights-of-Way. No sign other than an official traffic sign or similar sign shall be erected within two feet of the lines of any street, or within any public way, except as authorized in Section 34.2.3.

3. Projections over Public Ways.

A. Signs projecting over public walkways may do so only pursuant to a Special Permit from the Planning Board and subject to a minimum height of ten (10) feet from grade level to the bottom of the sign. Signs, architectural projections, or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the Town of Millbury for such structures.

B. Banners extending over streets or walkways are permitted in the Business I zone only, by Special Permit from the Board of Selectmen, which approval shall be granted only for banners related to an event of community interest.

4. Traffic Visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape, or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

5. Computation of Frontage. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated may then be applied to permitted signs placed on each separate wall or property line frontage, set forth in Table 34.6.01.

6. Electronic Message Centers (EMC's) and Changeable Messages. Changeable signs, manually activated, are permitted in all business and industrial zones. EMC's, are allowed by special permit in all business and industrial zones. Elements to be reviewed and regulated in allowing a special permit shall include, but not be limited to the following:

> The intensity of illumination shall not exceed the standards set by Illuminating Engineering Society's (IES) publication TM-11-00, and International Sign Association (ISA) electronic message display brightness guide as most recently updated. Freestanding EMC's are prohibited in the Business I zone

Freestanding changeable signs, electrically activated, are prohibited in the Business I zone. (By-Laws of 5-7-2013, Art. 18)

7. Maintenance, Repair or Removal. Every sign permitted by this bylaw shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the Building Inspector, or if any sign shall be unlawfully installed, erected, or maintained in violation of any of the provisions of this bylaw, the owner thereof or the person or firm using same shall, upon written notice by the Building Inspector forthwith in the case of immediate danger, and in any case within not more than ten (10) days, make such sign conform to the provisions of this ordinance, or shall remove it. If within ten (10) days, the order is not complied with, the Building Inspector may remove or cause such signs to be removed at the expense of the owner and/or the user of the sign. In the case of immediate danger to public safety, the Building Inspector shall have the authority to immediately remove or cause to be removed any sign, at the expense of the owner. Such removal shall occur only after the Building Inspector has contacted, or attempted to contact the owner of the sign. The Building Inspector shall have sole and exclusive authority to determine that a sign poses a threat of immediate danger to public safety.

8. Nonconforming Signs. Any sign legally existing at the time of the passage of this bylaw that does not conform in use, location, height, or size with the regulations of the zone in which such sign is located shall be considered a legal non-conforming use or structure and may continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

A. No sign shall be structurally altered unless it is made to conform to this bylaw.

B. No billboard and no temporary sign shall be considered to be a legal nonconforming sign.

9. Off-Premises Signs. Off-premises signs are necessary to promote those commercial or other activities that, due to location, may require greater visibility than that which is available on premises. However, the needs of such businesses or activities must be balanced against the need for an uncluttered landscape, especially in residential and rural areas of the town. The following regulations govern the use of off-premises signs:

A. No business shall be permitted more than three (3) off-premises signs.

B. No off-premises sign shall exceed six (6) feet in height.

C. The total area of off-premises signs for any business shall not exceed twelve (12) square feet in the aggregate.

D. Off-premises signs for home occupations are prohibited.

E. Off-premises signs shall be placed on private property only. In applying for a permit for an off-premises sign, the applicant shall furnish evidence of the approval of the owner of the property upon which the sign is to be placed. No property shall contain more than one off-premises sign.

10. Wayfinding Signs. Wayfinding signs are deemed essential to the orderly growth of the community, and especially the downtown area. Wayfinding signs shall be permitted for groups of three (3) or more users, with designs and locations approved by the Board of Selectmen. When located on public property, users shall pay an annual fee to the Town of Millbury, which fee shall be established and amended from time to time by the Board of Selectmen.

11. Illuminated Signs.

A. No sign shall be illuminated except during the hours of operation of the business to which the sign refers, or until 10:00 p.m., whichever is later.

B. Electric signs shall display the Underwriter's Laboratory approval seal, or shall display the manufacturer's name, and the voltage and amperage used.

12. Obsolete Sign Copy or Abandoned Signs

Any sign that no longer advertises or identifies a use conducted on the property on which said sign or signs are attached or erected or free standing MUST have such sign or signs removed within thirty (30) days after written notification form the Building Inspector. Painting, taping over or installing faces in reverse does not constitute removal. (Bylaws of 5-2-2006, Article 48)

34.3 Exempt Signs

The following signs shall be exempt from the provisions of this bylaw. No sign shall be exempt from the requirements set forth in Section 34.4.1.

1. Official notices authorized by a court, public body, or public safety official.

2. Directional, warning or information signs authorized or required by federal, state, or municipal governments.

3. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

4. The flag of a government or noncommercial institution, such as a school.

5. Religious symbols and seasonal decorations within the appropriate holiday season.

6. Street address signs, and combination nameplate and street address signs attached to a building, which contain no advertising copy and which do not exceed six (6) square feet in area.

7. Historical markers.

8. Construction signs of thirty-two (32) square feet or less.

9. Nameplates of one (1) square foot or less.

10. Real estate sings limited to one sign per property, not greater than 4 feet in height and 6 square feet in area.

11. Political Signs; provided they meet any applicable size, height, and location requirements.

(By-Laws of 5-5-09, Art. 45; By-Laws of 5-7-13, Art. 19; By-Laws of 5-2-17, Art. 28)

34.4 Prohibited Signs
The following are specifically prohibited:

1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or which obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

2 Except as provided in Sections 34.2.3 and 34.7.3, signs encroaching upon or overhanging any street or public right-of-way.

3. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

4. Signs that blink, flash or are animated by lighting in any fashion, except for Electronic Message Centers (EMC's) as described in section 34.2(6).
(By-Laws of 5-7-13, Art. 21)

5. Portable signs, except for temporary signs as set forth in Section 34.6.4.

6. Advertising vehicles or any sign attached to, or placed on, a vehicle or trailer parked on any public or private property, except for signs meeting the following conditions:

A. The primary purpose of such vehicle or trailer is not the display of signs

B. The signs are magnetic, decals, or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.

C. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.

7. Balloons, streamers, pennants, or pinwheels, except those temporarily displayed as part of a special sale, promotion or community event, as set forth in Section34.6.4(C). For the purposes of this subsection, "temporarily" means no more than thirty (30) days in any calendar year.

8. Any sign constructed upon or attached to the roof of a building or structure. For the purposes of this subsection, the face of a mansard roof or fascia shall not be considered to be a part of the roof.

9. Billboards are prohibited.

10. Signs of any kind on public property, without the express written approval of the public entity in control of such property.
(By-Laws of 5-2-17, Art. 29)

34.5 Permits

1. Permits Required. Unless specifically exempted, a permit must be obtained from the building inspector for the erection of all signs erected or maintained within the Town of Millbury, and in accordance with all other applicable regulations and bylaws of the Town. Exemptions from the necessity of securing a permit, however, shall not relieve the owner of the sign from responsibility for its erection and maintenance in a safe manner, and in a manner in accordance with all the other provisions of this bylaw. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected.

2. Construction documents. Any sign twelve (12) feet or over in height above adjoining grade, or any free standing sign or any projecting sign with an area over sixty (60) square feet, or any marquee sign shall have structural drawings and specifications, including foundations, prepared by a registered professional engineer. The Building Inspector shall have the authority to waive or modify this requirement if he believes that public safety can be achieved through alternative methods.

3. Electrical Signs. An electrical permit shall be required for all illuminated signs in conformance with 780 CMR3102.13.2.

4. Changes to Signs. No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

5. Permit Fees. Permit fees to erect, alter, enlarge or relocate a sign shall be in accordance with the fee schedule adopted by the Board of Selectmen.

34.6 Specific Sign Requirements

1. Size and Height Requirements. Signs are permitted in all zones in accordance with the size and height restrictions set forth in Table 34.6.01. In residential zones, wall signs are measured in square feet. In all other zones, wall signs are measured as a percentage of the wall space upon which the sign is placed. In all cases, "wall" refers to an exterior wall of a building facing a street or a public way. For shopping centers, planned industrial parks or other multiple occupancy nonresidential building, the building face or wall shall be calculated separately for each separate occupancy.

Table 34.6.01						
Signs Permitted by Zone						
Sign Type	Zone					
	R I - III	S I - IV	*BV*	B I	B II	I I - III
Max Size/ Max Height	s/h	s/h	*s/h*	s/h	s/h	s/h
Wall Maximum Height	6'	6'	*20'*	20'	25'	35'
Wall Maximum Size	4 s.f.	4 s.f.	*15%/300***	15%/300**	25%/500**	30%/600**
Freestanding Size/Height	6 s.f./6'	6 s.f./8'	*Not Permitted*	32 s.f./6'*	60 s.f./15'	80 s.f./20'

*Requires a Special Permit from the Planning Board
**Percentage of wall area up to a maximum size
(By-Laws of 5-5-09, Art. 47)

2. Calculation of Sign Size. For freestanding signs, internally illuminated signs, and any other sign with an identifiable border, the entire face of one side of the sign shall be measured. For all other signs, the area of the sign shall be calculated by drawing the smallest possible rectangle or rectangles around the sign copy. Illustrations of specific sign types and the methods used to calculate sign sizes are shown in the Appendix.

3. Directional signs. One directional sign shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In Residential zones, the maximum area for directional signs shall be 4 square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be 12 square feet. Not more than twenty five percent of the area of any directional sign may be devoted to business identification or logo, which area shall not be assessed as identification sign area.

4. Temporary Signs

A. Development and construction signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project, or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs on a single residential lot shall be limited to one sign, not greater than four (4) feet in height and sixteen (16) square feet in area and shall be set at least ten (10) feet from the street lot line.

2. Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than eight (8) feet in height and thirty-two (32) square feet in area and shall be set back at least ten (10) feet from the street lot line.

3. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed eight (8) feet in height and thirty-two (32) square feet for projects on parcels five (5) acres or less in size, and not to exceed twelve (12) feet in height and one-hundred (100) square feet for projects on parcels larger than five (5) acres and shall be set back at least ten (10) feet from the street lot line.

4. Development and construction signs shall be removed not later than ten (10) days following issuance of an occupancy permit for all or any portion of the project.
(By-Laws of 5-5-09, Art. 46, By-Laws of 5-4-2010, Art. 21,
By-Laws of 5-7-13, Art. 22)

B. Special promotions, event and grand opening signs. Portable signs and other signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for all business and industrial zones, subject to the following requirements and limitations:

1. Such signs shall be limited to one sign per street front.

2. The aggregate area of all such signs shall not exceed 64 square feet.

3. Such signs shall not be internally illuminated.

4. Such signs require a permit from the building inspector.

C. Portable signs. Portable signs shall be permitted in all Business and Industrial zones, and only in conjunction with a special event or promotion as provided in Section 34.6.4(C), subject to the following limitations:

1. No more than one such sign may be displayed on any property. Such sign shall not exceed a height of six feet or an area of 32 square feet in the Business I zone; such signs in other permitted zones shall not exceed a height of twelve feet or an area of 60 square feet.

2. No portable sign shall contain any component that moves or flashes.

3. No portable sign shall be displayed prior to obtaining a sign permit.

D. Political signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

1. Election-specific political signs to be displayed 60 days prior to election and removed 3 days after the election.
(By-Laws of 5-7-13, Art. 20)

E. General

1. No temporary sign shall be displayed for more than ninety (90) days in any calendar year.

2. No temporary sign shall be placed within the right-of-way of any street.

3. No temporary sign shall be placed in a manner that may obstruct traffic visibility. (By-Laws of 5-7-13 Art. 22)

34.7 Requirements for Specific Sign Types

1. Marquee signs.

A. The copy area of marquee signs shall be counted toward the permitted area for wall signs.

B. Graphic striping, patterns or color bands on the face of a building, marquee, or architectural projection shall not be included in the computation of sign copy area.

2. Canopy and Awning signs.

A. The copy area of canopy and awning signs shall not exceed an area equal to twenty-five percent (25%) of the background area of the canopy, awning or awning surface to which such sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.

B. Neither the background color of a canopy or awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area, except as set forth in Section 34.7.2(D).

C. For the purpose of calculating the permitted size and height of a sign, awning signs shall be considered as wall signs, and they shall count toward the permitted area for all wall signs.

D. In the Business I zone, the entire area of a back-lit awning, regardless of whether the awning contains any advertising copy, shall count toward the allowed wall signage.

3. Projecting signs.

A. Projecting signs shall be permitted in lieu of freestanding signage, limited to one sign per occupancy along any street frontage with public entrance to such occupancy.

B. No such sign shall extend vertically above the highest point of the building facade upon which it is mounted.

C. Such signs shall not extend over a public sidewalk in excess of two-thirds (2/3) of the width of the sidewalk, and shall comply with the requirements set forth in Section 34.2.3 of this bylaw.

4. Under canopy signs

A. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed 8 square feet. The size of such sign shall be included in the allowable computation of wall signs.

B. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of ten (10) feet.

5. Window signs. Window signs shall be permitted in all business and industrial zones, subject to the following limitations:

A. The aggregate area of all such signs shall not exceed twenty-five percent (25%) of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.

B. Window signs that are electrically operated shall be assessed against the sign area permitted for other sign types. All other window signs shall not be assessed against the permitted sign area.

34.8 Signs for Development Complexes

1. Master Sign Plan Required. All single-owner controlled multiple-occupancy non-residential or mixed-use development complexes on parcels exceeding four (4) acres in size, shall submit to the Planning Board a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

A. Proposed sign locations

B. Materials

C. Type of illumination

D. Design of freestanding sign structures

E. Size

F. Height

G. Quantity

H. Uniform standards for non-business signage, including directional and informational signs.

2. Development Complex Sign. In addition to the freestanding business identification signs otherwise allowed by this bylaw, every multiple-occupancy development complex shall be entitled to one freestanding sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any freestanding sign otherwise permitted under this bylaw may identify the name of the development complex.

3. Compliance with Master Sign Plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

4. Special Permit Required. The Planning Board shall act upon all applications for master sign plans through the special permit process. Special permits for master sign plans shall be reviewed concurrently with the site plan approval process. In their review of master sign plans, the Planning Board shall consider the following:

A. The relationship of the proposed signage to the overall development, as well as to surrounding properties.

B. The extent to which the proposed signage is compatible with the proposed architecture.

C. The use of appropriate landscaping to complement the proposed sign designs.

5. Waiver from Underlying Requirements. The Planning Board shall have the authority to modify or waive specific sign regulations related to a master sign plan if it finds that such modification or waiver results in a superior master sign plan design. (Bylaws 6-8-2004 A.T.M. Art. 46, A.T.M. 5-3-2005, Art. 50)

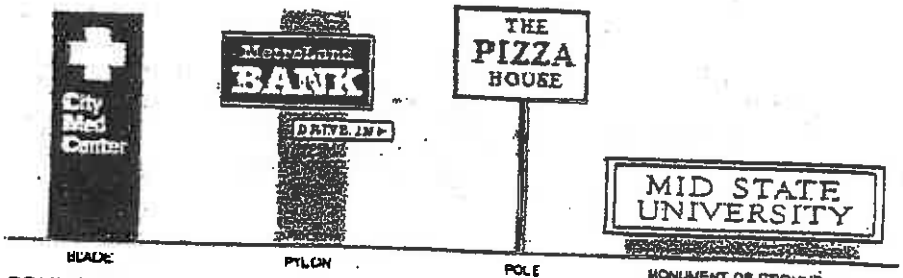
APPENDIX

ILLUSTRATIONS of GENERAL SIGN TYPES

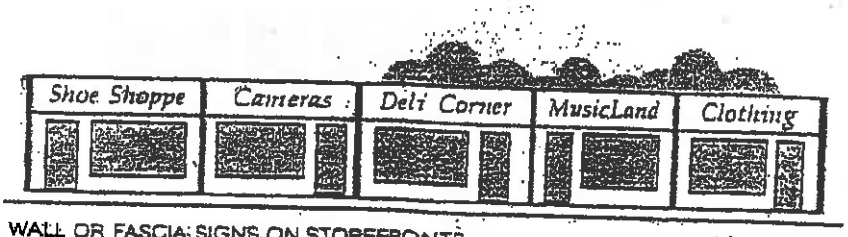
COMPARISONS of ROOF & WALL or FASCIA SIGNS

ILLUSTRATIONS of COMPUTATION METHODOLOGY of SIGN AREA

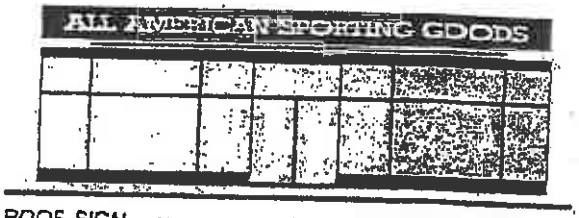
GENERAL SIGN TYPES



COMMON FREESTANDING SIGN TYPES

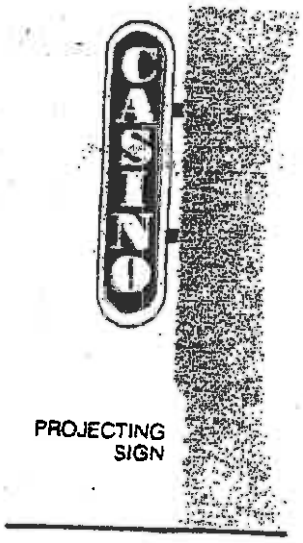


WALL OR FASCIA SIGNS ON STOREFRONTS



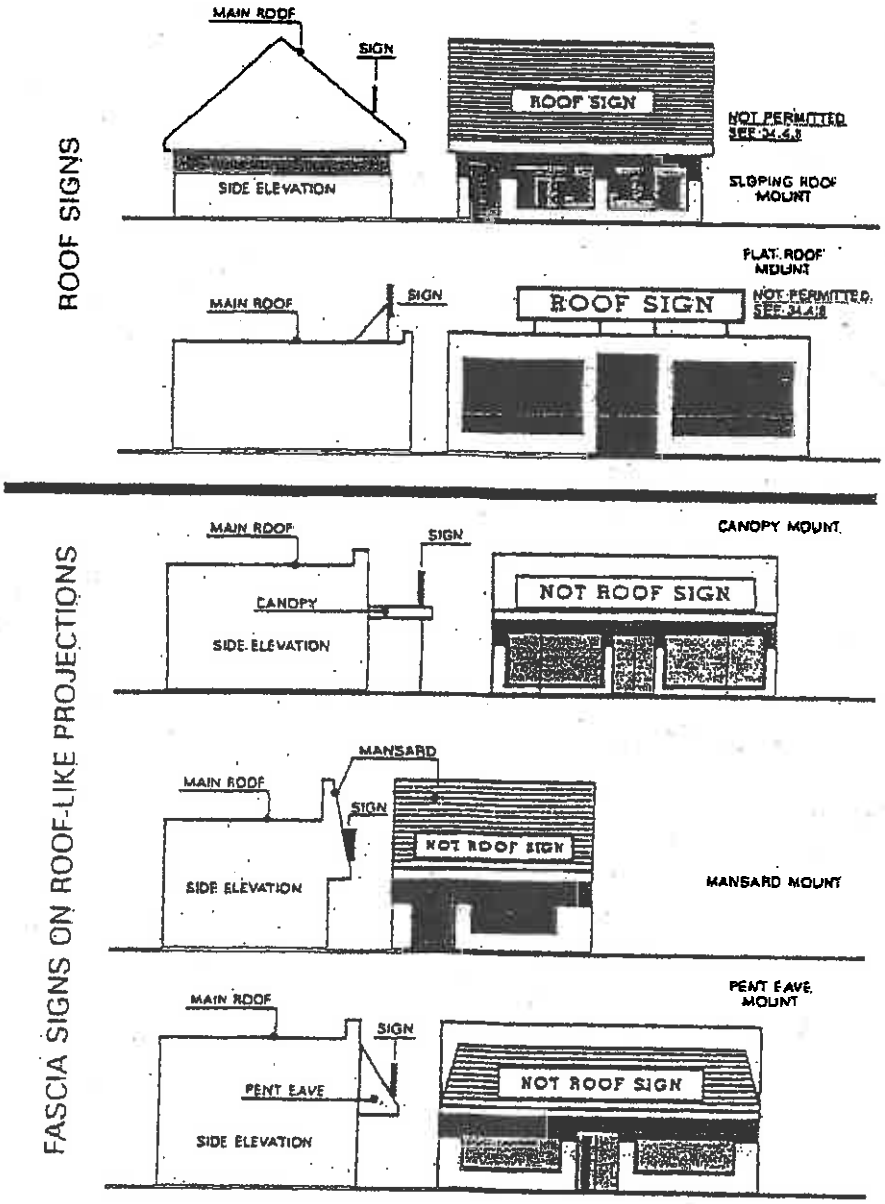
ROOF SIGN NOT PERMITTED SEE 34.8

CANOPY SIGN
ON FREESTANDING CANOPY

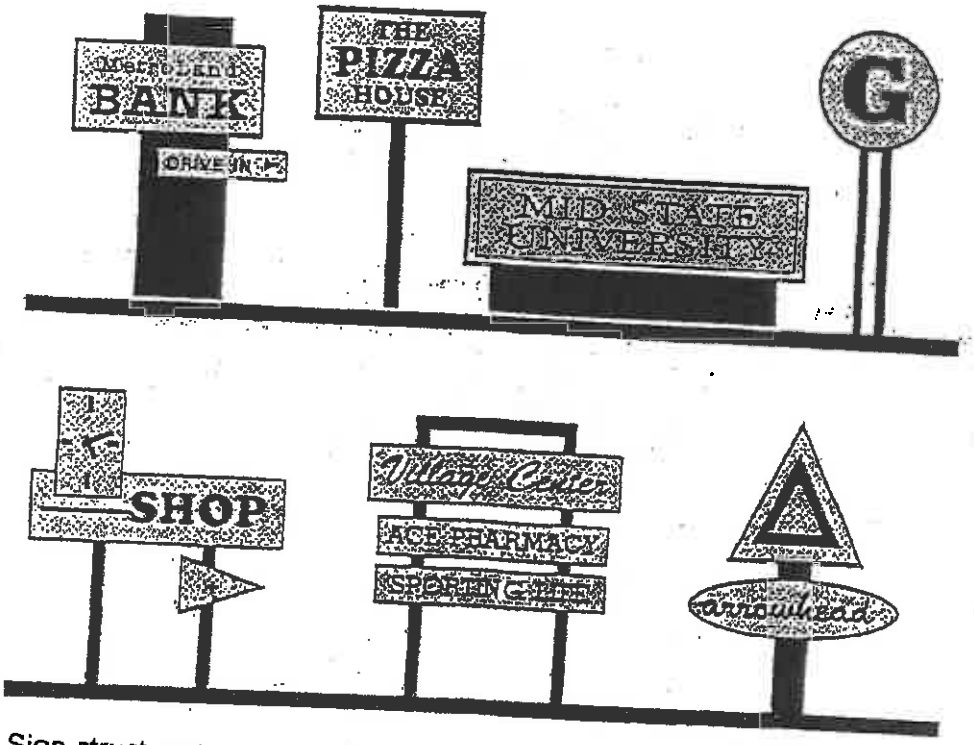


PROJECTING SIGN

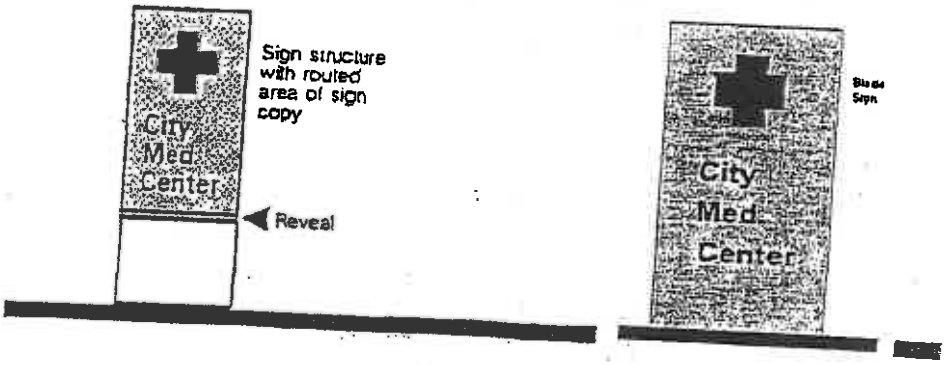
COMPARISON - ROOF & WALL OR FASCIA SIGNS



SIGN AREA - COMPUTATION METHODOLOGY
Sum Of Shaded Areas Only Represent Sign Area
Signs constructed with panels or cabinets



Sign structures



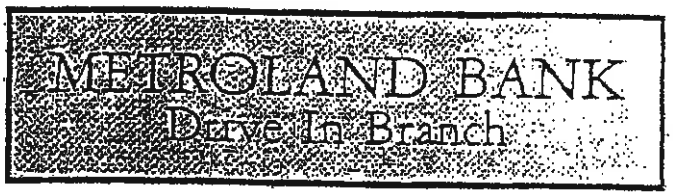
SIGN AREA - COMPUTATION METHODOLOGY

Sum Of Shaded Areas Only Represent Sign Area For Code Compliance Purposes

Signs consisting of individual letters, elements, or logos placed on building walls or structures.

Compute area around copy elements only

Compute area inside defined border or inside contrasting color area.



Compute sum of areas of individual elements on wall or structure

In computing area for upper and lower case lettering, include ascenders OR decenders, but not both. Calculate super ascenders separately as indicated.

Section 35. Environmental Controls

35.1 Disturbances. No use shall be allowed if it will cause sound, noise, vibration, odor, or flashing (except for warning devices, temporary construction work, assemblies of people, or other special circumstances) perceptible without instruments more than four hundred (400) feet from the boundaries of the originating premises in an Industrial I District, or if more than two hundred (200) feet from the boundaries of the originating premises if in an Industrial II or Business district. The Building Inspector may require applicants to provide evidence of probable compliance, either through engineering analysis or example of a comparable facility. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future changes in equipment or operating procedures must be such as to also comply with these standards. (By-laws of 9-30-74, Art. 8(V);
By-laws of 10-7-86, Art. 3)

35.2 Water Body Protection

35.21 Other provisions notwithstanding, no building or parking area shall be located within fifty horizontal feet of the normal bank of any stream or river having a year-round running flow of water, or of any lake or pond with surface of one thousand square feet or more of water eleven months of the year.
(By-laws of 5-27-75, Art. 85)

35.22 The peak flood channel of any year-round stream or river shall not be reduced by filling.

35.23 No person shall remove, fill, dredge, or build upon any bank, marsh, swamp or flat borders on inland waters without a Special Permit from the Special Permit granting authority. Such permit shall be issued only upon determination that the requirements of the Wetlands Protection Act (Chapter 131, Sec. 40, MGL) have been satisfied, and that such removal, filling, dredging, or construction will not pose hazard to health or safety.
By-laws of 4-1-78, Art. 40; By-laws of 4-5-80, Art. 75)

35.3 Pollution Control. All requirements of Article XI of the sanitary code of the department of public health and all regulations of the Central Massachusetts Air Pollution Control District shall be strictly complied with by all uses, and evidence of compliance shall be required when issuing permits.

35.4 Screening. Open storage and loading or service areas shall be screened from any adjacent residence or public way by plantings or fences. Junk, trash, or debris shall be confined out of sight or disposed of.

35.5 Hazard. No use shall be allowed which would create hazard due to explosion, fire, or other causes. Potentially hazardous conditions shall be fenced, covered, or removed to prevent injury.

35.6 Vegetation Removal. No area of an acre or larger shall have existing vegetation clear-stripped or be filled six (6) inches or more such as to destroy existing vegetation unless in conjunction with agricultural activity, or unless under a currently valid building permit, or unless within streets designated on an approved subdivision plan; or unless a special permit is approved by the special permit granting authority, on condition that runoff will be controlled, erosion avoided, and either a constructed surface or natural vegetation will be provided within a reasonable period, for the assurance of which a bond may be required.
(By-laws of 3-17-73; By-laws of 4-5-80, Art. 75)

35.7 Fences. No fence, wall, or hedge shall exceed six (6) feet in height, and no fence shall exceed thirty (30) inches in height within any required front yard area or within twenty (20) feet of the street, whichever is the lesser requirement, except that the special permit granting authority may grant a Special Permit for higher fences in cases where such will not endanger health or safety, or unreasonably impair vision or circulation of air.
(By-laws of 5-27-75, Art. 82; By-laws of 4-5-80, Art. 75)

Section 36. Floodplain District Requirements

36.1 Purposes. The purposes of this district (in addition to those enumerated elsewhere in this zoning by-law) are:

(a) To provide that lands in the Town of Millbury subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health, safety, or welfare of the occupants thereof, or of the public generally, or so as to burden the public with costs resulting from unwise individual choices of land use.

(b) To assure the continuation of the natural flow pattern of the watercourses within the Town, in order to provide adequate and safe floodwater storage capacity to protect against the hazards of flood inundation.
(By-laws of 4-7-79, Art. 55)

36.2 District Delineation. The floodplain district is herein established as an overlay district and includes all special flood hazard areas within the Town of Millbury designated as Zone A and AE on the Worcester County Flood Insurance Rate Maps (FIRMs), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. . The map panels of the Worcester County FIRMs that are wholly or partially within the Town of Millbury are panel numbers 25027C0804E, 25027C0807E, 25027C0808E, 25027C0809E, 25027C0812E, 25027C0814E, 25027C0816E, 25027C0817E, 25027C0820E, 25027C0826E, 25027C0828E, and 25027C0836E dated July 4, 2011. The exact boundaries of the District shall be defined by the 100-year base flood elevations show on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS), report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Inspector.

(By-laws of 4-7-79, Art. 55, By-laws of 6-7-11, Art. 27)

In Zone A, and AE, along watercourses that have not had 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 the base flood discharge. (Bylaws 6-8-2004 A.T.M. Art. 43)

Base flood elevation data is required for subdivision proposals or other developments greater than 50 dwelling units or 5 acres, whichever is the lesser, within the unnumbered A zones. (Bylaws 6-8-2004 A.T.M. Art. 43)

In Zones AE, along watercourses within the Town of Millbury that have a regulatory floodway designated on the Worcester County FIRMs, 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. (By-laws 6-7-11 A.T.M. Art. 27)

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

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G "Flood Resistant Construction and construction in Coastal Dunes")
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)
- Inland Wetlands Restriction, Department of Environmental Protection (DEP) (currently 310 CMR 13.00)
- Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5)
(Bylaws 6-8-2004 A.T.M. Art. 43, Bylaws 6-7-2011 A.T.M. Art. 27)

In the floodplain district no new buildings shall be erected or constructed except by Special Permit from the Special Permit granting authority, nor shall existing buildings be enlarged or moved except as hereinafter provided. No dumping, filling, or earth transfer or relocation shall be permitted, and no land or building shall be used for any purpose except:

(1) Conservation of water, plants, and wildlife:
(2) Outdoor recreation, including play areas, nature study, boating, fishing, and hunting where otherwise legally permitted, but excluding buildings and structures;
(3) Wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any water course;
(4) Grazing and farming, including truck gardening and harvesting of crops;
(5) Forestry and nurseries;
(6) Temporary non-residential structures used in connection with fishing or growing, harvesting, storage or sale of crops raised on the premises;
(7) Maintenance, repair, reconstruction, and additions of up to fifty percent (50%) of market value of buildings lawfully existing prior to the adoption of these provisions;
(8) Installation of driveways of minimum size necessary to serve areas outside the floodplain district, where other access is not feasible, provided no change in grade exceeds one foot vertically.

In addition, the following uses are specifically prohibited and may not be allowed by Special Permit:

(1) The storage or disposal of any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish, debris, or dredged spoil;
(2) Draining, excavation, or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock, or other mineral substance, except as accessory to work permitted as of right or by special permit;
(3) The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals;
(4) The storage or disposal of hazardous wastes, as defined by the hazardous waste regulations promulgated by the hazardous waste board, the water resources commission, and the division of water pollution control, under the provisions of Sections 27(8), 52, 57, and 58 of Chapter 21 of the General Laws.

The portion of any lot within the area delineated in 36.2 above may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated.
(By-laws of 4-7-79, Art. 55; By-laws of 4-5-80, Art. 75)

In a riverine situation, the applicant shall provide evidence that they have notified the following when any alteration or relocation of a watercourse is proposed:

The Chief Executive Officers and Conservation Commissions of
all adjacent towns (Auburn, Grafton, Oxford, Sutton, Worcester)
NFIP State Coordinator, Mass. Office of Water Resources
NFIP Program Specialist, FEMA Region I
(Bylaws 6-8-2004 A.T.M. Art. 43)

36.4 Special Permits. The special permit granting authority may consider and issue a special permit for uses, other than those occurring in the floodway, deviating from the regulations set forth in these by-laws only upon:

(1) A showing of good and sufficient cause, and;
(2) A determination that the construction of a structure will be in conformance with the state building code (specifically those sections dealing with construction in floodplains) and will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws.

The special permit granting authority may require such additional requirements and conditions as it finds necessary to protect the health, safety, and welfare of the public or the occupants of the proposed use, or of the floodplain district.

The special permit granting authority shall provide notice of any hearings hereunder to the planning board, the board of health, and the conservation commission, and shall maintain a record of all special permit actions, including justification for their issuance and report such special permits in the annual report submitted to the federal insurance administration.
(By-laws of 4-7-79, Art. 55; By-laws of 4-5-80, Art. 75)

36.5 Disclaimer of Liability. This zoning by-law does not imply that land outside the areas of the floodplain district or uses permitted within such district will be free from flooding or flood damage. This by-law shall not create liability on the part of the Town of Millbury or by any official thereof for any flood damage that may result from reliance upon this by-law or any administrative decision lawfully made thereunder. (By-laws of 4-7-79, Art. 55, By-Laws of 5-6-2014, Art. 43)

ARTICLE 4. SPECIAL REGULATIONS

Section 41. Home Occupations.

Home occupations are permitted if no more than twenty-five percent (25%) of the floor area of the residence is used for the occupation, not more than one person not a member of the household is employed on the premises in the occupation, there is no exterior display or storage or other variations from the residential character of the premises other than one (1) non-illuminated wall sign or freestanding sign not exceeding two (2) square feet in area, traffic generated does not exceed that normally expected in a residential neighborhood, and all parking required to service the occupation is provided off-street, other than within a required front yard. No equipment, process or activity shall be used in such home occupation which creates noise, vibration, glare, noxious odors, and electrical interference or otherwise disrupts the neighborhood integrity.
(By-Laws of 5-5-09, Art. 34, By-Law of 5-6-2014, Art. 34)

Section 42. Assisted Living Facility

Applicability. The Planning Board may grant a special permit for the construction and occupancy of an Assisted Living Facility (ALF), provided that it is served by public water, in a Residential I, Residential II, Residential III, Suburban I, Suburban II, Suburban III, Suburban IV, Bramanville Village, Business I, Business II and Industrial I District subject to the requirements set forth herein. In Residential and Suburban Districts, an ALF shall be located on at least three (3) contiguous acres. In all other eligible districts, the minimum lot size shall control. (By-Laws of 5-5-09, Art. 48)

42.1 Purpose and Intent. The purpose of this Section is to provide a mechanism for the approval of:

1. assisted living facilities (ALF) within a residential environment that offer supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition; and

2. the development of ALF in a manner that encourages the renovation and rehabilitation of older, existing buildings; and

3. the development of ALF in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

42.3 Use Requirements. Accessory uses for in-house residential services may be provided including, but not limited to, the following: beauty and barber salons, recreation, social services, physical fitness and therapy services, adult day care or adult day health facility, nondenominational chapel; library, bank automated teller machine, management offices, hospice residence, food service, small convenience store, cleaning and housekeeping, laundry, transportation, education; provided, however, that such accessory uses shall be designed for the primary use of the residents and staff of the ALF. Such accessory uses may not be designed for or used as a general business by the general public. Such accessory uses shall not have exterior advertising display.

42.3 Professional and Technical Review. The Board may hire professional and technical consultants to assist the Board in analyzing an ALF to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, or monitoring or inspecting a project or site for compliance with the Board's decision or regulation. The expenses for engaging professional and technical assistance and review in connection with an ALF shall be borne by the Applicant.

42.4 Application Procedure. Applicants are required to submit a special permit application and development plan, conforming to the requirements of this Bylaw. The development plan shall include a site plan and associated documents specified under Section 12.4 Site Plan Review and the following additional information:

1. a plan at a scale of 1" = 40' showing the topography of the site at a minimum of one foot intervals, as well as vegetation and special features, including wetlands,perennial streams and ponds, trees of more than 8" caliper, rock outcroppings,stone walls, outstanding vistas, archaeological and historic features, slopes in excess of 15%, existing and proposed trails and paths, open vistas, biological or wildlife habitats, and proposed conservation and recreation easement areas;

2. a proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;

3. information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium development, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;

4. copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;

5. any and all other information that the Planning Board may reasonably require in form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section

42.5 Design Standards. In addition to the Design Standards set forth in Section 12.4 Site Plan Review, the following design standards shall apply to all ALF's and shall govern the development and design process.

1. Open Space Requirements – At least thirty-five percent (35%) of the parcel containing the ALF shall be contiguous open space. The Planning Board may require that at least half of the open space be left in a natural state. Not less than fifty percent (50%) of the land preserved for open space shall contain buildable land as defined in Section 44.11.

2. Buffer Areas – In all districts, a buffer area of fifty (50) feet shall be provided at the perimeter of the property, except for driveways necessary for access and egress to and from the site; and a buffer of one hundred (100) feet shall be provided at certain resource areas on or adjacent to the tract including lakes,

ponds, wetlands, streams, and rivers. The Planning Board may waive, reduce or increase the buffer requirements where it determines that a larger or smaller buffer (or no buffer) is necessary, or will suffice, to accomplish the objectives set forth herein. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible.

3. On-site Pedestrian Circulation – Walkways or trails shall be provided to link residences with parking areas, accessory uses, and adjacent land uses where appropriate. Walkways or trails shall be attractively designed with proper regard for convenience, safety, adequate connectivity, and completeness of access to the various amenities and facilities on the site and to pathways on adjacent sites.

4. Protection of Natural and Cultural Features– All natural and cultural features, such stone as walls, trees, wooded areas, water courses, scenic points, and historic spots, shall be preserved as much as possible. Any clearance, backfilling, cutting, thinning or other disturbance to trees eight inches (8") or greater in diameter measured four feet (4') above finished ground level, located within the minimum front setback distance, shall be prohibited unless deemed proper by the Board. Any such proposed clearance shall be shown on the plan and written reasons therefore may be requested by the Board.

5. Access Ways and Associated Infrastructure – The access way(s) and associated infrastructure within the site shall be adequate for the intended use and vehicular traffic and shall conform to the Design and Construction Standards specified for a sub-collector in the Millbury Rules and Regulations Governing the Subdivision of Land. Access ways and associated infrastructure shall be perpetually owned and maintained by an association of unit owners or by the Applicant and his successors in interest.

6. Building Configuration – An ALF may consist of a single building or multiple buildings containing residential units and ancillary service facilities (i.e., kitchens, dining rooms, recreation areas, nursing stations, reception areas, and management offices). If multiple buildings are proposed, they shall be clustered together.

7. Parking – The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces provided on the site shall be seven-tenths (0.7) parking spaces per dwelling unit in an ALF.

   All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways.

8. Utilities – All dwelling units shall be served by public water, municipal sewer service or an on-site waste treatment facility (package treatment plant) approved by the Massachusetts Department of Environmental Protection (DEP).

9. Emergency Systems – The ALF shall have an integrated emergency call, telephone and other communications system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

42.7 Maximum Number of Units. The maximum number of units in an ALF shall not exceed fifteen (15) per acre of parcel size.

42.8 Density Bonus. Applicants are encouraged to provide dwelling units permanently restricted to occupancy by persons 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. Such affordable units shall be integrated into the overall development of the ALF so as to prevent the physical segregation of such units. For every affordable unit, the applicant may add two market rate units, provided that in no event shall the total number of units exceed forty percent (40%) of the maximum number of units prescribed in Section 42.7.

42.9 Dimensional Requirements. Structures within an ALF shall adhere to the dimensional requirements specified in Article 2 of the Millbury Zoning Bylaws, except as follows:

1. the minimum separation between structures shall be twenty (20) feet.

2. The maximum height of any structure shall be thirty-five (35) feet and (3) Stories.

42.9.1 Conversion of Existing Structures. Not withstanding any other provision(s) of this Section, the Planning Board may authorize the appropriate reuse of buildings no longer needed or suitable for their original use, and to permit reuse as an ALF when compatible with the character of the neighborhood. Applicants wishing to convert existing structures to ALF's may do so, subject to a special permit, where such building(s) is located on a lot with at least 30,000 square feet of area. The Planning Board may permit expansion of the structure to the degree reasonably necessary to construct entryways and features to comply with A.D.A. requirements and fire escape and fire protection features.
(Bylaws 5-1-07, Art. 51)

Section 43. Motor Vehicle Services

43.1 Location Requirements. Motor vehicle service stations shall be granted a Special Permit only in conformity with the following:

43.11 No location shall be approved if a vehicular entrance or exit will be so located as to create unusual hazard. Egressing vehicles shall have at least 400 feet visibility in each travel direction, and no vehicular entrance or exit shall be located within 10 feet of a side lot line or within fifty feet of the intersection of sidelines of intersecting streets. Entrances and exits shall occupy not more than 40% of lot frontage, and shall be clearly channeled through use of curb planting areas or similar devices.

43.12 No location shall be approved if a vehicular entrance or exit will be so located as to cross a major pedestrian flow, such as sidewalks serving churches, schools, recreation areas, or compact retail districts.

43.13 There shall be adequate space off-street for not fewer than two cars to await service per filling position, and no service building shall be located within 40 feet of a street line.

43.2 Car Wash Requirements. Automatic car washes shall provide space for not less than 15 cars per washing lane to queue off-street, and where waste water does not discharge directly into a public sewer, shall provide positive means of preventing water pollution.

Section 44. Open Space Community

44.1 Applicability. The Planning Board may grant Site Plan Approval for the construction and occupancy of an Open Space Community in a Residential I, Residential II, Residential III, Suburban I, Suburban II, Suburban III, and Suburban IV District, provided that the community contains at least ten (10) contiguous acres. The tract may be a subdivision or a division of land pursuant to Massachusetts General Laws Chapter 41, Section 81P, provided, however, that an Open Space Community may also be permitted where intended as a condominium on land not so divided or subdivided.

44.2 Purpose and Intent. Primary purposes for Open Space Community, hereafter OSC, are to advance the goals and policies of the *Town of Millbury Master Plan* and open space and recreation plan (both as most recently updated); to allow for greater flexibility and creativity in the design of resident developments; to facilitate the permanent protection of open space and natural, historic, and scenic resources; and to encourage a more economical and efficient form of development that is less sprawling, consumes less open land, does not tax community services unduly, respects a site's physical characteristics, and minimizes the total amount of disturbance to the site.

44.3 Use Requirements. Uses to be permitted or permitted by Special Permit shall be as specified in Section 2. However, the Planning Board may, upon issuance of a site plan review special permit in accordance with Section 12.4, permit retail sales and services establishments and offices deemed by the Planning Board to primarily service the residents of the OSC in an OSC that contains at least seventy-five (75) dwelling units. Not more than five percent (5%) of the overall non-business zoned land area of the OSC tract shall be allocated to such use, and at no time shall the gross floor area of all structures occupied for such uses exceed five percent (5%) of the gross floor area of all structures occupied within the non-business zoned portions of the development tract.

44.4 Multiple Dwellings on Any Lot. The Planning Board may permit the erection of multiple single, two family and three family buildings designed or available for use for dwelling purposes on a lot within an OSC upon submission and approval of a plan in full conformance with this Bylaw and Section 5.3 of the *Millbury Rules and Regulations Governing the Subdivision of Land.*

44.5 Professional and Technical Review. The Board may hire professional and technical consultants to assist the Board in analyzing an OSC to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulation, or inspecting a project during construction or implementation. The expenses for engaging professional and technical assistance and review in connection with an OSC shall be borne by the Applicant.

44.6 Application Procedure.

44.6.1 Pre-Application Review. The applicant shall request a pre-application review with the Technical Review Committee and a second pre-application review with the Planning Board. The Technical Review Committee consists of the Town Planner, Director of Public Works, Building Inspector, Fire Chief, Police Chief, Sewer Superintendent, and a representative from the Planning Board and the water company overseeing the municipal system. The Planning Board will invite the Board of Health, the Conservation Commission and other interested persons, commissions and boards to attend the second pre-application meeting with the Planning Board and provide feedback to the applicant. The purpose of a pre-application review is to minimize the applicant's costs of engineering and to commence negotiations with the Planning Board and other departments, boards and commissions at the earliest possible stage in the development. In order to facilitate pre-application review, the applicant shall submit the pre-application materials specified in the *Rules and Regulations Governing an Open Space Community.* The applicant shall also request a site visit by the Technical Review Committee and Planning Board. The Planning Board shall notify the Board of Health, Conservation Commission, and other interested persons, commissions and boards about the site visit and invite them to attend.

44.6.2 Open Space Community Site Plan. Any person seeking approval for an OSC site plan shall file with the Planning Board an application meeting all the requirements of this section and the requirements of the *Rules and Regulations Governing an Open Space Community.* In accordance with the Millbury Planning Board Fee Schedule, a non-refundable filing fee and technical review fee shall be paid to the Town of Millbury. The technical review fee shall be paid to the Town of Millbury for deposit into a special account established by the Town Treasurer under M.G.L. Chapter 44, Section 53G. The balance of this account shall at no time be less than one-half (1/2) the initial deposit, and the applicant shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial deposit upon notice from the Board, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one-half (1/2) of the initial deposit. If the applicant fails to restore the account balance and the balance is insufficient to pay incurred professional and technical review fees, the Board shall send the invoice directly to the applicant. The Board shall not authorize additional professional or technical work until outstanding invoices are paid. Ninety (90) days following the Board's issuance of a denial or Certificate of Completion, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the applicant or the applicant's successor in interest.

The application shall contain an OSC Site Plan consisting of a Sketch Plan and a Yield Plan. Incomplete plans shall not be considered submittals and shall not be considered the start of any time limits within which the Board is required to act.

Within seven (7) days of submission of a completed application, the Planning Board shall refer the application to the Conservation Commission, Fire Department, Building Department, Highway Department, Sewer Department, Police Department, and other applicable boards, committees or departments for review and comments. The parties receiving copies of the application shall submit written recommendations to the Planning Board within forty-five (45) days of receipt of the application. Failure to report to the Planning Board within forty-five (45) days shall be deemed a lack of opposition thereto.

1. Sketch Plan

   The Sketch Plan shall be prepared by an interdisciplinary team that shall include a certified landscape architect, registered professional engineer, and registered land surveyor, and may also include a traffic engineer, architect, hydrologist, hydrogeologist, biologist, and other environmental professionals. The Sketch Plan shall address the general features of the land as specified in the Planning Board's *Rules and Regulations Governing an Open Space Community*. The Sketch Plan shall incorporate the Four-Step Design Process, in accordance with Section 44.8, and the Design Standards in accordance with Section 44.9.

2. Yield Plan

   The basic maximum number of units shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of dwelling units that could be placed upon the site in a conventional subdivision in full conformance with zoning, subdivision regulations, health codes, wetlands bylaws and other applicable requirements. The Yield Plan shall contain the information required in *Rules and Regulations Regarding an Open Space Community*. The proponent shall have the burden of proof with regard to the basic maximum number of dwelling units resulting from the design and engineering specifications shown on the Yield Plan.

44.7 Density Bonus. The number of dwelling units permitted on the site may exceed the basic maximum number derived from the Yield Plan specified in Section 44.6.2.2 by twenty percent (20%), in the aggregate, given the following circumstances (computations shall be rounded to the lowest number):

1. For every four (4) dwelling units permanently restricted to occupancy 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, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed ten percent (10%) of the basic maximum number.

2. For every four (4) age-restricted dwelling units, one (1) dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed five percent (5%) of the basic maximum number.

3. For the construction of passive and/or active recreation facilities that are available for public use, one (1) dwelling unit may be added per two (2) acres of recreation land or per two thousand five hundred (2,500) feet of trail; however, this density bonus shall not exceed five percent (5%) of the basic maximum number.

4. For each additional five percent (5%) of the site (over and above the required fifty percent (50%)) set aside as open space), one dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed five percent (5%) of the basic maximum number.

5. For every five (5) acres of prime agricultural soils or active farmland preserved at the site, one dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed five percent (5%) of the basic maximum number.

6. For every four dwelling units in which alternative renewable energy (i.e. solar power, wind power, hydroelectric power, and other sources deemed acceptable by the Planning Board) supplies at least fifty percent (50%) of the total annual energy requirements for heating and hot water for that dwelling unit, one dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed five percent (5%) of the basic maximum number.

44.8 Design Process. At the time of application for an OSC, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and Professional Engineer and used to determine the layout of proposed streets, house lots and open space.

1. **Identifying Conservation Areas.** Identify and delineate Primary Conservation Areas (such as wetlands, riverfront areas and floodplains regulated by state or federal law) first, Secondary Conservation Areas (unregulated elements of the natural landscape such as agriculturally significant soils or farms, aquifers, unique or sensitive wildlife habitats, unusual geologic formations, steep slopes, mature forests, meadows, scenic views, and cultural features such as historic and archeological sites) second, and the Potentially Developable Area last. To the maximum extent possible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

2. **Locating House Sites.** Locate the approximate sites of individual houses within the Potentially Developable Area as well as private yards and shared amenities so as to reflect an integrated community. The number of homes enjoying the amenities of the development (including conservation areas) should be maximized.

3. **Aligning the Streets and Trails.** Align the streets in order to access the house lots. Trails shall be laid out to create internal and external connections to existing and/or potential streets, sidewalks and trails.

4. **Draw in the lot lines.** The Planning Board has the right to waive this requirement in an OSC that utilizes condominium ownership.

44.9 Design Standards. In addition to the Design Standards set forth in Section 6 of the *Millbury Rules and Regulations Regarding the Subdivision of Land,* the following Generic and Site Specific Design Standards shall apply to all OSCs and shall govern the development and design process:

1. Generic Design Standards
   (a) The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. To the maximum extent possible, topography, tree cover and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
   (b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
   (c) Proposed buildings and associated development shall be compatible with surroundings, terrain, and the scale and architecture of existing buildings that share a functional or visual relationship to the proposed buildings.

(d) The removal or disruption of historic or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

(e) All open space that is not set aside for wildlife habitat and resource protection 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.

2. Site Specific Design Standards

(a) Mix of Housing Types – The OSC may consist of any combination of single-family, two-family and three-family residential structures.

(b) Additional Criteria for Multi-family Development

1. The design and location of the structure on the site shall be consistent with the visual scale and character of single family development.
2. No more than two (2) bedrooms shall be permitted per multi-family dwelling unit.

(c) Orientation of Residential Structures - Residential structures shall be oriented toward the street providing lot frontage or, in the case of a condominium development, toward the street serving the premises.

(d) Buffer Areas – A buffer area of one hundred (100) feet shall 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 including lakes, ponds, wetlands, streams, rivers, agricultural or recreational ball fields; and (c) existing public ways. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The Planning Board may waive, reduce or increase the buffer requirement where it determines that a larger or smaller buffer (or no buffer) is necessary, or will suffice, to accomplish the objectives set forth herein.

(e) Drainage – There shall be no adverse impacts to abutting properties from any increase in volume of stormwater runoff including erosion, silting, flooding, sedimentation or impacts to wetlands, ground water levels or wells. Insofar as possible, low impact development best management practices shall be utilized such that the site's natural features and environmentally sensitive areas, such as wetlands, native vegetation, mature trees, slopes, natural drainage courses, permeable soils, floodplains, woodlands and soils are preserved. Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff, maximize infiltration and reduce contact with pave surfaces are strongly encouraged.

(f) Groundwater Recharge and Quality Preservation – Ground water recharge shall be maximized and ground water quality shall be protected. Various techniques may be required to maximize recharge and create a hydrologically functional lot or site, including the following: vegetated open channel systems along roads; rain gardens; buffer strips; use of amended soils that will store, filter and infiltrate runoff; bioretention areas; use of permeable pavement. In addition, reduction of impervious surfaces where possible, reduction of heat island effects, and use of water quality units such as grease traps or gas/oil separators will be encouraged.

g. .Landscaping – The applicant shall submit a conceptual landscape plan for all structural surface stormwater management facilities, parking areas with more than ten (10) spaces, dumpsters and storage areas.

h. Parking – Parking areas with more than ten (10) spaces shall be screened from public view.

i.. On-site Pedestrian and Bicycle Circulation – Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.

44.10 Common Open Space Requirements. Common open space shall comprise a minimum of fifty percent (50%) of the tract. The Planning Board may require that at least half of the common open space be left in a natural state. Any proposed common open space, unless conveyed to the 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 to ensure that it is suitable for its intended purposes.

1. Not less than fifty percent (50%) of the land preserved for common open space shall contain buildable land as defined in Section 44.11.

2. The common open space shall be of a shape, dimension, character, and location suitable for use by all residents of the OSC.

3. The common open space shall be large and contiguous. Contiguous open space may be separated by a roadway or 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 bylaw and/or protect identified primary and secondary conservation areas.

4. The common open space shall be used for the following purposes or a combination thereof: conservation, forestry, horticulture, agriculture, historic preservation, outdoor education, and active and passive recreation. The common open space shall have at least forty (40) feet of frontage to permit suitable access for such purposes. The Planning Board may permit up to five percent (5%) of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space. Subsurface wastewater and stormwater management systems serving the OSC may be located within the open space provided that the Board finds that such uses will not be detrimental to the character, quality or use of the open space. Surface stormwater management systems, such as retention and detention ponds, shall not count towards the minimum required common open space.

5. Common open space shall not include driveways, roads or ways necessary for access and egress to the site.

6. The common open space shall be conveyed to:
   (a) The Conservation Commission;
   (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 homeowner's association owned jointly or in common by the owners of lots within the OSC. If such homeowner's association 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 homeowner's association which shall provide for mandatory assessments for maintenance expenses to each dwelling unit. Such homeowner's association shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the homeowner's association 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 homeowner's association as to the inadequate maintenance, and, if the homeowner's association fails to complete such maintenance, the Town may perform it. If the Town performs maintenance, the owners of lots within the OSC shall pay the cost thereof and the cost shall constitute a lien upon their properties until said cost has been paid. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowner's association shall be submitted to the Planning Board for approval, and shall thereafter be recorded at the Worcester Registry of Deeds.

44.11 Buildable Land Area. The "buildable land area" shall be calculated by a registered land surveyor or professional engineer and shall be equal to the total area encompassed by the overall development plan, minus:

1. Land within a floodplain as defined by Section 36.1.

2. Fresh water wetlands, as defined by Section 40, Chapter 131, Massachusetts General Laws.

3. Land having slopes in excess of twenty-five percent (25%).

4. Land previously prohibited from development under a conservation restriction held by the Conservation Commission or a conservation land trust.
5. Land otherwise prohibited from development by local or state bylaw, regulation, or statute.

Not more than five percent (5%) of the land designated for roads or lots for dwellings or other development within the Open Space Community shall fall outside the boundaries of the "Buildable Land Area".

44.12 Dimensional Requirements. Applicants are encouraged to modify the lot size, shape and other dimensional requirements specified in Article 2, Section 23, for lots in an OSC. The following limitations apply:

1. No lot for a single family or two family structure shall contain less than five thousand (5,000) square feet of land area. No lot for a three family structure shall contain less than seven thousand five hundred (7,500) square feet of land area.

2. No lot for a single family or two family structure shall contain less than sixty (60) feet of frontage, and no lot for a three-family structure shall contain less than one hundred (100) feet of frontage.

3. No lot for housing structures shall have frontage on a way other than one created within an OSC.

4. The minimum frontage for the overall site subject to OSC shall be fifty (50) feet.

5. Housing structures shall be at least twenty (20) feet apart.

6. Maximum building height shall be thirty (30) feet.

44.13 Decision of the Planning Board. The Planning Board shall, within sixty-five (65) days from receipt of a complete OSC site plan application, hold a public hearing and issue a written site plan decision within ninety (90) days from the close of the public hearing. The Board may impose conditions to ensure that the site plan complies with generic and detailed design standards and requirements of the Planning Board's *Rules and Regulations Governing an Open Space Community.* The decision shall be upon a majority of the Board. The appeal of any decision of the Board shall be made in accordance with the provisions of MGL Chapter 41, Section 81BB. A copy of the decision shall be filed with the Town Clerk and shall be forwarded to the applicant by certified mail.

Site plan approval shall lapse one (1) year from the date the Board votes to endorse a site plan unless the applicant has submitted an OSC definitive plan application, or within three (3) years unless building permits have been issued. Prior to the lapse of this period, an applicant may make a written application requesting a time extension for the site plan, by providing a rationale for said request for a time extension. For good cause, such approval may be granted by the Board by issuing a written extension following a public hearing.

44.14 Relationship Between the OSC Site Plan and OSC Definitive Subdivision Plan. The issuance of OSC Site Plan approval allows the applicant to submit a definitive subdivision plan, in conformity with Section 5.3 of the *Millbury Rules and Regulations Governing the Subdivision of Land.* In accordance with Section 32.6 of the *Town of Millbury Zoning Bylaws*, any OSC Site Plan approval issued by the Planning Board shall specifically state that the Definitive Subdivision Plan shall substantially comply with the Site Plan.

The Planning Board may find that a substantial variation exists between the OSC Site Plan and the Definitive Subdivision Plan. A substantial variation shall be any of the following:

- an increase in the number of building lots;
- a significant decrease in the open space acreage;
- a significant change in the lot layout;
- a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- significant changes to the stormwater management facilities; and/or
- significant changes in the wastewater management systems if such changes affect the quality or quantity of open space or the designed layout.

If the Planning Board determines that the Definitive Subdivision Plan does not substantially comply with the OSC Site Plan, the Board may disapprove the Definitive Subdivision Plan for failure to comply with the site plan provision requiring that the Definitive Subdivision Plan substantially comply with the OSC Site Plan.
The Planning Board may conditionally approve an OSC Definitive Subdivision Plan that does not substantially comply with the OSC Site Plan. Such conditional approval must identify where the plan does not substantially comply with the OSC Site Plan and shall require that the OSC Site Plan be amended to be in compliance with the significant changes identified by the Planning Board. A public hearing shall be held on the modifications to the OSC Site Plan. The public hearing on the application to amend the OSC Site Plan shall only discuss the significant changes identified by the Planning Board in their conditional approval of the OSC Definitive Subdivision Plan. These are the only considerations that the Planning Board may take into account in deciding whether to amend the OSC Site Plan.

(By-laws of 5-2-2006, Art. 49, By-Laws of 5-4-2010, Art. 19)
(Section 45. Swimming Pools deleted T.M. 5-5-09, Art. 49)

Section 46. Accessory Uses.

Section 46.1 Accessory Scientific Uses.

Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit by the Board of Appeals provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.
(By-Laws 4-1-78, Art. 40, By-Laws 5-1-07, Art. 47)

46.2. Accessory Dwelling Units

46.2.1 Applicability. The Planning Board may grant a special permit authorizing the construction of an accessory dwelling unit within a new or existing owner-occupied, single-family dwelling or building accessory thereto in any Residential and Suburban District located on a lot fully conforming to all zoning requirements for its district or on a legal, pre-existing, nonconforming lot and/or within a legal pre-existing, nonconforming single family structure, subject to the following regulations and conditions.

46.2.2 Purpose and Intent. The purposes of this bylaw are:

1. To provide an opportunity for homeowners who can no longer physically or financially maintain their single-family home to remain in homes they might otherwise be forced to leave;

2. To provide housing units in single-family neighborhoods that are appropriate for persons at various stages of their life cycle;

3. To provide housing units for persons with disabilities;

4. To make housing units available to moderate income households who might otherwise have difficulty finding housing;

5. To protect the stability, property values, and to insure the appearance of single-family residential neighborhoods is not negatively impacted; and

6. To eliminate the construction of illegal, unregulated apartment units.

46.2.3 Use and Dimensional Requirements.

1. The unit will be a complete, separate housekeeping unit containing both kitchen and bath.

2. Only one accessory dwelling unit shall be created per lot.

3. The principal dwelling or accessory structure to be altered or constructed shall maintain the appearance of a single-family structure or accessory structure.

4. Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.

5. The gross floor area of an accessory dwelling unit shall not exceed eight hundred (800) square feet.

6. At least two off-street parking spaces shall be available for use by occupants of each accessory dwelling. Off-street parking shall be provided in a fashion as is consistent with the character of a single-family residence. No parking space shall be located within a street right-of-way.

7. The construction of any accessory dwelling unit shall be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws and regulations.

8. Accessory dwelling units proposed on lots containing a legal, pre-existing, nonconforming single family structure shall be within the living area of the dwelling part of the preexisting structure, shall not be permitted to increase the total square footage of the pre-existing structure, and shall not alter the footprint of the pre-existing structure for the purposes of creating a new accessory dwelling unit.

9. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Planning Board may allow reasonable deviation from the Use and Dimensional Requirements stated herein where necessary to install features that facilitate access and mobility for disabled persons.

46.2.4 Application Procedure. The procedure for the submission and approval of a special permit for an accessory dwelling in an owner-occupied, single-family dwelling shall be the same as prescribed in Section 12.4 Site Plan Review and Section 14. Special Permits.

46.2.5 Quota. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed. The Planning Board may issue, in order of submission of a complete application, a maximum number of fifteen (15) Accessory Dwelling Unit special permits within a calendar year.
(By-Laws 5-1-07, Art. 47, By-Laws 5-1-2012, Art. 24)

Section 47. Aquifer and Watershed Protection Overlay District

47.1 Purpose and Intent. The purpose of this Aquifer and Watershed Protection Overlay District is to:

1. 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 of Millbury;

2. Preserve and protect existing and potential sources of drinking water supplies;

3. Conserve the natural resources of the Town of Millbury, and

4. Prevent temporary and permanent contamination of the environment.

47.2 Scope of Authority. The Aquifer and Watershed Protection Overlay District shall be considered as overlaying any other zoning district. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Aquifer and Watershed Protection Overlay District shall additionally comply with the requirements of the Aquifer and Watershed Protection Overlay District Bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Aquifer and Watershed Protection Overlay District.

47.3 Definitions.

Aquifer – Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

Aquifer and Watershed Protection Overlay District – That area of land defined as such herein and shown on the Town's zoning map.

CMR – Code of Massachusetts Regulations.

DEP – Massachusetts Department of Environmental Protection

Hazardous Waste – 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. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c 21C and 21E and 310 CMR 30.00.

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.

Landfill – A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.00g.

M.G.L. – Massachusetts General Law

Petroleum Product – Petroleum or petroleum by-product including, but not limited to, fuel oil, gasoline, diesel, kerosene, aviation jet fuel, aviation gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, or other liquid hydrocarbons regardless of specific gravity. Petroleum product <u>shall not</u> include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

Non-Sanitary Wastewater – Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Code set forth in 310 CMR 15.004(6).

Open Dump – A facility operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or state regulations and criteria for solid waste disposal.

Potential Drinking Water Sources – Areas that 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 DEP approved Zone I, Zone II, or Zone III areas.

Septage – The liquid, solid and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is hazardous waste as defined by 310 CMR 30.000.

Sludge – The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening or grease and oil which are removed at the head-works of a facility.

Treatment Works – Any and all devices, processes and properties, real or personal, used in the collection, pumping transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.
Very Small Quantity Generator – Any public or private entity, other than residential, which produces less than twenty-seven (27) gallons (one hundred (100) kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Waste Oil Retention Facility – A waste oil collection facility for automobile service stations, retail outlets and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste produces in accordance with M.G.L. c.21, s.52A.

Zone I – The DEP designated protective radius around a public water system well or well-field.

Zone II – The DEP approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00.

Zone III – That area beyond the Zone II from which surface water and groundwater drain into the Zone II, as defined in 310 CMR 22.00.

47.4 Establishment of Aquifer and Watershed Protection Overlay District and District Boundary Disputes.

1. There are hereby established within the Town of Millbury, as delineated on the Zoning Map, certain aquifer and watershed protection areas designated as A and B, consisting of aquifers or recharge areas, which together shall constitute the Aquifer and Watershed Protection Overlay District. The District includes all areas within the District designated by the DEP as "Zone II", and one area designated as "Zone III".

2. As necessary, the Building Inspector shall determine, by consulting the Zoning Map, what portion of a particular lot or parcel of land, if any, is located within the District. The Building Inspector's determination may be appealed to the Board of Appeals in accordance with M.G.L. c.40A, §8.

3. The burden of proof shall be upon the owner disputing the Building Inspector's determination. In response to such a dispute, the Board of Appeals may engage a professional engineer, registered land surveyor, hydrologist, geologist or soil scientist to confirm the boundaries of the District with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

4. Where the boundary line of the Aquifer and Watershed Protection Overlay District divides a lot or parcel, the requirements established by this bylaw shall apply only to the portion of the lot or parcel located within the District.

47.5 Permitted Uses. All uses expressly permitted in the underlying zoning districts, except as otherwise prohibited herein, are permitted within the Aquifer and Watershed

Protection Overlay District, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained.

47.6 Prohibited Uses. The following uses are prohibited within the Aquifer and Watershed Protection Overlay District:

1. Landfills and open dumps as defined in 310 CMR 19.006.

2. Automobile graveyards and junkyards, as defined in M.G.L. c. 140B, s.1.

3. Landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L. c. 21 s. 26 through s. 53; M.G.L. c. 111 s. 17; M.G.L. c. 83, s. 6 and s. 7, and regulations promulgated thereunder.

4. Facilities that generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.00, except for:

   (a) Very small quantity generators as defined under 310 CMR 30.000.

   (b) Household hazardous waste centers and events under 310 CMR 30.390.

   (c) Waste oil retention facilities required by M.G.L. c. 21, s. 52A.

   (d) Water remediation treatment works approved by DEP for the treatment of contaminated waters.

5. Petroleum, fuel oil, and heating oil stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.

6. Storage of liquid hazardous materials, as defined in M.G.L. c. 21E and/or liquid petroleum products unless such storage is:

   (a) Above ground level and on an impervious surface; and

   (b) Either in container(s) OR above ground tanks(s) within a building OR outdoors in covered container(s) OR above ground tank(s) in an area that has a containment system designed and operated to hold either: ten percent (10%) of the total possible storage capacity of all containers OR one hundred ten percent (110%) of the largest container's storage capacity, <u>whichever is greater.</u>

7. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.

8. 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.

9. Storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

10. Earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material to within four (4) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavation for building foundations, road or utility works.

11. Discharge to the ground of non-sanitary wastewater including industrial and commercial process waste water, except:

    (a) 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.

    (b) Treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 3.14 CMR 5.05(3) or 5.05(13), and

    (c) Publicly owned treatment works.

12. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district

13. Storage of chemical fertilizers, as defined in M.G.L. c. 128, s 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

14. All other uses not expressly permitted pursuant to this Bylaw, either by right or by special permit.

47.7 Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a special permit by the Board of Appeals under such conditions as they may require:

1. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 47.6). Such activities shall require a special permit to prevent contamination of groundwater.

2. Any use that will render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot or parcel, 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.

47.8 Procedures For Issuance of Special Permit.

1. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Board of Appeals.The SPGA may grant a special permit if it determines 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.

2. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Millbury Planning Board, Board of Health, Conservation Commission, Department of Public Works, and Water District for review and comment. Failure to respond in writing within thirty-five (35) days of receipt shall indicate approval, or no desire to comment. The necessary number of copies of the application shall be furnished by the applicant.

3. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 47.6 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 and Watershed Protection District.

(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.

(c) The applicant shall file ten (10) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and shall 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:

- 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.

- Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

- Evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.00.

- Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

47.9 Dimensional Requirements.

Within Area B of the Overlay District, no lot shall be built upon or changed in size or shape except in conformity with the following:

Minimum Lot Area: 80,000 sf

Minimum Lot Frontage: 200 ft

Minimum Yards:

Front – 25 ft

Sides – 10 ft

Rear – 10 ft

Maximum Lot Coverage: 30%

Maximum Bldg Height: 30 ft

47.10 Enforcement.

1. Written notice of any violations of this bylaw shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

2. A copy of such notice shall be submitted to the Town of Millbury's Board of Appeals, Planning Board, Board of Health, Conservation Commission, Department of Public Works, and Water District. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises.

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

(By-Laws 5-4-2010, Art. 26)

Section 48. Route 146 Highway Corridor Overlay District.

48.1 Purpose. The purpose of the Route 146 Highway Corridor Overlay District (the "146 HCOD") is to: provide for orderly development that is conductive at highway interchanges; encourage economic growth while avoiding serious negative effects locally and in the region by encouragement of the most appropriate use of adjacent corridor lands; maintain the scenic natural and historical features of the area; and maintain the safe, efficient movement of traffic throughout the corridor by the orderly development of the land, in order to promote the health, safety, and general welfare of present and future generations of Millbury citizens.

48.2 Location. The exact location shall be determined by the official map called "Route 146 Highway Corridor Overlay District". This map will not act to rezone parcels unless they conform under the overlay district regulations and obtain a Special Permit from the Planning Board.

48.3 Classified Uses. All uses within the 146 HCOD shall be subject to the use limitations as described in section 48.30 through 48.34 of this section. All uses exclusively permitted shall be permitted only where incorporated into a coordinated development with an aggregate lot area so designated by the node classification chart.

48.31 ***Node Classification I.*** Node classification I shall be any parcel in the 146 HCOD which contains a minimum lot area of sixteen (16) contiguous acres.

Uses Permitted by Special Permit:

Theaters, museums, cultural and/or social community facilities, convention centers.
Research and development.
Business and professional offices.
Child/elderly day care facility.
Retail sales and services.
Restaurant.
Motel or hotel.

Parking to service a permitted use but not having more than one (1) commercial vehicle or any construction equipment or any truck over one and one-half (1 1/2) tons.
Personal services.
Indoor and outdoor recreational facilities.
Multifamily dwellings.
Registered Marijuana Dispensary in accordance with Section 52
Marijuana Retailer in accordance with Section 52
(By-Laws of 5-6-2014, Art. 40, By-Laws 5-1-18/5-2-18 Art. 31)

Prohibited Uses:

Trucking terminals.
Commercial or institutional laundries or dry-cleaning facilities.
Outdoor or underground storage or disposal of engine lubricants, coolants and antifreeze.
Motor vehicle service stations.
All used and/or new vehicle sales including but not limited to motor vehicles, all terrain vehicles, recreational vehicles.

48.32 ***Node Classification II.*** Node classification II shall be any parcel in the 146 HCOD which contains a minimum lot area of four (4) contiguous acres.

Uses Permitted by Special Permit:

Business or professional offices.
Research and development.
Retail sales and services.
Personal services.
Restaurant; except the use of drive up windows and/or counter service.
Motel or hotel.
Commercial amusements and recreation.
Registered Marijuana Dispensary in accordance with Section 52.
Marijuana Retailer in accordance with Section 52
(By-Laws of 5-6-2014, Art. 40, By-Laws 5-1-18/5-2-18 Art. 31)

Prohibited Uses:

All used and/or new vehicle sales including but not limited to motor vehicles, all terrain vehicles, recreational vehicles.
Trucking terminals.
Commercial or institutional laundries or dry-cleaning facility.
Outdoor or underground storage or disposal of engine lubricants, coolants, and antifreeze.
Restaurants with drive through service and/or counter service.

48.33 ***Uses Allowed by Right (Node or Underlying).*** If there is no node application, then the underlying uses will be permitted.

48.34 ***Mixed Use.*** A concentration of complementary land uses that combine uses in a compact area, in one or separate structures on the same node, are strongly encouraged. These uses would be physically integrated by road and pedestrian systems. All uses allowed by the Route 146 Highway Corridor Overlay District requires access be obtained on accessory roads.

48.4 Open Space. In reviewing the appropriateness of the open space, the Planning Board shall consider the following criteria. The extent to which environmental features (including, but not limited to wetlands, streams, other water bodies, and wildlife habitats) are protected, open space area should be provided in large expanses, avoiding small strips and areas unless there are reasons for these strips caused by physical site features. Whenever possible, open space should be coordinated with adjacent land and walking paths should be created. Open space should be used to create and enhance the entrance to Millbury and the Blackstone Valley and shall not include heated spaces, driveways, parking areas, garages, portals, carports, accessory buildings, or any improvement surfaces. For educational, institutional, and other uses allowed in the district, the open space, setback, and landscaping standards set forth in this section shall apply.

48.41 ***Greenways.*** Open space shall be located where it abuts or is in proximity to adjacent open space land. These open space parcels may form an extensive greenway. Uses could include bicycle paths, hiking trails, wildlife corridors, and scenic vistas.

48.42 ***Open Space Swapping.*** Applicant may meet the open space requirements set forth in these regulations by the purchase of development rights to lands off site in the following manner:

	Provided	*Required*
Abutting the Blackstone River and Canal	1	1
Abutting Town Conservation Land	2	1
Land in the Town of Millbury	3	1

Lands which are to be swapped as open space shall be turned over to the Town or its designee via a manner meeting with the Planning Board's approval. The applicant shall submit a site plan of said lands indicating compliance of the lot area definition. Said plan is to be stamped by a professional engineer and signed by a botanist, in order to assure dimensional and coverage requirements.

48.5 Buffers. Any structure or parking area shall be located at least fifty feet (50') from any property line of a lot containing an existing residence and shall meet the performance standards listed in the site plan review. Contiguous buildings, either jointly or separately owned do not require a separation or buffers between them.

48.51 ***Berms.*** A four-foot high, twenty-five-foot wide earth berm with deciduous or evergreen trees shall be placed between residential and suburban properties. Said berm shall also be placed between Route 146 and accessory roads.

48.6 Parking.

48.61 ***Parking Areas.*** Parking areas shall be screened from any adjacent residential uses. To the extent feasible, parking areas shall be shared with adjacent businesses.

For developments which make a long term commitment to actively promote employee and public use of transit, ridesharing, and other means to reduce single occupant vehicle trips, minimum parking standards may be reduced by a percentage to be determined by the Planning Board based upon the adequacy of trip reduction plans.

Driveways and parking areas shall be paved with concrete, bituminous concrete, or other similar material. Surface treated parking areas and driveways shall be prohibited. Curbs and gutters shall be installed around the perimeter of all driveways and parking areas. Drainage shall be designed so as to not interfere with pedestrian traffic. Granite curbing shall be installed on all radii and in front of sidewalks abutting buildings.

48.62 ***Parking Spaces.*** There shall be a maximum of eight (8) rows with a nine foot (9')
linear island separating each eight (8) row field. Retention of original trees is encouraged in the islands.

48.63 ***Distance From Buildings.*** A minimum of eight feet (8') will be maintained between any building, or contiguous building, including any walkway immediately adjacent thereto, and the parking area. This space is to be reserved for plant material, either existing or planned.

48.64 ***Illumination.*** Drives and parking areas shall be illuminated in such a way that there shall be no glare for motorists, pedestrians, or adjoining premises.

48.65 ***Number of Spaces.***

(a) Hotel, motel, lodging house: one (1) space per guest unit.
(b) Offices, stores: one (1) space per two hundred (200) square feet of gross leasable floor area, but not fewer than three (3) spaces per retail establishment.
(c) Restaurant, place of assembly; one (1) space per four seats.
(d) Nursing home/hospital: one (1) space per two (2) beds plus one (1) space per one and one- fourth (1 1/4) employees per shift.
(e) Industrial, wholesale: one (1) space per one and one-fourth (1 1/4) employees per shift.
(f) Research and Development: one (1) space per one thousand (1,000) square feet gross floor, but not fewer than three (3) spaces per establishment.

Handicap parking spaces shall be provided according to regulations set by the Commonwealth of Massachusetts.

48.66 ***Accommodation of Vehicles.*** All uses shall provide parking spaces adequate to accommodate the vehicles of occupants, employees, members, customers, clients, residents, and visitors to the premises, as determined by the Planning Board.

48.67 ***Mixed Use Parking.*** In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses computed separately. Parking spaces for one use shall not be considered as providing the required parking for any other use.

48.68 ***Multiple Parking Areas.*** Parking lots over two hundred (200) spaces shall consider the creation of multiple separated parking areas. These areas shall be separated by landscaping elements and/or differences in grade, and shall be naturally screened from one another.

48.7 Landscaping. A comprehensive landscaping program coordinating each individual lot or parcel in and within the 146 HCOD is essential for the visual enhancement of the corridor; and to protect and promote the appearance, character, and economic values of land along the corridor and surrounding neighborhoods. The purpose and intent of such landscaping requirements is also to reduce the visibility of paved areas for adjacent properties and streets, moderate climate effects, minimize noise and glare, and enhance public safety by defining spaces to influence traffic movement. Landscaping will reduce the amount of stormwater runoff and provide transition between neighboring properties.

48.71 ***Parking Area Landscaping.*** Parking areas shall be landscaped in the following manner:

A landscaped buffer strip at least fifteen feet (15') wide, continuous except for approved driveways, shall be established adjacent to the 146 HCOD to visually separate parking and other uses from the highway. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum four-inch caliper, planted at least every fifty feet (50') along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard.

One deciduous shade tree (minimum three-inch caliper) must be planted in linear landscaped islands as defined in section 48.62.

All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one (1) growing season.

48.8 Grading and Topography

48.81 ***Natural Topography.*** Efforts shall be taken to maintain the continuity of the natural topography when building on any site. Cut and fill shall be avoided in all instances possible, and structures shall be designed and sited to fit naturally into the topography rather than radically altering the topography to conform to structures or other side uses. Except in areas where terracing is used, when excavation is necessary, grading shall be done in such a way that the resulting contours follow in smooth natural curves that conform to the curves of the surrounding landscape. Straight or angular slopes or cuts which interrupt natural topography shall not normally be allowed.

48.82 ***Changes in Topography.*** Abrupt changes in topography near lot lines which might otherwise result in excessive water runoff, erosion, or hazards, shall not be allowed in excess of the following conditions, except by Special Permit:

Where adjacent lot is lower in elevation than the lot for which permit is sought, no slope or terrace exceeding fifty percent (50%) slope or cut rock slope exceeding a vertical to horizontal ratio of 12.1 shall be allowed within twenty-five feet (25') of the lot line.

Where adjacent lot is higher than the elevation of the lot in question, slope or terrace exceeding fifty percent (50%) slope or cut rock slope exceeding a vertical to horizontal ratio of 12.1 shall be allowed within ten feet (10') of the lot line.

Retaining walls of design and construction approved by the planning board and not exceeding twelve feet (12') in height or cut rocks exceeding twenty feet (20') in height may be built on lot lines, but only where there is insufficient room to use properly stabilized slopes.

Means for preventing erosion during construction shall be specified to the satisfaction of the Planning Board on plans submitted for building and special permits.

Upon completion of grading and replacement of top-soil, all slopes shall be stabilized by adequate groundcover or other approved means to prevent erosion and to retard excessive runoff. The following guidelines are recommended:

(a) Slopes greater than thirty-five percent (35%) should be avoided in most cases; slopes between thirty percent (30%) and thirty-five percent (35%), rip-rap or terracing should be used; slopes between twenty percent (20%) and thirty percent (30%), sod, or established vegetation or seedlings in association with webbing material placed over the soil; slopes between four percent (4%) and twenty percent (20%), plant seed in association with fiber mulch placed over the soil, or gravel.

(b) Topography which slopes from one lot across another shall be graded so as to minimize run-off directly onto lower lots. In no case shall conditions be created which channel excessive amounts of surface drainage directly onto major yard spaces or buildings on lower lots.

(c) Natural slopes shall be retained insofar as possible when siting structures. Finish contours shall direct surface drainage around structures rather than directly against them, using swales or other approved means. No grading or siting of structures shall be performed which creates poorly drained areas.

(d) Where slopes are steep (greater than fifteen percent (15%)), terracing should be employed using properly stabilized slopes or retaining walls.

(e) No portion of any lot whose slope equals or exceeds twenty percent (20%) shall be built upon without a Special Permit.

48.9 Dimensional Standards

48.91 ***Building Separation.*** While there are no precise side and rear yard requirements in node classification I and II in terms of specific depth, except as required for projects abutting existing residential structures, all structures and site features must conform to the Massachusetts Building Code with respect to building separation and fire walls and conform to the Millbury site plan performance standards.

The open space requirement is used in order to provide the flexibility to protect significant environmental resource features, such as wetlands and streams, major trees and vegetation, and scenic views, to maintain significant open space areas for the enjoyment of the residents and business patrons; and to promote a variety of site plans thereby avoiding a highway strip appearance.

48.92 ***Multiple Buildings.*** Not more than one (1) principal building shall be erected on a lot unless the planning board determines that access to additional buildings is adequate to meet safety concerns.

48.93 ***Dimensional Requirements.*** All principal buildings erected in the 146 HCOD shall be located on a lot such that all of the requirements set forth herein are conformed to, except where specifically exempted by this By-law.

48.94 ***Dimensional Schedule.***

Minimum lot area: See Node Classifications

Node I A minimum of 16 contiguous lot area acres
Node II A minimum of 4 contiguous lot area acres

Minimum lot frontage: 150 feet.

All Nodes, side yard: 0-50* feet as determined by site plan review

All Nodes, rear year: 0-50* feet as determined by site plan review

All Nodes, front yard: 50 foot setback, excluding access road

Minimum Open: Twenty-five percent (25%) excluding parking

Maximum Height: 100 feet contingent on site location

*As described in Section 48.50 Buffers

Floor to Area Radio/Maximum Building Height:

Classification	*F.A.R.*
Node I	3.0
Node II	2.0

48.10 Performance Standards.

48.101 ***View of Highway.*** Large work area doors or open bays shall not open toward or face the highway. Heating, ventilating, and air conditioning equipment, duct work, air compressors, and other fixed operating machinery shall be screened from view and where possible will not be visible from the highway.

48.102 ***Building Materials.*** Buildings shall be designed to use, to the greatest extent feasible, buildings materials that are compatible with the surrounding environment, such as rock, stone, brick and wood. Mirrored glass with a reflectance greater than twenty percent (20%) is prohibited.

48.103 ***Utilities.*** All utility lines such as electric, telephone, or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened with appropriate landscaping. All utility pad fixtures and meters would be shown on the site plan. The necessity for utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan.

48.104 ***Divided Property.*** Persons with property divided by the highway corridor district boundary are required to comply with the district standards only for that segment of the property within the boundary or as adjusted above.

48.105 ***Disturbance of Natural Feature.*** Except under an approved order of conditions issued by the Millbury Conservation Commission pursuant to the provisions of Massachusetts General Laws, Chapter 131, and the regulations promulgated thereunder, no disturbance of any natural feature of land shall occur within one hundred (100) feet of the centerline of any brook, stream, or river; not within one hundred (100) feet of the normal high water line of any lake, pond, marsh, swamp, or bog.

48.11 Site Plan Review and Approval. Notwithstanding any contrary provision in this section, no building permit for any building intended to be used in any node classification development, shall be issued until the applicant shall have been granted site plan approval as provided in this section. No building permit for any other building permitted under this section shall be issued until the applicant shall have been granted site plan approval pursuant to the Millbury Route 146 Highway Corridor Overlay District site plan review and the Millbury site plan review by-law.

48.12 Signage. The purpose of the sign regulations set forth in this section shall be to protect public and private investments in buildings and open space, to encourage signs which, by their location and design, are harmonious to the buildings and sites which they occupy, and which eliminate excess and confusing sign display, and to eliminate potential hazards to motorists and pedestrians. The provisions of this section shall apply to the construction, erection, alteration, use, location, and maintenance of all signs located out-of-doors, to those signs affixed on any part of a building for the express purpose of being visible from the exterior of the building.

48.121 ***Area of Sign.*** The area of a sign shall be considered to include all lettering, wording, and accompanying designs and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign, and any "cutouts" or extensions, but shall not include any supporting structure or bracing.

48.122 ***Prohibited Signs.*** Flashing signs, roof signs, signs containing moving parts, and signs containing reflective elements which sparkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted, providing they meet all other provisions of this bylaw.

In no case shall any sign exceed two hundred (200) square feet.
Three-dimensional signs are not permitted.

Additional signage requirements shall be determined using the criteria listed in the site plan review procedures.

48.13 Tree Protection. Removal of endangered or valued trees will not normally be permitted. Trees included in this category:

American Elm (*Ulmus americana*)
Laurel Oak (*Quercus laurifolia*)
Life Oak (*Quercus virginiana*)

Considerable damage to or the death of trees may result if more than six (6) inches of soil is added around the base of the tree, more than thirty percent (30%) of circumferential bark is removed or more than thirty percent (30%) of the root system is removed. In addition, asphalt paving, building construction, and soil compaction too close to trees may cause their destruction. Accordingly, it shall be the responsibility of the developer to institute alternative site designs to assure the best chance of tree survival whenever these criteria cannot be adhered to.

Those trees designated for preservation in accordance with the provisions of this ordinance as shown on the approved landscape plan shall be marked with bright blue ribbons encircling the tree trunk at a height of four feet (4') above the ground, and a four-foot high barricade will be constructed around the tree at a drip line prior to the start of construction.

As a condition of approval under this ordinance, the applicant may be required to plant replacement trees for trees approved for removal as part of the final plan. In requiring replacement trees, the following will be considered: the intended use of the property, the existing or predevelopment trees coverage, size and types, the number, size, type and location of natural trees proposed for preservation by the applicant, and the grading, road, building parking and drainage requirements of the project.

Any healthy existing tree may be included for credit towards the requirements of this section. One (1) new tree shall be planted for each preserved tree that has been credited and which dies within three years of construction.

All existing trees on the site shall be shown on the required landscape plan, or where there are groups of trees, said stands may be outlined. Trees desired to be removed shall be clearly delineated on the landscape plan.

48.131 ***Removal.*** Development of land for different uses and intensity of uses will often times necessitate the removal of trees to accommodate roads, parking, buildings and facilities. It is the expressed intent of this section that every effort be made through the design, layout, and construction of development projects to incorporate and save as many trees as possible.

No person shall cut, destroy, move or remove any living, disease-free tree of any species, have a trunk with a diameter of eight inches (8") or larger, measured four and one-half feet (4 1/2') from the base, in conjunction with any development of land governed by this section unless and until such removal or destruction has been approved under the provisions of this section.

No person shall cut or clear land of trees for the sole purpose of offering land for sale.

48.132 ***Clear-Cutting.*** Except for property classified for tree farming, the clear-cutting of trees is prohibited. The term "clear-cutting" as used herein shall mean the cutting of more than seventy-five percent (75%) of the trees six inches (6") in trunk diameter or larger. Clear-cutting pursuant to an approved development plan shall require the planting of replacement trees as indicated in the detailed landscape plan accompanying the development application.

48.133 ***Survey.*** A survey of all trees of applicable size shall be made and submitted in conjunction with the development site layout. All trees proposed for removal shall be clearly noted. The tree survey shall be certified by either a land surveyor, engineer, or landscape architect registered in Massachusetts.

The requirement for a tree survey is waived when preliminary site evaluation by the applicant reveals the ability to accomplish the proposed project without removal of any trees eight inches (8") in diameter or larger. The applicant shall submit a written statement that no trees will be removed and his permit will indicate no tree removal as a condition thereof.

48.14 Bonuses. Elderly and child day-care facilities shall not be included as part of the F.A.R. Where a demonstrated need is being satisfied for elderly and child day care facilities, the applicant shall receive a F.A.R. density increase of .25.

The Planning Board shall have the ability to waive the required open space to a minimum of fifteen percent (15%) for design which it feels compliments the integrity of the community and the valley.

48.15 Waivers. The Planning Board may waive requirements listed under parking, landscaping, grading, and topography, and tree protection based upon the size and scope of the project. Waivers which are sought must be requested in written form prior to the pre-submittal conference.

48.16 Applicant Procedures.

(1) The parcel shall be in single or consolidated control at the time of application and shall have the minimum acreage stipulated for the type of node classification.

(2) A site plan shall be presented for the entire parcel, and shall be subject to approval by the Planning Board.

(3) Uses shall be contained in one continuous building except that groupings of buildings may be allowed by the Planning Board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.

(4) The development shall be served by a public/private water system, adequate in terms of fire protection and domestic use.

(5) A common architectural theme shall be reflected in the building by means of building materials, architectural style, sign controls and color coordination. Elevations of all proposed structures shall be in keeping with the historic, cultural, and natural environmental character of Millbury and the Blackstone Valley and shall be prepared by an architect registered in Massachusetts showing building materials and colors.

(6) Commercial uses shall be compatible and consistent with the character and needs of the town.

The site plan shall be developed in the form of a mall, court, or park with walkways, shade trees, benches and appropriate amenities for the users of the development. All other pertinent Millbury zoning bylaws apply to the 146 HCOD unless superseded by this bylaw.

48.161 ***Pre-submittal Conference.*** Applicants for special permit under this bylaw are required to meet with the Planning Board prior to submitting a formal application to review the district plan and its potential relationship to the proposed application. Notice of this conference shall be given to all residents in the district by first-class mail.

Imaginative and creative land use planning should be applied, with the aim of preventing the cumulative damage to the landscape, topography, and valuable and nonrenewable natural resources of Millbury.

48.162 ***Permit Application Requirements.*** The applicant shall submit a concept plan, which shall describe the overall development plan. It shall address the general future of the land, and give approximate configurations of the lots and roadways.

The concept plan shall be discussed with the Planning Board and modified as needed according to the site plan review criteria. The applicant shall then submit a preliminary plan based upon the concept plan. The Planning Board shall grant or deny a special permit based upon the information contained in the preliminary plan. The applicant shall submit a definitive plan which shall incorporate comments made during the preliminary plan review.

The 146 HCOD special permit shall be reconsidered if there is substantial variation between the approved preliminary or definitive plan and the concept plan. A substantial variation shall be defined as an increase in the number of building lots, a decrease in the open space acreage, a change in the layout which covers buildings or roadways to be placed closer to a dwelling unit within five hundred feet (500') of the project, and/or a change in the development pattern which affects natural landscape features and open space. If the Planning Board finds that a substantial variation exists, it must hold a public hearing on the modifications of the concept plan or preliminary plan.

48.163 Site Design. A site design prepared by a registered landscape architect or architect registered in Massachusetts, accompanied by the proper engineering and land survey documentation prepared by a Massachusetts registered engineer and land surveyor shall contain the following information. (The information need not be on a single sheet of paper).

48.164 Submittal Process. The applicant for a professional building or mixed development special permit shall first submit fifteen (15) copies of a plan and application. All applications for a special permit under this section shall be referred by the Planning Board to the Board of Health, Conservation Commission, Building Inspector, Fire Chief, Police Chief, Highway Surveyor, Board of Selectmen, and other board/agency/department for its review and comments within fourteen (14) days of its submission to the Planning Board. Any such board or agency to which applications are referred for comment shall make its recommendations and send copies thereof to the Planning Board and the applicant within thirty-five (35) days of receipt of the referral request from the Planning Board or there shall be deemed no opposition or desire to comment. The Planning Board shall not act upon said special permit until either comments from referred boards or agencies have been received or said thirty-five (35) days from referral request have elapsed, whichever is sooner. In reviewing the request, the Planning Board shall determine if the development meets the standards described in the 146 HCOD overlay district.
(By-Laws of 5-7-91, Art. 50)

Section 49. Scenic Roads.

49.1 Purpose. These regulations are established pursuant to M.G.L. Chapter 40, Section 15(c) and are intended to ensure that:

1. Ways will be recommended for designation as scenic road on stated criteria;

2. Ways so designated will not be altered without following proper procedures and without adherence to proper considerations; and

3. Ways so designated will not be altered by the decision of any person, organization, or agency other than the Planning Board.

49.2 Definitions. In the absence of contrary meaning established through legislature or judicial action pursuant to M.G.L. Chapter 40, Section 15C, the following terms contained in the statute shall be defined as follows:

1. "Cutting or Removal of Trees". "Cutting or Removal of Trees" shall mean the removal of one or more trees, trimming of major branches or cutting of roots, but not trimming or cutting of dead trees or dead branches. Trimming of roots sufficient in the Tree Warden's opinion to cause eventual destruction of a tree is included in this definition.

2. "Repair, Maintenance, Reconstruction, or Paving Work". "Repair, Maintenance, Reconstruction, or Paving Work" shall mean any work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. The review and approval of the construction of new driveways or alteration of existing ones shall be the responsibility of the Millbury Driveway Inspector.

3. "Road". "Road" shall mean the entire right-of-way of any used and maintained public way including the vehicular traveled way plus its necessary appurtenances, including bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks, but not intersecting streets or driveways beyond the right-of-way. The right-of-way includes the area on and within the boundaries of the public way. When the boundary of the right-of-way is in issue so that a dispute arises as to whether or not certain trees or stonewalls or portions thereof are within or without the way, the trees or stone walls shall be presumed to be within the way until the contrary is shown.

4. "Tearing Down or Destruction of Stone Walls". "Tearing Down or Destruction of Stone Walls" shall mean the destruction of more than fifteen linear feet of stone wall involving more than one cubic foot of wall material per linear foot above existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

5. "Trees". "Trees" shall include a tree whose trunk has a diameter of four inches or more as measured one foot above the ground.

49.3 Criteria for Designation as a Scenic Road.

1. The Planning Board shall be responsible for the recommendation to the Town Meeting as to whether a road, other than a numbered road or a state road, should be designated as scenic.

2. Upon the receipt of a request to designate an accepted Town road as scenic, the Planning Board shall forward the request to the Historical Commission and the Conservation Commission for review and comment. Should either the Historical Commission or the Conservation Commission fail to make recommendation to the Planning Board within forty-five (45) days of the request for designation, such failure shall be deemed approval by that Commission.

3. The Planning Board, Historical Commission and Conservation Commission shall, in determining their recommendations as to which road(s) or portion(s) should be designated as scenic roads consider the following criteria:

   a). preservation of natural resources;
   b). environmental and historic values;
   c). scenic and aesthetic considerations; and
   d). public safety.

49.4 Notification of Designation as Scenic Road. Upon the designation at town meeting of any road as a scenic road the Planning Board shall take the following steps within sixty (60) days of such designation.

1. Notify all municipal departments that may take any action with respect to such road.

2. Notify the State Highway Department.

3. Publish in the local paper by a news release that the road or roads have been so designated;

4. Indicate such designations on all maps currently in use by municipal departments; and

5. Notify all utility companies or other such parties which may be working on the border of such road.

49.5 Procedures

49.51 Filing Any person, organization, state or municipal agency seeking the written consent of the Planning Board under M.G.L., Chapter 40, Section 15(c) regarding the cutting or removal of trees or the tearing down or destruction of stone walls or portions thereof on a scenic road shall file a request with the Planning Board, together with the following:

1. The text of a legal notice identifying the location of the proposed action in terms enabling readers to locate it with reasonable specificity on the ground without need for additional plats or references, and describing in reasonable detail the proposed changes to trees and stone walls;

2. A statement of the purpose or purposes for the changes proposed;

3. A list of owners of properties located in whole or in part within 100 feet of the proposed action;

4. Except in the case of town agencies, a deposit sufficient to cover the cost of advertising and notification; and

5. Any further explanatory material as may be required by the Planning Board.

49.52 Notice. The Planning Board shall, as required by the statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place and purpose of the hearing with a reasonable description of the action proposed by the applicant. Copies of this notice shall also be sent to the Selectmen, the Conservation Commission, the Historical Commission, the Highway Surveyor, the Tree Warden and the owners of the property within 100 feet of the proposed action.

49.53 Timing of Notice. The first publication of the notice shall be as soon as feasible after the Planning Board receives the request from the applicant, and shall in all cases be at least 14 days before the hearing. The last publication shall occur, as required by statute, at least seven days prior to the hearing.

49.54 Timing of Hearing. The Planning Board shall hold a public hearing within 45 days of the Planning Board meeting at which a properly filed request is received. The date and time of the public hearing shall be set outside of normal weekday work hours (8:00 a.m. - 5:00 p.m., Monday - Friday) so as to encourage maximum citizen participation.

49.55 Timing of Decision. The Planning Board shall make a decision on the request within 21 days of the public hearing.

49.56 Public Shade Tree Act. Notice shall be given and Planning Board hearing shall be held in conjunction with those held by the tree warden acting under M.G.L., Chapter 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the tree warden or vice versa. The Planning Board decision shall contain a condition that no work should be done until all applicable provisions of the Public Shade Tree Law, M.G.L., Chapter 87 have been complied with.

49.57 Performance Guarantee. Before endorsement of its approval on a plan, the Planning Board may require that the proposed work to be done, be secured by bond sufficient in form and amount in the opinion of the Planning Board to ensure satisfactory performance of the proposed work.

49.6 Considerations. The Planning Board's decision on any application for proposed action affecting scenic roads shall be based on consideration of the following:

1. The degree to which the proposed action would adversely affect the scenic, aesthetic and historical values upon which the scenic road designation was originally based;

2. The necessity for the proposed action in terms of public safety, welfare, or convenience;

3. Availability of reasonable alternatives to the proposed action which could reduce or eliminate anticipated damage to trees or stone walls;

4. Whether the proposed action would compromise or harm other environmental or historic values;

5. Compensatory actions proposed, such as replacement of trees or walls;

6. Consistency of the proposed action with previously adopted Town plans and policies.

49.7 Severability. If any section or portion of this bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

49.8 Enforcement. The building inspector may issue a citation for violations of these regulations. A failure to respond to properly issued citations, or the issuance of three (3) or more citations, shall be construed as a major violation, subject to a fine of not more than three hundred ($300.00) dollars. Each day that such violation continues shall constitute a separate offense.

49.9 General. The Planning Board may adopt detailed regulations for carrying out provisions hereunder.

Section 50. Wind Energy Systems

50.1 **Applicability.** The erection, construction installation, operation, and modification of a Wind Energy System is subject to the requirements set forth herein. No more than three (3) Wind Energy Systems shall be permitted on a single parcel or contiguous parcel(s) in common ownership. The Building Inspector may issue a building permit for a Small Wind Energy System in any zoning district. The Planning Board may grant a special permit for a Large Wind Energy System in Business and Industrial Districts, and in Residential and Suburban Districts if the Wind Energy System is located on municipal property or associated with a school or college, agricultural, horticultural or floricultural use, golf course, or public utility.

Wind monitoring or meteorological towers shall be permitted by-right in any zoning district subject to issuance of a building permit for a temporary structure. A permit for a temporary wind monitoring or meteorological tower shall be valid for a maximum of three (3) years.

50.2 **Purpose and Intent.** The purpose of this Section is to promote the safe, effective and efficient use of Wind Energy Systems and to provide for their placement, design, construction, monitoring, modification and removal of so as to protect health and safety, control noise levels, prevent electromagnetic interference, and minimize their impacts of on the character of neighborhoods, property values, and the scenic, historic, and environmental resources of the Town.

50.3 **Definitions.** As used in this Section, the following terms shall have the meanings indicated:

Height – The total height of the wind turbine measured from the land in its natural state, prior to grading or filling, to the tip of the rotor blade at its highest point, or blade-tip height.

Rated Nameplate Capacity – The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment or specified as a requirement of the type and model number of the wind turbine.

Rotor – The blades and hub of the wind turbine that rotate during turbine operation.

Wind Energy System – All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines.

Wind Monitoring or Meteorological Tower – A temporary tower equipped with devices to measure wind speeds and direction, used to determine the amount of wind power a site can be expected to generate.

Wind Turbine – A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a rotor, electric generator, and tower.

50.4 **Professional and Technical Review.** The Planning Board may hire professional and technical consultants to assist in analyzing special permit application to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application and monitoring or inspecting a project or site for compliance with the Planning Board's decision or regulation. The expenses for engaging professional and technical assistance and review in connection with a Wind Energy System shall be borne by the Applicant.

50.5 **General.** Proposed Wind Energy Systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental, Federal Communications Commission (FCC), and Federal Aviation Administration (FAA) requirements and the requirements of the relevant utility to which the Wind Energy System may be connected.

50.6 **Application Procedure.** Applicants are required to submit an application conforming to the requirements of this Bylaw. The application shall include a site plan and associated documents specified under Section 12.4 Site Plan Review, as well as the following additional information:

1. A technical report from a qualified individual attesting that the site is feasible for wind power, that documents wind speed at the proposed site, that anticipates energy that will be created from the Wind Energy System, and that estimates the amount of energy necessary to serve the on-site uses.

2. Manufacturers' specifications for the proposed wind turbine, attendant facilities, and all related equipment.

3. Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

4. Evidence that the utility company providing service to the site has been informed of, and, as necessary, approved the Applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

5. Pre- and post-construction simulation views of the site from at least four locations where the Wind Energy System will be visible through means of photographs, sketches and/or computer simulations.

6. Material describing a specific plan for a "balloon" or similar test, including the date and time, as well as a rain date and time, suitably and clearly described for inclusion in the legal notice for the newspaper and abutters' mailing. The test shall demonstrate the height of the proposed facility.

7. If lighting is required by the FAA, the Applicant shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure. The Applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and twenty-five feet (25') beyond the property lines. The plan shall also indicate the location and types of luminaries proposed.

8. A proposed maintenance schedule for the Wind Energy System.

9. Emergency shutdown procedures for the Wind Energy System.

50.7 Design Standards and Siting Requirements. In addition to the Design Standards set forth in Section 12.4 Site Plan Review, the following design standards shall apply to all Wind Energy Systems and shall govern the development and design process.

1. Setbacks: A Wind Energy System or Met Tower shall not be located closer to a property line than the height of the tower plus the height of the blade in its vertical position plus fifty feet (50'). No inhabited structures, overhead utility lines, public or private roads or right-of-ways shall be located within the setback distance. No part of the Wind Energy System or Met Tower support structure, including guy wire anchors, but excluding access roads, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located. The Planning Board may reduce the setback distances for the Wind Energy System if an abutting property owner(s) provides the Applicant with a recorded easement agreeing to the use limitations.

2. Noise: The Wind Energy System shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10). Except during short-term events such as high windstorms or utility outages, the sound created by said facility shall not exceed sixty-four (64) decibels (dba) for Small Wind Energy Systems and seventy (70) decibels (dba) for Large Wind Energy Systems as measured from the nearest property line. If noise levels are found to exceed allowable limits, the Building Inspector shall notify the owner of the property in writing to correct the violation. The Wind Energy System shall remain inactive until the noise violation is remedied. If the owner does not remedy the noise violation within thirty (30) days, the Building Inspector shall require the facility to be relocated or removed.

3. Height and Rated Nameplate Capacity: Wind Energy Systems are subject to the following height and rated nameplate capacity:

   - Small Wind Energy Systems shall no exceed seventy-five (75) feet in height and twenty (20)kW rated nameplate capacity.

   - Large Wiind Energy Systems shall not exceed two hundred fifty (250) feet in height and six hundred and sixty (660) kW rated nameplate capacity.

   The Planning Board may allow this height and rated nameplate capacity to be exceeded as part of the special permit process if the project proponent can demonstrate that the additional height and/or rated nameplate capacity is needed and that the additional benefits of the higher tower and/ or rated nameplate capacity outweigh any increased adverse impacts.

- The maximum height of a Met Tower shall be two hundred fifty (250) feet.

4. Unauthorized Access: The wind energy system shall be designed to prevent unauthorized access. For instance, the base of the tower may be enclosed by a fence and/or shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of twelve (12) feet above the ground.

5. Visual Impact: Installation of the Wind Energy System shall not create a substantially adverse visual impact. The Wind Energy System shall be sited in a manner that does not result in significant shadowing or flicker impacts. The Wind Energy System shall have a low reflective finish of an unobtrusive color. The Planning Board may require the structure to be painted or otherwise camouflaged to minimize visual impact.

6. A monopole tower shall be the preferred type of support.

7. Equipment Shelter: All equipment necessary to monitor and operate the wind facility shall be contained within the turbine tower unless technically infeasible, in which case, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure.

8. Lighting: Wind turbines shall be lighted only if required by the FAA. Lighting of other parts of the wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

9. Electromagnetic Interference: The Wind Energy System shall cause no disrupting electromagnetic interference. If it is determined that a Wind Energy System is causing interference, the operator shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Inspector.

10. Telecommunications: A wind turbine tower may be used as a wireless communication facility, subject to the requirements of the Federal Communications Commission (FCC), Section 26 herein and the following additional requirements:

    - Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower.

    - All cabling associated with the wireless communication facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

11. Signs: No signs will be erected on the Wind Energy System except a sign identifying the Wind Energy System, the owner, the operator, and an emergency telephone number, no-trespassing signs, and any signs to warn of danger. All signs shall comply with Section 34 herein.

12. Natural Vegetation: Clearance of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the Wind Energy System.

50.8 Maintenance Requirements and Emergency Shutdown Procedures.

1. At all times the Applicant shall maintain the Wind Energy System and related equipment in good working condition and perform regular maintenance in accordance with the approved maintenance schedule. A record shall be kept of all maintenance performed, and said maintenance record shall be provided to Town officials whenever requested to verify maintenance or status.

2. Should the Wind Energy System fall into disrepair, the Applicant shall correct the deficiency within seven (7) days. If the system is producing an unusual emission or condition, the Applicant shall address the situation within twenty-four (24) hours or render the System inactive until the problem can be remedied.

3. Failure to properly maintain the Wind Energy System or correct other issues may result in revocation of the Special Permit, if applicable.

4. The Applicant shall provide a copy of the site plan and emergency shutdown procedures to the Emergency Management Director, Police Chief and Fire Chief prior to issuance of a Certificate of Completion. Upon request, the Applicant shall cooperate with local emergency services in developing an emergency response plan.

5. The Applicant or facility owner shall provide the Building Inspector with the contact information for a person responsible for responding to public inquiries and complaints throughout the life of the project and post this information in a visible location within twenty (20) feet of the tower. This contact information shall be updated as necessary.

50.9 Removal Requirements.

1. The owner of the Wind Energy System shall submit a letter to the Building Inspector in December of each year confirming that the Wind Energy System is still in use and verifying compliance with standards of the bylaw and the Special Permit decision, if applicable. The owner shall notify the Building Inspector by certified mail on any proposed date of discontinued operations and plans for removal of the Wind Energy System.

2. A Wind Energy System that is not used for twelve (12) successive months, or that has reached the end of its useful life, shall be deemed discontinued, and shall be removed by the owner. Upon a Notice of Discontinuance issued by the Building Inspector, the owner will have thirty (30) days to provide sufficient evidence that the system has not been discontinued. Failure to provide such evidence to the Building Inspector within the time allowed shall be conclusive evidence that the Wind Energy System operation has been discontinued.

3. The owner shall dismantle and physically remove the Wind Energy System within ninety (90) days from the date of discontinued operations. Removal of the system shall include the structure, foundation, transmission equipment, equipment shelter, fencing, and other appurtenances. All solid and hazardous wastes shall be disposed of in accordance with local and state waste disposal regulations. The site shall be re-vegetated to prevent erosion.

4. If the owner fails to remove the Wind Energy System in accordance with the requirements of this bylaw, the Town shall have the right, to the extent otherwise duly authorized by law, to enter the property and remove the Wind Energy System at the expense of its owner and the owner(s) of the site on which the system is located.

5. A Special Permit issued in accordance with this bylaw shall automatically expire if the Wind Energy System is discontinued or the System installation is not completed and commissioned within twelve (12) months of the date that construction was initiated.

50.10 Performance Guarantee For Large Wind Energy Systems. The Planning Board shall require surety, either in the form of an escrow account or other security, in an amount sufficient to assure satisfactory removal of the system and re-vegetation of the site. The cost estimate for removal and re-vegetation shall be prepared by the Planning Board's technical consultant and shall include a twenty-five percent (25%) contingency fee.

50.11 Waiver Provision. The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained.

50.12.1 Modifications. All material modifications to a wind energy system made after issuance of the special permit shall require submission of a modified special permit, applied for in accordance with all regulations applicable at the time such application is properly made.

(By-Laws of 5-5-09, Art. 36, By-Laws of 5-4-2010, Art. 25)

Section 51. Large-Scale Ground-Mounted Solar Photovoltaic Installations

51.1 Applicability. The Planning Board may grant site plan approval for the erection, construction, installation, operation and modification of a Large-Scale Ground-Mounted Solar Photovoltaic Installation in any Zoning District subject to the requirements set forth herein.

51.2 Purpose and Intent. The purpose of this Section is to promote the creation of new large-scale, ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

51.3 Definitions. As used in this Section, the following terms shall have the meanings indicated:

Large-Scale Ground-Mounted Solar Photovoltaic Installation – A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

Rated Nameplate Capacity – The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Solar Photovoltaic System – An electrical system that consists of an array of one or more photovoltaic modules, inverters, electrical components, and one or more electric loads.

51.4 General. Large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

51.5 Application Procedure. Applicants are required to submit an application conforming to the requirements of this Bylaw. The application shall include a site plan and associated documents specified under Section 12.4 Site Plan Review, as well as the following additional information:

1. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

2. One or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code and National Electrical Safety Code compliant disconnects and over current devices;

3. Manufacturers' specifications and installation manuals (if available) of the major system components to be used, including, but not limited to, the PV modules, mounting system, combiner box, disconnects, inverter(s);

4. Operation and Maintenance Plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for periodic inspections and operational maintenance of the installation;

5. Emergency shutdown procedures for the solar photovoltaic installation;

6. Evidence that the utility company that operates the electrical grid where the installation is to be located has been informed of the Applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement;

7. Proof of liability insurance.

51.6 Design Standards and Siting Requirements

1. Dimensional Requirements: No part of the large-scale ground-mounted solar photovoltaic installation, including appurtenant structures, shall be located closer to a property line than seventy-five (75) feet. The installation shall be located at least one hundred (100) feet from existing residences. Maximum lot coverage requirements shall be consistent for the district within which the installation is located.

2. Height Requirements: Freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed twelve (12) feet in height above finished grade.

3. Appurtenant Structures: All appurtenant structures to large-scale ground-mounted solar photovoltaic installations, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shielded from view by existing vegetation or plantings and/or joined or clustered to avoid adverse visual impacts.

4. Fencing: An 8-foot tall, mini-mesh security fence shall be installed around the entire perimeter of the large-scale ground-mounted solar photovoltaic installation.

5. Land Clearing: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar photovoltaic installation or otherwise prescribed by applicable laws, regulations and bylaws.

6. Screening: Landscaping shall be required to screen the solar photovoltaic installation and accessory structures from roadways and neighboring residences. The width of the landscaped buffer shall be a minimum of twenty-five (25) feet. The Planning Board may waive this requirement if it determines that there is no public benefit from such screening.

7. Lighting: Lighting shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

8. Glare: No solar photovoltaic installation shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling neighboring roads.

9. Signs: No signs shall be erected on the solar photovoltaic installation except signs identifying the owner, the operator, the manufacturer, an emergency telephone number, safety signage, and warning signage. Special placards and signs shall be installed on all combiner boxes, inverters, transformers, disconnects, and panel feed breakers. This shall include the following placards:

   WARNING – SOLAR INVERTER OUTPUT DISCONNECT
   DO NOT RELOCATE
   THIS DEVICE

   AC Disconnects located at: (i.e. Rear of maintenance shed)

   A permanent sign shall be installed that shows the peak power, current, and voltages of each inverter, in lettering that is legible from a distance of three (3) feet.

   All signs shall comply with local utility requirements and Section 34 herein.

10. Network Interconnections and Power Lines: To the extent feasible, all network interconnections and power lines, to and from the facility, shall be located underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

51.7 Maintenance Requirements and Emergency Shutdown Procedures.

1. At all times the solar photovoltaic installation shall be maintained in good working condition and regular maintenance shall be performed in accordance with the approved maintenance schedule. A record shall be kept of all maintenance performed, and said maintenance record shall be provided to Town officials whenever requested to verify maintenance or status.

2. The owner or operator shall provide a copy of the site plan and emergency shutdown procedures to the Emergency Management Director, Police Chief and Fire Chief prior to issuance of an occupancy permit. The owner or operator shall cooperate with local emergency services in developing an emergency response plan.

3. The owner or operator shall provide the Building Inspector with the contact information for a person responsible for responding to public inquiries and complaints throughout the life of the project and post this information in a visible location at the installation. This contact information shall be updated as necessary.

51.8 Removal Requirements.

1. At least thirty (30) days prior to the date of discontinued operations, the owner of the solar photovoltaic installation shall notify the Building Inspector by certified mail of any proposed date of discontinued operations and plans for removal of the solar photovoltaic installation.

2. A solar photovoltaic installation that is not used for twelve (12) successive months, or that has reached the end of its useful life, shall be deemed discontinued, and shall be removed by the owner. Upon issuance of a Notice of Discontinuance by the Building Inspector, the owner shall have thirty (30) days to provide sufficient evidence that the system has not been discontinued. Failure to provide such evidence to the Building Inspector within the time allowed shall be conclusive evidence that the solar photovoltaic installation has been discontinued.

3. The owner shall dismantle and physically remove the solar photovoltaic installation within ninety (90) days from the date of discontinued operations. Removal of the system shall include:
    a. Physical removal of all large-scale ground-mounted solar photovoltaic installation, structures, equipment, security barriers and transmission lines from the site.

    b. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to maintain landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

51.9 Performance Guarantee. The Planning Board shall require surety, either in the form of a bond or other security, in an amount sufficient to assure satisfactory removal of the system. The cost estimate for removal and re-vegetation shall be prepared by the Planning Board's technical consultant and shall include a twenty-five percent (25%) contingency fee. The Planning Board shall review the amount of the surety at five year intervals to ensure that it is sufficient to guarantee satisfactory removal and re-vegetation. The Planning Board shall have the right, upon determination of discontinuance and failure to remove the installation within the ninety (90) day period identified in Section 51.8(3), but not the obligation, to claim the financial surety, and to the extent duly authorized by law enter the site and remove the facility in accordance with the requirements of this section.

51.10 Waiver Provision. The Planning Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained.

51.11 Modification. All material modifications to a large-scale solar photovoltaic installation made after issuance of the site plan approval shall require submission of a modified site plan, applied for in accordance with all regulations applicable at the time such application is properly made.
(By-Laws 5-1-2012, Art. 25)

Section 52. Recreational and Medical Marijuana Establishments

52.1 Applicability. The Planning Board may grant a special permit authorizing a Marijuana Establishment or a Registered Marijuana Dispensary as provided under Article 1, Section 14.11 of the Millbury Zoning Bylaws in conformance with the following regulations, conditions and limitations. For the purpose of this Section, the terms "Registered Marijuana Dispensary", "Marijuana Establishment", "Marijuana Cultivator", "Independent Testing Laboratory", "Marijuana Product Manufacturer", "Marijuana Retailer" and "Other Type of Licensed Marijuana-Related Business" shall be as defined in Article 5, Definitions.

52.2 Purpose and Intent. The purposes of this Section are:

1. To provide for the placement of Marijuana Establishments and Registered Marijuana Dispensaries in appropriate places and under conditions in accordance with the provisions of Massachusetts General Laws Chapter 94G.

2. To protect the health, safety, and general well-being of Millbury residents, the public, patients seeking treatment, customers seeking to purchase marijuana for recreational use, and patients seeking marijuana for medicinal purposes.

3. To minimize any adverse impacts of Marijuana Establishments and Registered Marijuana Dispensaries on abutters, residential neighborhoods and sensitive land uses.

4. To regulate the siting, design, security, safety, transfer, discontinuance, and quota of Marijuana Establishments and Registered Marijuana Dispensaries.

52.3 Design Standards and Siting Requirements. The following restrictions shall apply to uses under this Section 52:

1. No Marijuana Establishment or Registered Marijuana Dispensary shall be located within five hundred feet (500') of the property boundary line of any lot in use as a licensed daycare center, public or private pre-school or school providing education in kindergarten or any of grades 1-12, church, library, park, or playground. No Marijuana Establishment or Registered Marijuana Dispensary shall be located within five hundred feet (500') of any lot in use as a Marijuana Establishment or Registered Marijuana Dispensary, except where the marijuana facility is operated by the same individual, organization, or affiliated organization. For purposes of this provision, distance shall be measured in a straight line from property boundary line to property boundary line.

2. A Marijuana Establishment or Registered Marijuana Dispensary shall be located within a fully-enclosed, permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure.

3. A Marijuana Establishment or Registered Marijuana Dispensary shall not have drive-thru service.

4. A Marijuana Establishment or Registered Marijuana Dispensary shall not be located within a building containing residential units.

5. No smoking, burning, consumption, or use of marijuana or Marijuana Products shall be permitted on the premises of a Marijuana Establishment or Registered Marijuana Dispensary with the exception of product testing performed at an Independent Testing Laboratory.

6. Marijuana, marijuana products, associated supplies, and/or promotional/advertising materials shall not be displayed or visible to a person from the exterior of a Marijuana Establishment.

7. A Marijuana Establishment or Registered Marijuana Dispensary shall not display signage or other marketing materials on the exterior of the building or in any manner visible from the public way, which, in the opinion of the Planning Board, may promote or encourage the use of marijuana or other drugs by minors.

8. A Marijuana Establishment or Registered Marijuana Dispensary shall be ventilated in such a manner that:

   a) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
   b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment / Registered Marijuana Dispensary or at any adjoining property.

9. The hours of operation of a Marijuana Establishment or Registered Marijuana Dispensary shall be determined by the Planning Board as a condition of the special permit.

52.4 Application Procedure. Applicants are required to submit an application conforming to the requirements of Section 14 and this Section 52. The application shall include a site plan and associated documents specified under Section 12.4 Site Plan Review, as well as the following additional information:

1. The name and address of each owner of the facility/operation.

2. Copies of all documentation demonstrating appropriate application status under the state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility.

3. Evidence that the applicant has site control and the right to use the site for a Marijuana Establishment or Registered Marijuana Dispensary in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.

4. A description of all activities to occur on site, including all provisions for the delivery of marijuana and related products.

5. Details showing all proposed exterior security measures for the premises, including lighting, fencing, gates and alarms, etc., which seek to ensure the safety of employees and patrons and to protect the premises from theft and other criminal activity. A letter from the Town of Millbury Police Chief, or his/her designee, acknowledging review and approval of the security plan for the Marijuana Establishment or Registered Marijuana Dispensary shall be submitted with the application. To the extent allowed by law, all such documents shall be confidential.

6. Details of the ventilation system.

52.5 Specific Findings Required. In addition to the findings required under Section 12.46 and all other applicable sections of the Zoning Bylaws, the Planning Board shall not issue a special permit for a Marijuana Establishment or Registered Marijuana Dispensary unless it finds that the use:

1. Minimizes through design any adverse impacts on abutters and other parties in interest, as defined in M.G.L Chapter 40A, Section 11.

2. Demonstrates to the satisfaction of the Planning Board that it meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations.

3. Adequately addresses issues of site layout, security, ventilation, vehicular and pedestrian traffic, circulation, parking and queuing.

4. Satisfies all of the conditions and requirements set forth in this Section.

52.6 Transfer/Discontinuance of Use.

1. A special permit granted under this Section 52 shall run with the applicant and shall be non-transferrable to another owner or operator without an amendment to the special permit following a noticed public hearing in accordance with M.G.L. c. 40A and the Zoning Bylaws.

2. Any Marijuana Establishment or Registered Marijuana Dispensary permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with 105 CMR 725.105 (J) and (O) prior to the expiration of its Department of Public Health (DPH) Registration, immediately following revocation or voiding of its DPH Registration, or following the expiration, revocation or voiding of its license issued by the Cannabis Control Commission.

52.7 **Quota**. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed. The Planning Board shall limit the number of special permits issued for Marijuana Retailers such that the total number of active special permits for Marijuana Retailers shall not exceed 20% of the number of licenses issued within Millbury for the retail sale of alcoholic beverages not to be drunk on the premises where sold under Section 15 of Massachusetts General Law Chapter 138. Said number shall be rounded up to the next whole number. The Planning Board shall limit the number of special permits issued for Marijuana Establishments other than Marijuana Retailers to one (1). (By-Laws 5-1-18/5-2-18 Art. 29) (By-Laws 5-1-18/5-2-18 Art. 34 was deleted in its entirety)

ARTICLE 5. DEFINITIONS

In this bylaw the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed.

Abandoned Sign – Any sign or sign structure which has not been used for the display of sign copy for more than thirty (30) days, or that no longer identifies or advertises a location, product, or activity conducted on the premises upon which the sign is located. (Bylaws 6-8-2004 A.T.M., Art. 46)

Accessory Building or Use - A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than thirty (30) percent of the floor area or fifty percent (50%) of the lot area is occupied by such use, it shall no longer be considered accessory.

Advertising Vehicle – Any registered or unregistered vehicle or trailer having attached therto or located theron any sign or advertising device which advertises a product, business, or service, or directs people to a business or activity located on any premises. This definition does not include the identification of a firm or its products on a vehicle operated during the normal course of business. Franchised buses and taxis are specifically excluded from this definition. (Bylaws 6-8-2004 A.T.M. Art. 46)

Animated Sign – A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from chageable signs as defined and regulated by this code, include the following types:

1) Environmentally Activated: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennants and pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

2) Mechanically Activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

3) Electrically Activated: Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

a) Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination.

b) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion. (Bylaws 6-8-2004 A.T.M. Art. 46)

Aquifer - Geological formation composed of sand and gravel that contains significant amounts of potentially producible potable water. (Bylaws of 4-5-86, Art. 51, Sec. 23)

Architectural Embossing - a decorated or marked surface with a slightly raised or carved design or lettering. (Bylaws 6-8-2004 A.T.M. Art. 46)

Architectural Projection - Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building but that does not include signs as defined herein. See also: Awning; Back-lit Awning; and Canopy, Attached and Freestanding. (Bylaws 6-8-2004 A.T.M. Art. 46)

Assisted Living Facility (ALF)- In accordance with 651 CMR 12.02 any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

1. provides room and board; and
2. provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and
3. collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same. (Bylaws 5-1-07, Art. 48)

Awning - An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures which are internally illuminated by fluorescent or other light sources. (Bylaws 6-8-2004 A.T.M. Art. 46)

Awning Sign - A sign displayed on or attached flat against the surface or surfaces of an awning. See also: Wall or Fascia Sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Back-lit Awning - An awning with a translucent covering material and a source of illumination contained behind or within its framework. (Bylaws 6-8-2004 A.T.M. Art. 46)

Banner - A flexible substrate on which copy or graphics may be displayed. (Bylaws 6-8-2004 A.T.M. Art. 46)

Banner Sign - A sign utilizing a banner as its display surface. (Bylaws 6-8-2004 A.T.M. Art. 46)

Bed and Breakfast - A private, owner-occupied residence with up to six (6) guestrooms. The bed and breakfast is subordinate and incidental to the main residential use of the building. Individual guests are prohibited from staying at a particular bed and breakfast establishment for more than ninety (90) days in any one-year period. (Bylaws of 5-5-09, Art. 40)

Bedroom - Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room, or bath if such room exceeds sixty (60) square feet.

Billboard - A very large board erected by the roadside or attached to a building, used for displaying advertisements. Also, a sign to which Section 30, Chapter 93 G.L. applies. (Bylaws 6-8-2004 A.T.M. Art. 46)

Boarding Lodging or Tourist Home - A building with up to five (5) rooms used for lodging, with or without meals, for compensation.

Building Elevation - The entire side of a building, from ground level to roofline, as viewed perpendicular to the walls on that side of the building. (Bylaws 6-8-2004 A.T.M. Art. 46)

Building Height - The vertical distances from the mean finished grade of the ground adjoining the building to the highest point of the roof (or parapet) for flat or shed roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennae, or other parts of structures which do not enclose potentially habitable floor space.

Bulk Storage - To exclude junk yards.

Canopy (Attached) - A multi-sided overhead structure or architectural projection supported by attachment to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. (Bylaws 6-8-2004 A.T.M. Art. 46)

Canopy (Freestanding) - A multi-sided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light. (Bylaws 6-8-2004 A.T.M.Art. 46)

Canopy Sign - A sign affixed to the visible surface(s) of an attached or freestanding canopy. (Bylaws 6-8-2004 A.T.M.Art. 46)

Changeable Sign - A sign with the capability of content change by means of manual or remote input, including signs which are:

1) Manually Activated - Changeable sign whose message copy or content can be changed manually
2) Electrically Activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also: Electronic Message Sign or Center (Addendum 6-8-2004 A.T.M.)

Combination Sign - A sign which is supported partly by a pole and partly by a building structure. (Bylaws 6-8-2004 A.T.M.Art 46)

Community Event – An occurrence open to the general public, and organized by (or in cooperation with) a public agency or civic organization located within the Town of Millbury. (Bylaws 6-8-2004 A.T.M. Art. 46)

Condominium – A method of ownership whereby individual(s) or entity(ies) own one or more dwelling units in a multi-family structure or project. Said owner(s) of such dwelling unit may have an undivided interest in the common areas and facilities that serve the unit or project, such as land, roofs, floors, main walls, stairways, lobbies, halls, parking areas, driveways, recreation areas, open space areas and natural landscaped and/or conservation areas. Said owner may take title to his individual dwelling unit or units, vote on a proportional basis in all aspects of his undivided interest in common areas, be taxed separately by the Town for the individual dwelling unit and may have a mortgage on the individual dwelling unit.(Bylaws of 5-2-2006, Art. 51)

Copy - Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, excluding numerals identifying street address only. (Bylaws 6-8-2004 A.T.M. Art. 46)

Day Care Center – Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, for non-residential custody and care during part or all of the day separate from their parents or legal guardians. (Bylaws of 5-5-09, Art. 40)

Development Complex Sign - A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park which is controlled by a single-owner or landlord, approved in accordance with section 34.8 of this chapter. (Bylaws 6-8-2004 A.T.M. Art. 46)

Directional Sign - Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic. (Bylaws 6-8-2004 A.T.M. Art. 46)

Double-faced Sign - A sign with two faces, back to back. (Bylaws 6-8-2004 A.T.M. Art. 46)

Dwelling - A building or part of a building used exclusively as the living quarters for one or more families.

Dwelling, Accessory – A self-contained dwelling unit, complete with its own sleeping, cooking, and sanitary facilities, that is subordinate in size to the principal dwelling unit, located substantially within the structure of a detached single-family dwelling or a building accessory thereto and functions as a separate unit. (Bylaws of 5-2-2006, Art. 51)

Dwelling, multifamily or apartment - Premises containing two or more dwelling units, irrespective of ownership or tenure. (Bylaws of 5-1-90, Article 69)

Dwelling, Single Family - Premises accommodating a single dwelling unit.

Dwelling Unit - A building or portion of a building providing living quarters for a single family.

Electric Sign - Any sign activated or illuminated by means of electrical energy. (Bylaws 6-8-2004 A.T.M. Art. 46)

Electronic Message Sign or Center - An electrically activated Changeable Sign whose variable message capability can be electronically programmed. (Bylaws 6-8-2004 A.T.M. Art. 46)

Embossed Sign – A sign with a slightly raised or carved surface.
(Bylaws 6-8-2004 A.T.M. Art. 46)

Energy, Alternative – Combined Heat and Power (CHP) or electric and hydrogen powered vehicles and associated technologies including advanced batteries and recharging stations. (By-Laws 5-4-2010, Art. 24)

Energy, Renewable – Energy whose supply is replenished through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, solar, wind, hydroelectric, geothermal, and biomass conversion, and excluding those sources of energy used in the fission and fusion processes. (By-Laws 5-4-2010, Art. 24)

Exterior Sign - Any sign placed outside a building. (Bylaws 6-8-2004 A.T.M. Art. 46)

Family - Any number of individuals related by blood or marriage, or not more than eight persons not so related living and cooking together in a single housekeeping unit.

Fascia Sign - See Wall Sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Flag – Any piece of cloth or other flexible material, attached to a staff, pole, or other structure, with distinctive colors, patterns, or symbolic devices, used as a symbol for a government, corporation, or other organization, public or private. (Bylaws 6-8-2004 A.T.M. Art. 46)

Flashing Sign - See Animated Sign, Electrically Activated. (Bylaws 6-8-2004 A.T.M. Art. 46)

Floor Area, Gross - The sum of the gross horizontal area of the several floors of a building and its accessory building on the same lot, including the area of basements, not more than fifty (50) percent below grade, roofed porches and roofed terraces, but excluding areas with less than six (6) feet floor to ceiling height. All dimensions shall be measured between exterior faces of walls.

Freestanding Sign - A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or upon the ground. For visual reference, see Section 3. (Bylaws 6-8-2004 A.T.M. Art. 46)

Frontage (Building) - The length of an exterior building wall or structure of a single premise oriented to the public way or other point of property access. (Bylaws 6-8-2004 A.T.M. Art. 46)

Frontage (Property) - The length of the property line(s) of any single premise along a public way or other point of property access. (Bylaws 6-8-2004 A.T.M. Art. 46)

Golf Course, Par Three - Course, including customary accessory buildings, where tee to hole distance averages less than eighty (80) yards and not more than two hundred fifty (250) yards.

Golf Course, Standard - Course, including customary accessory buildings, where tee to hole distance averages not less than two hundred fifty (250) yards.

Ground Sign - See Freestanding Sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Groundwater - All water found beneath the surface of the ground. In this bylaw, the term refers to the slowly moving subsurface water present in aquifers and recharge areas. (Bylaws of 4-5-86, Art. 51, Sec. 23)

Historical Marker – A small sign attached to a building identifying a person or event of historic significance related to the property. (Bylaws 6-8-2004 A.T.M. Art. 46)

Home Occupation - A business or profession engaged in within a dwelling by a resident thereof as a use accessory thereto.

Hours of Operation - The actual hours when a building is open for business, and not more than one hour prior to opening or following closing. (Bylaws 6-8-2004 A.T.M. Art. 46)

Illuminated Sign - A sign characterized by the use of artificial light, either projecting through its surface(s) [Internally illuminated]; or reflecting off its surface(s) [Externally illuminated]. (Bylaws 6-8-2004 A.T.M.)

Impervious Surface - Material on the ground that does not allow surface water to penetrate into the soil. (Bylaws of 4-5-86, Art. 51, Sec. 23)

Independent Testing Laboratory – A laboratory that is licensed by the Cannabis Control Commission and is: 1) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory of the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement, or that is otherwise approved by the Cannabis Control Commission; 2) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and 3) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. (By-Laws 5-1-18/5/2-18 Art. 33)

Inflatable Sign - A balloon or other gas-filled figure. (Bylaws 6-8-2004 A.T.M. Art. 46)

Interior Sign - Any sign placed within a building, but not including Window Signs as defined by this bylaw. Interior Signs, with the exception of Window Signs as defined, are not regulated by this Chapter. (Bylaws 6-8-2004 A.T.M. Art. 46)

Junkyard - The use of any area of any lot, 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. To include a recycling facility. (Bylaws of 4-3-76, Art. 55)

Kennel - One pack or collection of dogs on a single premises whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs, six months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained. (Bylaws of 5-4-99, Art. 60)

LEED (Leadership in Energy and Environmental Design)-Certified Buildings – LEED-certified buildings have demonstrated energy conservation and addressed concerns for site development, water savings, energy efficiency, materials selection and indoor environmental quality. Certification comes after compliance with the requirements of the LEED Green Building Rating System, a nationally accepted benchmark established by the U.S. Green Building Council. To receive LEED certification, a developer applies to the USGBC, documenting the building's compliance with LEED goals. Depending on the nature and use of the building, it must meet a basic set of prerequisites; to that, numerous credits are added, depending on the building's specific design and construction. Innovation is encouraged. (Bylaws of 5-5-09, Art. 40)

Lot - A continuous parcel of land with legally definable boundaries.

Lot Area - The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. At least ninety percent (90%) of the lot area required for zoning compliance shall be land other than that under water nine (9) months or more in a normal year, other than any resource area as specified in Chapter 131, Section 40, M.G.L., parts 1 and 3 with revisions thereto, including all marshes, swamps, bogs or wetland areas, and other than land within utility transmission easements. (Bylaws of 6-6-89, Art. 72, s. 3; Bylaws of 5-3-94, Art. 45)

Lot Coverage-. Percentage of total lot area covered by structures or roofed.

Lot Frontage - The continuous linear extent of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line of the same lot, or in the case of corner lots, between one side lot line and the midpoint of the corner radius, buy not including frontage within utility or access roadway easements. When the lot is located on a cul-de-sac or curve with radius of 50 feet or less, the lot frontage may alternatively be measured at the required front setback line provided that 75% of the requirement can be met at the street right-of-way line.

Major Street - All state-numbered highways (Rtes 20, I-190, 122, 122A, and 146) Auburn Road, Carleton Road, Elm Street, Grafton Street, Greenwood Street, Howe Avenue, Martin Street, Millbury Avenue, McCracken Road east of Greenwood, North Main Street, Stone Road, Sutton Road, West Main Street, plus any street subsequently laid out with right-of-way width of sixty feet (60') or more.

Mansard - An inclined decorative roof-like projection that is attached to an exterior building facade. (Bylaws 6-8-2004 A.T.M. Art. 46)

Manufacturing Facility – A use engaged in the processing and manufacturing of materials or the manufacture from previously prepared materials, of finished products or parts, including processing, blending, fabrication, assembly, treatment, packaging, and incidental storage. (By-Laws 5-4-2010, Art. 24)

Marijuana Cultivator – An entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers. (By-Laws 5-1-18/5-2-18 Art. 33)

Marijuana Establishment – A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business. (By-Laws 5-1-18/5-2-18 Art. 33)

Marijuana Product Manufacturer – An entity licensed to obtain, manufacture, process, and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments, but not consumers. (By-Laws 5-1-18/5-2-18 Art. 33)

Marijuana Products – Products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures. (By-Laws 5-1-18/5-2-18 Art. 33)

Marijuana Retailer – An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers. (By-Laws 5-1-18/5-2-18 Art. 33)

Marquee - See Canopy (Attached) (Bylaws 6-8-2004 A.T.M. Art. 46)

Marquee Sign - See Canopy Sign (Bylaws 6-8-2004 A.T.M. Art. 46)

Menu Board - A freestanding sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than twenty percent (20%) of the total area for such sign utilized for business identification.

(Bylaws 6-8-2004 A.T.M. Art. 46)

Mobile Home - A moveable or portable dwelling built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living.

Monument Sign – A freestanding sign not more than six (6) feet in height, which is attached to the ground by means of a wide base of solid appearance. (Bylaws 6-8-2004 A.T.M. Art. 46)

Motor Vehicle Service Station - Premises devoted primarily to retail sales of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

Multiple-Faced Sign - A sign containing three (3) or more faces.
(Bylaws 6-8-2004 A.T.M. Art. 46)

Municipal Off-street Parking Lot - Premises owned or operated by the Town of Millbury or any agency or authority thereof, improved and maintained on a permanent basis, intended to serve parking needs of the general vicinity, as opposed to serving a single facility.
(Bylaws of 4-2-77, Art. 67, s. 3)

Off-Premise Sign - A permanent or temporary sign (including the structure to which it is attached) erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property upon which it is displayed. (Bylaws 6-8-2004 A.T.M. Art. 46)

On-Premise Sign - A sign (and the structure to which it is attached) erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.
(Bylaws 6-8-2004 A.T.M. Art. 46)

Other Type of Licensed Marijuana-Related Business – A licensed marijuana establishment other than a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, or marijuana retailer. (By-Laws 5-1-18/5-2-18 Art. 33)

Outdoor Advertising Sign -. A permanent or temporary sign and its supporting structure erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages. (Bylaws 6-8-2004 A.T.M. Art. 46)

Parapet - The extension of a building facade above the line of the structural roof. (Bylaws 6-8-2004 A.T.M. Art. 46)

Parking Space - Space adequate to park an automobile, not less than nine by twenty feet (9' x 20'), plus means of access. Where spaces are not marked, each space shall be assumed to require three hundred-fifty square feet (350 sf). In off-street parking lots, parking spaces may be reduced to nine by eighteen feet (9' x 18'). (Bylaws of 5-3-94, Art. 46)

Pole Sign - See Freestanding Sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Political Sign - A temporary sign intended to advance a political statement, cause, or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Portable Sign - Any sign not permanently attached to the ground or to a building or building surface. (Bylaws 6-8-2004 A.T.M. Art. 46)

Projecting Sign - A sign other than a Wall Sign that is attached to or projects more than eighteen (18) inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Public Utility – Communications or energy facilities operated by a public service corporation and regulated by the Massachusetts Department of Public Utilities. (By-Laws 5-4-10, Art. 24)

Real Estate Sign - A temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located. (Bylaws 6-8-2004 A.T.M. Art. 46)

Recharge Area - Areas composed of permeable, porous materials that allow significant infiltration and collection of precipitation or surface water and thereby transmit this water to aquifers. (Bylaws of 4-5-86, Art. 51, s. 23)

Registered Marijuana Dispensary (RMD) – A not-for-profit entity registered under 105 CMR 725.100 also known as a Medical Marijuana Treatment Center, 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.
(By-Laws 5-6-2014, Art. 42)

Research and Development Facility – A facility primarily used for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses.
(By-Laws 5-4-2010, Art. 24)

Residential Social Service Facility - A dwelling where care and supervision licensed, contracted, or supervised by a federal or state agency, is provided to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. Includes half-way houses, but not nursing homes or foster homes. (Bylaws of 5-27-75, Art. 83 (1).

Revolving Sign - A sign that revolves three hundred and sixty degrees (360) about an axis. See also: Animated Sign, Mechanically Activated. (Bylaws 6-8-2004 A.T.M. Art. 46)

Roof Line - The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet. (Bylaws 6-8-2004 A.T.M. Art. 46)

Roof Sign - A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs. (Bylaws 6-8-2004 A.T.M. Art. 46)

Sign - Any device visible from a public place which displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. A sign also includes the structure to which the message is attached. (Bylaws 6-8-2004 A.T.M. Art. 46)

Sign Area - The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as fifty percent (50%) of the sum of the area of all faces of the sign. In the case of back-lit or internally illuminated signs or awnings, the sign area shall consist of the entire illuminated area. (Bylaws 6-8-2004 Art. 46)

Sign Copy - Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, exclusive of numerals identifying street address only. (Bylaws 6-8-2004 Art. 46)

Sign Face - The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of building or sign structures, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

1) In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

2) In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface which is routed, except where interrupted by a reveal, border, or a contrasting surface or color.

3) In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall compromise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

4) In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border (Bylaws 6-8-2004 A.T.M. Art. 46

Sign Height – The height of a sign as measured from the ground to the highest point of the sign structure. For a sign placed on sloping or uneven terrain, the height of the sign shall be measured by determining the average ground elevation directly beneath the sign, and using that average elevation as the ground level. (Bylaws 6-8-2004 A.T.M. Art. 46)

Sign Structure - Any structure supporting a sign. (Bylaws 6-8-2004 A.T.M. Art. 46)

Street - A way providing legally sufficient frontage for subdivision of land under the requirements of Chapter 41, Section 81L, General Laws.

Structure - Anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something located on the ground, including swimming pools having capacity of four thousand (4,000) gallons or more and mobile homes, but not including walls or fences.

Temporary Sign - A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs. Banners, balloons, and pennants are temporary signs, regardless of the manner by which they are affixed to a building or to the ground. (Bylaws 6-8-2004 A.T.M. Art. 46)

Temporary Structure or Use - A portable or demountable structure or a use or occupancy of land, in either case to be removed or discontinued within twelve (12) months. A wind monitoring or meterological tower as defined in Section 50.3 shall be removed within thirty-six (36) months of installation. (Bylaws 5-5-09, Art. 39)

Under Canopy Sign or Under Marquee Sign - A sign attached to the underside of a canopy or marquee. (Bylaws 6-8-2004 A.T.M. Art. 46)

V Sign - Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape. (Bylaws 6-8-2004 A.T.M. Art. 46)

Wall Bulletin – A sign painted directly upon the surface of a wall. (Bylaws 6-8-2004 Art. 46)

Wall or Fascia Sign - A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than eighteen (18) inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For visual reference and comparison examples of differences between wall or fascia signs and roof signs, see Section 3. (Bylaws 6-8-2004 Art. 46)

Wayfinding Sign – A sign or series of signs located in a manner that provides orientation and direction to a destination or destinations within a specific geographic area.
(Bylaws 6-8-2004 A.T.M. Art. 46)

Window Sign - A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.
(Bylaws 6-8-2004 A.T.M. Art. 46)

Yard - A required open space, unoccupied and unobstructed by any structure or portion of a structure, except the following:

a) fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture;
b) in front yards only, eaves, steps, and noncovered porches.

Yard Front - A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.

Yard, Side or Rear - A yard other than a front yard.