TOWN OF MEDWAY
MASSACHUSETTS

ZONING BYLAW & MAP

Includes amendments approved by Town Meeting on November 14, 2016

Medway & Economic Development Board

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Matthew J. Hayes, P.E.
Richard Di Iulio

The *Medway Zoning Bylaw & Map* is available online at www.townofmedway.org

155 Village Street
Medway, MA 02053
508-533-3291
planningboard@townofmedway.org

December 5, 2016

TOWN OF MEDWAY

Planning & Economic Development Board

155 Village Street
Medway, Massachusetts 02053

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Matthew J. Hayes, P.E.
Richard Di Iulio

December 5, 2016

The following pages contain the provisions of the *Medway Zoning Bylaw* as amended including those actions taken by the Medway Town Meeting held on November 14, 2016. 2016. Please note however, that those amendments have not yet been approved by the Massachusetts Attorney General's office. It also includes the current *Medway Zoning Map* as updated December 1, 2016.

Although every effort is made to ensure the accuracy of the content of this booklet, the Town of Medway expressly disclaims any liability for errors. If any such errors are noted, kindly bring them to the attention of the Medway Planning & Economic Development office. If you have questions concerning anything set forth in this booklet, please consult the official record of the Town Meeting at which a particular zoning provision was adopted. Those records are on file with the Medway Town Clerk, Medway Town Hall, 155 Village Street, Medway, MA 02053.

Any questions regarding interpretation of the *Medway Zoning Bylaw* should be directed to Jack Mee, Medway's Building Commissioner and Zoning Enforcement Officer. He can be reached at 508-533-3253 or jmee@townofmedway.org.

The Planning and Economic Development Board intends to update and republish this booklet upon approval of any amendments to the *Zoning Bylaw* and *Map* by Town Meeting.

It is hoped that this publication will be a useful resource to the citizens of Medway and to those who own, use, and develop real estate within the community. However, readers are advised to consult an attorney before acting upon its content.

Best regards,

Andy Rodenhiser
Chairman

Telephone: 508-533-3291 Fax: 508-321-4987
planningboard@townofmedway.org

MEDWAY ZONING BYLAW
TABLE OF CONTENTS

SECTION 1. PURPOSE AND AUTHORITY 1
1.1. Title 1
1.2. Purposes 1
1.3 Authority 1
1.4 Applicability 1
1.5 Amendment 1
1.6 Severability 1
1.7 Format 2

SECTION 2. DEFINITIONS 3

SECTION 3. ADMINISTRATION 19
3.1. Enforcement, Violations, and Penalties 19
3.2. Zoning Board of Appeals 21
3.3. Planning and Economic Development Board 22
3.4. Special Permits 23
3.5. Site Plan Review 25
3.5.1. Purposes 25
3.5.2. Requirements 25
3.5.3. Applicability 25
3.5.4. Procedures for Site Plan Review 27
3.5.5. Site Plan Rules and Regulations 28

SECTION 4. ESTABLISHMENT OF DISTRICTS 30
4.1. Districts 30
4.2. Zoning Map 30
4.3. Lots Divided by District Boundaries 31
4.4 Zoning District Boundaries 31

SECTION 5. USE REGULATIONS 32
5.1. General Provisions 32
5.2. Prohibited Uses 32
5.3. Permitted in All Districts 33
5.4. Schedule of Uses 33
5.4.1. Special Permits in the Commercial 1 District 36
5.5. Nonconforming Uses and Structures 39

5.6. Overlay Districts 42
5.6.1. Flood Plain/Wetland Protection District 42
5.6.2. Adaptive Use Overlay District 46
5.6.3. Groundwater Protection District 51
5.6.4 Multifamily Housing 56

SECTION 6. DIMENSIONAL REGULATIONS 59

6.1 Schedule of Dimensional and Density Regulations 59
6.2 General Provisions 60

SECTION 7. GENERAL REGULATIONS 61

7.1. Site Development Standards 61
7.1.1. Off-Street Parking and Loading 61
7.1.2. Outdoor Lighting 66
7.2. Signs 69
7.2.1. General 69
7.2.2. Exempt Signs 73
7.2.3. Prohibited Signs 77
7.2.4. Basic Requirements; All Districts 78
7.2.5. Sign Standards 81
7.2.6. Administration 90
7.3. Environmental Standards 93

SECTION 8. SPECIAL REGULATIONS 95

8.1. Infill Housing 95
8.2. Accessory Family Dwelling Unit 97
8.3. Home-Based Business 100
8.4. Open Space Residential Development (OSRD) 102
8.5. Adult Retirement Community Planned Unit Development 109
8.6. Affordable Housing 114
8.7. Wireless Communications Facilities 118
8.8. Small Wind Generation 120
8.9. Registered Marijuana Dispensary 125

APPENDICES

Town Clerk's Certification
History of Medway Zoning Bylaw
Medway Zoning Map

SECTION 1. PURPOSE AND AUTHORITY

1.1. TITLE

The full title of this Bylaw shall be the "Zoning Bylaw of the Town of Medway, Massachusetts." This Bylaw shall be referred to herein as "this Zoning Bylaw" or "these Bylaws."

1.2. PURPOSES

This Zoning Bylaw is enacted in order to promote the general welfare of the Town of Medway; to protect the health and safety of its inhabitants; to support the most appropriate use of land throughout the town, and to further the goals and policies of the Medway Master Plan, and to preserve and increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of Chapter 808 of the Acts of 1975.

1.3. AUTHORITY

This Zoning Bylaw is enacted in accordance with the provisions of G.L. c. 40A, any and all amendments thereto, and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.4. APPLICABILITY

All buildings or structures hereinafter erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, shall be in conformity with the provisions of these Bylaws. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this Zoning Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning Bylaw shall control.

1.5. AMENDMENT

This Zoning Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided for in G.L. c. 40A, Section 5.

1.6. SEVERABILITY

The invalidity of any section or provision of this Zoning Bylaw shall not invalidate any other section or provision herein.

1.7. FORMAT

The Planning and Economic Development Coordinator, under the auspices of the Planning and Economic Development Board, is authorized to edit this Zoning Bylaw for format only through the use of bold, italics, underscores, bullets, font style, font size, spacing and other similar editing measures to improve the Bylaw's readability and ease of use without changing the text, section and heading titles, numbering, or content in any manner; and to clearly denote those terms throughout the Bylaw that are officially defined within SECTION 2 of this Bylaw. This Section 1.7 will expire on May 9, 2018. *(Added 5-9-16)*

SECTION 2. DEFINITIONS

In this Zoning Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind.

Terms and words not defined herein but defined in the State Building Code or Massachusetts General Laws shall have the meaning given therein unless a contrary intention is clearly evident in this Zoning Bylaw. Terms not defined in the State Building Code or Massachusetts General laws shall have the meaning given them by the current edition of Black's Law Dictionary as determined by the Inspector of Buildings. In addition, other sections of this Zoning Bylaw contain definitions particular to the subject matter for which they have been established. *(Amended 11/16/15)*

Abandonment of Use: The intentional cessation or discontinuation of a particular use of property. The abandonment of a nonconforming use occurs when the owner forms an intent to abandon the use and engages in conduct that carries the implication of abandonment. Abandonment does not include temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure. *(Added 5-9-16)*

Accessory Building or Use: A building or use customarily incidental to and located on the same lot with a principal building or use or on an adjoining lot under the same ownership.

Accessory Family Dwelling Unit: A separate and complete housekeeping unit contained within, or being an extension of, a single family dwelling to accommodate additional family members of a resident of the primary dwelling.

Adult Day Care Facility: A professionally staffed non-residential facility that provides health, nutritional, and social support services to meet the daily living needs of adults in a group setting. Services may include transitional care and short-term rehabilitation following hospital discharge.

Adult Retirement Community Planned Unit Development (ARCPUD): A master-planned development of land as a unified, self-contained residential community, constructed expressly for use and residency by persons who have achieved a minimum age requirement for residency of fifty-five years of age or older in accordance with G.L. c. 151B, § 4 and also incorporating the preservation of natural open space areas as an integral element of the development. An ARCPUD shall be permitted only in an Adult Retirement Community Overlay District and only upon the granting of a special permit by the Planning and Economic Development Board. An ARCPUD shall include at least one of the Adult Retirement Community Residential Uses defined below in this Section 2 of the Zoning Bylaw. The Planning and Economic Development Board in its granting of the ARCPUD special permit may specifically authorize other appropriate uses. An ARCPUD may

include a variety or combination of housing types that may be sold or leased to individual residents, or may be operated or sponsored as a coordinated unit by a corporation or organization having among its principal purposes the provision of housing and resident services for retired and/or aging persons.

Additional definitions pertaining to ARCPUD can be found in Section 8.5.

Adult Use: Adult bookstores, Adult Cabarets, Adult Motion Picture theaters, Adult Paraphernalia Stores and Adult Video Stores as further defined below:

- **Adult Bookstore**: An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, Section 31.

- **Adult Cabaret**: A nightclub, bar restaurant, tavern, dance hall, or similar commercial establishment which regularly features persons or entertainers who appear in a state of nudity or live performances which are distinguished or characterized by nudity, sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

- **Adult Motion Picture Theater**: An enclosed building or any portion thereof used for presenting material (motion picture films, video cassettes, DVD's, cable television, slides or any other visual media) distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

- **Adult Paraphernalia Store**: An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity including sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

- **Adult Video Store**: An establishment having as a substantial or significant portion of its stock in trade, for sale or rent, motion picture films, video cassettes, DVD's and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

Affordable Housing Unit: A dwelling unit that is affordable to and occupied by a low or moderate income household and meets the requirements for inclusion on the Massachusetts Department of Housing and Community Development (DHCD) Chapter 40B Subsidized Housing Inventory. Affordable units shall remain as affordable units in perpetuity. These units shall have the same construction methods, physical characteristics as, and be intermingled with other units in the subdivision or development.

Affordable Housing Restriction: A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or

for the maximum period allowed by law, and be entered into and enforceable under the provisions of G.L. c. 184, §§ 31-33 or other equivalent state law.

Affordable Housing Trust Fund: An account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing units in the Town of Medway.

Agriculture: As defined in Massachusetts General Laws, Chapter 128, Section 1A. *(Added 11/16/15)*

Alteration: As defined in the State Building Code.

Alternative Energy: Energy derived from combined heat and power; and electric and hydrogen powered vehicles and associated technologies including advanced batteries and recharging stations.

Applicant: The person or entity having the legal authority and who is seeking a permit or approval from the Town of Medway to construct or use property subject to the provisions of this Zoning Bylaw, or the authorized agent of any such person or entity.

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

ARCPUD: See "Adult Retirement Community Planned Unit Development", Section 8.5.

Assisted Living or Congregate Living Residence Facility: An assisted living residence facility as defined by G.L. c. 19D.

Auto Body Shop: An establishment in which bodies and frames for damaged vehicles, such as automobiles, trucks, or the like, are manufactured, repaired, straightened, or painted and which may include vehicle repair services as an accessory use. *(Added 11-14-16)*

Auto Parts: An establishment selling various components which are used to build or repair automotive vehicles and keep them performing safely and efficiently. May also include the sale of associated supplies and tools for the maintenance and upkeep of motor vehicles and various automotive accessories. *(Added 11-14-16)*

Automated Teller Machine (ATM) Kiosk: A free-standing, electronic banking outlet which allowed customers to complete various banking transactions without the aid of a branch representative or teller. NOTE – Sometimes referred to as automated banking machines. *(Added 5-9-16)*

Automobile Car Wash: Any building or premises or portions thereof containing facilities for the commercial washing of automobiles and motor vehicles.

Basement: That portion of a building which is partially below and partially above grade.

Bed and Breakfast: A transient lodging establishment in an owner-occupied, detached single-family dwelling, with not more than 6 rooms used as sleeping accommodations for paying guests, and which may include breakfast as part of the lodging charge.

Boathouse: An enclosed or partially enclosed building or shed for sheltering a boat or boats and associated marine equipment on or near a river, stream, pond or lake. *(Added 11-14-16)*

Brew Pub – A restaurant licensed under the relevant state and federal statutes to produce and sell beer and/or ale at the location for on-premises consumption. May include facilities for customers to brew on-premises for personal consumption off-site as an accessory use. Beverages produced on the premises may be sold to other establishments but such sales shall not exceed 50% of the establishment's production capacity per year. *(Added 11-14-16)*

Brewery, **Distillery or Winery:** An establishment located in a building that uses equipment and/or processes for the production and distribution of malt, spirituous, or vinous beverages pursuant to G.L. c. 138, §19. Such establishment may include on-site sampling, the sale of permitted beverages produced on the premises to consumers for off-site consumption, and the sale of commercial goods branded by the establishment. A tasting room, not to exceed 25% of the building's gross square footage, that allows patrons to sample or consume beverages that are produced on premises is permitted as an accessory use. The establishment may also host marketing events, special events, and/or factory tours. May include facilities for customers to brew on-premises for personal consumption off-site as an accessory use. *(Added 11-14-16)*

Building: An independent structure having a roof supported by columns or walls resting on its own foundations and designed for the shelter, housing, or enclosure of persons, animals, chattels, or property of any kind.

Building Inspector: The Building Inspector (whose title may include Building Commissioner or Inspector of Buildings) of the Town of Medway.

Building Height: The vertical distance from grade plane to the average height of the highest roof surface. *(Added 5-9-2016)*

Business: Any lawful commercial endeavor to engage in the purchase, sale, lease, exchange or provision of goods and for the provision of services or instruction.

Commercial Indoor Amusement: An establishment engaged in providing indoor entertainment or games for a fee to the general public and including but not limited to such activities as a dance hall, bowling alley, billiard or pool establishment, skate park, rock climbing, baseball, trampoline jumping, golf, family fun/entertainment/amusement center, playground, and other similar uses and which may include the provision of food and drink as an accessory use. *(Added 11-14-16)*

Commercial Motor Vehicle: Any vehicle defined as such by the Massachusetts Registry of Motor Vehicles in 540 CMR 2.05. *(Amended 5-9-16)*

Common Driveway: A privately owned driveway, paved or not, providing vehicular access between two or more buildings and a street. A common driveway does not serve as legal frontage for a lot.

Community Center: A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group organization. *(Added 11-14-16)*

Continuing Care Retirement Facility: A facility that includes a combination of types of dwellings or a lifetime continuum of accommodations and care for elder residents, including independent living, assisted/congregate living and long-term care facilities.

Contractor's Yard: The premises of a building, construction, plumbing, wiring, landscaping, excavating, or other similar contracting or sub-contracting business, where any of the following purposes may be conducted for the contractor's business: indoor or outdoor storage of equipment, supplies and materials; the fabrication of sub-assemblies; servicing of equipment; the parking of wheeled equipment; the parking of two or more motorized vehicles with six wheels or more; the parking of one or more "commercial motor vehicles" as defined by the Massachusetts Registry of Motor Vehicles in 540 CMR 4.02; wholesale or retail sales; or showrooms of finished an unfinished products or materials.

Detention Basin: A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events.

Doggie Day Care: An establishment where dogs are dropped off and picked up for temporary daytime care on the premises and where they may be groomed, trained, exercised and socialized, but are not boarded overnight, bred, or sold. *(Added 11-14-16)*

Drive-Through Facility: A place of business, which serves customers who remain in motor vehicles, that provides goods or services to the exterior of the building by means of a service window, counter, or similar method or device.

Dwelling: A building or portion thereof designed exclusively for residential occupancy, including single family, two family, and multiple family dwellings, but not including hotels, motels, boarding houses, trailers, or structures solely for transient or overnight occupancy.

Dwelling Unit: One or more rooms providing complete living facilities for one family, including room or rooms for living, sleeping, food preparation and sanitary facilities. *(Amended 5-9-16)*

Eave: The projecting lower edges of a roof overhanging the walls of a building.

Educational/Instructional Facility, commercial: Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge or skill, on land that is not owned or leased by the Commonwealth or any of its agencies, subdivisions, or body politic, or by a religious sect or denomination, or by a nonprofit educational organization, including but not limited to schools for vocational and technical training, art, dance, gymnastics, yoga, martial arts and other sports activities. *(Added 11-14-16)*

Electric Power Generation: The process of generating electric power from other sources of primary energy such as electromechanical generators, heat engines fueled by chemical

combustion, kinetic energy such as flowing water and wind, and other energy sources such as solar photovoltaic and geothermal power. *(Added 11-14-16)*

Equivalent Affordable Housing Unit Value: An amount equal to the difference between the median sale price for market rate single family homes sold in Medway during the thirty six months preceding the date of application, as determined by the Board of Assessors based on deeds recorded with the Norfolk Registry of Deeds for arms-length transactions, and the purchase price of a home that is affordable to a qualified purchaser as determined by (DHCD), assuming a household size of four, or one person per bedroom plus one additional person with the number of bedrooms being the average number in the development, whichever is less. For developments other than single-family detached structures (e.g. duplexes or multifamily condominiums) the Planning and Economic Development Board may substitute the median sale price of the applicable type of market rate dwelling unit for the median sale price of single family homes in the preceding formula.

Establishment: A separate and distinct use, business, enterprise, institution, or organization occupying space within a building.

Family:

- An individual or two or more persons including children, who are related by blood, marriage, foster care, legal adoption or guardianship, living together as a single housekeeping unit
- A group of up to four individuals not related by blood, marriage, foster care, legal adoption or guardianship, living together as a single housekeeping unit
- Two unrelated adults and their related children living together as a single housekeeping unit.

(Amended 5-9-16)

Financial Institution: Establishments such as banks, savings and loans, credit unions, insurance companies, mortgage offices, and brokerage firms dealing in monetary transactions for consumers such as deposits, loans, investments and currency exchange. *(Added 11-14-16)*

Fitness Facility: An establishment providing exercise space, facilities and equipment or classes for the purposes of physical exercise. Commonly referred to as a fitness club, health or athletic club, fitness center, and gym. May also provide personal training, locker rooms, showers and fitness studios and other similar facilities and services. *(Added 11-14-16)*

Frontage: That portion of a lot which fronts on a street or streets from which physical access to the principal building on the lot can be provided. Frontage is measured as the distance between the points of intersection of the side lot lines with the front lot line. In the case of a corner lot bounding more than one street, the measurement on both streets may be used to determine if the lot meets the minimum frontage requirements of the particular zoning district. With a corner lot, the frontage is measured from the side lot line to the midpoint of the arc that constitutes the corner rounding at the intersection of the two streets.

Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected thereto before burial or cremation and which may include areas for a chapel, sale of caskets and other funeral supplies, and a crematorium. *(Added 11-14-16)*

Fur Animals: Animals usually kept and raised for the use and sale of their skins and fur.

Gallery: An establishment engaged in the display, sale or loan of works of art to the general public. *(Added 11-14-16)*

Garage, private residential: A structure which is accessory to a residential building and used by the residents thereof for personal household storage and/or the parking and storage of motorized vehicles and other moveable items such as campers, boats and other types of recreational vehicles owned by the residents of the building, and which is not a separate commercial enterprise available to the general public. *(Added 5-9-16)*

Golf Course: A tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards and that may include a clubhouse, which may include dining facilities, and shelters as accessory uses. *(Added 11-14-16)*

Grade Plane: As defined in the latest edition of the *International Building Code* (IBC) published by International Code Council. *(Added 11/16/15)*

Gravel/loam/sand or stone removal, commercial: The removal of soil or earth including but not limited to sod, loam, sand, gravel, clay, peat, hardpan, rock, quarried stone or mineral products from land as a commercial business. *(Added 11-14-16)*

Greenhouse, commercial: A greenhouse which grows plants which are sold at retail or wholesale. *(Added 11-14-16)*

Gross Floor Area: The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches.

Gross Vehicle Weight Rating (GVWR): The value specified by the manufacturer as the loaded weight of a single vehicle including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo but excluding that of any trails, as established by the National Highway Traffic Safety Administration, U.S. Department of Transportation. *(Added 11-16-15)*

Home-Based Business: An occupation or business activity conducted and/or managed in whole (or in part) within a dwelling or structure accessory thereto by a person residing on the premises which results in the sale or provision of a product or service. A home-based business is an accessory use, incidental and subordinate to the primary residential use of the property. *(Amended 11/16/15)*

Home Site: A specific lot within an ARCPUD Single Family Subdivision that is designated for the placement of a single-family dwelling.

Hotel: A building or buildings containing rooming units for transient overnight lodging accommodations, without individual cooking facilities, and having a common entrance or entrances and which may include accessory uses such as a conference facility or restaurant. As used in this Bylaw, hotel shall not include a boarding house, lodging house or rooming house, or multifamily dwelling.

Impervious Coverage: That portion of a lot that is covered by buildings, including accessory buildings, and all paved and other impervious surfaces. Impervious coverage shall be determined by dividing the combined area of the footprint of all buildings and all paved and impervious surfaces on a lot by the total area of the lot. *(Added 11-14-16)*

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.

Indoor Storage: An area within a non-residential establishment for the placement and safe keeping of materials, products or equipment. *(Added 11-14-16)*

Industrial Use: Assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.

Infill Dwelling Unit: As specified in Section 8.1 of this Bylaw. *(Added 11-14-16)*

Inn: An establishment that provides temporary overnight lodging to the general public for compensation, not to exceed 10 guest rooms, for transient guests and where a dining room for the serving meals may be operated on the premises, and wherein the owner or operator may or may not maintain a place of principal residence. *(Added 11-14-16)*

Institutional Use: Public or public/private group use of a non-profit nature, typically engaged in public services, e.g., house of worship, non-profit cultural center, charitable organization, or a government-owned or operated structure or land used for public purposes.

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 three months old or over owned or kept on a single premises irrespective of the purposes for which they are maintained.

Livery/Riding Stable: A facility designed and equipped for the feeding, boarding, exercising or training of horses not owned by the owner of the premises and for which the owner of the premises receives compensation and which may include instruction in riding, jumping or showing or where horses may be hired for riding. *(Added 11-14-16)*

Local Convenience Retail: A retail establishment that primarily serves the needs of residents of a local neighborhood, which offers a limited line of merchandise desired by the convenience shopper and may include a vehicle fuel station.

Lodge or Club: A facility operated by a private, non-profit organization established around a common interest such as a fraternal, civic, alumni, social, recreational or sports club, or other similar organization, to which membership is limited or controlled. May include meeting space, dining facilities, and outdoor areas. *(Added 11-14-16)*

Long-Term Care Facility: A building or group of buildings which is licensed or approved by the Massachusetts Department of Public Health to provide 24-hour, intensive, skilled and supportive nursing care, convalescent or chronic care under medical supervision to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. A Long-Term Care Facility also typically provides personal care services in a supervised environment and may contain common areas for therapy, recreation and dining. Further, the facilities may also include on-premise medical offices and treatment facilities related to the care of the residents.

Lot: A single area of land in one ownership defined by bounds or boundary lines in a recorded deed or shown on a recorded plan.

Lot Area: The total area of a lot, not including the area of any street rights-of-way.

Lot Coverage: That portion of the lot that is covered by buildings, including accessory buildings. Lot coverage shall be determined by dividing the area of the footprint of all buildings on a lot by the total area.

Lot Frontage: The length of a lot line(s) measured at the street right-of-way line.

Lot Line: A line of record bounding a lot that divides one lot from another lot or from a way or any public space.

- **Lot Line, Front**: A lot line separating a lot from a street right-of-way.
- **Lot Line, Rear**: A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the front lot line.
- **Lot Line, Side**: Any lot line other than a front or rear lot line.

Low or Moderate Income: Household income that does not exceed 80 percent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), then in effect.

Manufacturing: The transformation of raw materials or substances, components or parts into new products by the use of machines, tools and labor through a mechanical, chemical or other process. Also includes the blending of materials and the assembling of component parts.

Maximum Affordable Purchase Price or Rent: A selling price or monthly rent that does not exceed the maximum purchase price or rent guidelines of the program used to qualify Affordable Dwelling Units for inclusion on the DHCD Chapter 40B Subsidized Housing Inventory.

Medical Office or Clinic: An establishment primarily engaged in delivering medical, surgical, psychiatric, or other health-related services to individuals on an outpatient basis, including the offices of physicians, dentists and other health practitioners, and/or outpatient care facilities.

Membrane Structure: An air-inflated, air-supported, tensioned, cable or frame-covered structure as defined by the International Building Code and not otherwise defined as a tent or canopy. *(Added 5-9-16)*

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

Mobile Home or Trailer: the following shall be considered a Mobile Home or Trailer:

- **Mobile Home**: A manufactured home as defined in G.L. c. 140, § 32Q.
- **Pick-Up Coach**: A structure mounted on a vehicle chassis (self-propelled or otherwise) intended for use as a dwelling for travel, recreation or vacation use.
- **Motor Home**: A portable dwelling used for travel, recreation or vacation and constructed as an integral part of a self-propelled vehicle.

Modular Home: A dwelling that is prefabricated at a factory or other off-site location and containing complete electrical, plumbing and sanitary facilities, which is designed to be installed on a permanent foundation for permanent living quarters, excluding Mobile Homes and Trailers. A Modular Home shall comply with the State Building Code.

Motel: A building intended and designed solely for transient or overnight occupancy divided into separate rooms within the same building, each of which has a separate outside entrance leading directly to the room, without a common entrance to the rooms, and with or without public dining room facilities, but shall not include a boarding house, lodging house or rooming house, or multifamily dwelling.

Movie Theatre/Cinema: A venue, usually a building that contains an auditorium for viewing movies (films) for entertainment. *(Added 5-9-16)*

Multifamily Dwelling or Apartment House: A building intended and designed to be occupied by more than two families living independently in separate dwelling units.

Multifamily Development*:* A residential development of more than one building comprised of multifamily dwellings and which may also include one single family house and one or more two family houses.

Municipal Use: Any use, building, facility or area owned or leased by and operated by the Town of Medway. *(Added 11-14-16)*

Museum: A premises open to the public for the procurement, care, conservation, storage, study and display of inanimate objects of lasting historical, scientific, artistic or cultural interest or value. *(Added 5-9-16)*

Non-profit Organization: A corporation organized, registered and operated as a nonprofit organization under state or federal law, such as General Laws chapter 180 or recognized under Section 501 (c) (3) of the IRS code. *(Added 11-14-16)*

Nursery: Land used to raise plants, flowers, shrubs, bushes, or trees grown on the premises for sale or transplanting. May include greenhouses and retail sales of associated nursery goods and products. *(Added 11-14-16)*

Office: A room or group of rooms lawfully used and maintained for conducting the affairs of a business, profession, service industry, or government exclusive of the receipt, retail sale or processing of merchandise.

One-Ownership: An undivided ownership by one person or by several persons whether the tenure be joint, in common, or by entirety.

Open Space: Those areas of a lot on which no building or structure is permitted except as authorized by other provisions of this Bylaw, and which shall not be used for streets, driveways, sidewalks, parking, storage or display. Open space may serve as areas for buffers, active and passive recreation, natural and scenic resource protection, land conservation, or other similar uses and may include landscaped areas. *(Added 11-14-16)*

Open Space Residential Development (OSRD): As specified in Section 8.4 of this Bylaw. *(Added 11-14-16)*

Outdoor Dining: A dining area with tables and seating available for restaurant-style eating outdoors, usually located on the sidewalk or an open area adjacent to its affiliated restaurant, and usually operated on a seasonal basis. *(Added 11-14-16)*

Outdoor Display: The temporary display of goods and products sold by a business establishment, located on the same premises but not including such display on any parking, delivery or loading areas, fire lanes, drive aisles, or sidewalks where less than 6 feet of sidewalk width remains for pedestrian access, or other features that could cause a safety hazard, and limited to the hours the business is open. *(Added 11-14-16)*

Outdoor Storage: An outside area for the storage or display of materials, goods or manufactured products produced or used by the principal use of the property, for more than a twenty-four hour period. *(Added 11-14-16)*

Person: An individual, corporation, owner(s), lessee, or licensee, as well as the agent for each of them.

Personal Care Service Establishment: An establishment providing personal care and grooming services to individuals including but not limited to a barber shop, beauty shop, hair salon, nail salon, tanning salon, cosmetology and spa services, and other similar services. *(Added 11-14-16)*

Poultry: Chickens, ducks, geese, turkeys, pigeons, doves and other domestic fowl kept for eggs, meat, feathers or as pets. *(Added 11/16/15)*

Premises: A lot together with all buildings, structures, and uses thereon.

Professional Use: The lawful use of a building or premises by a person or persons involved in the dispensation of a service that involves some specialized skills or knowledge, a learned occupation, or special education in the liberal arts or sciences, or that requires connections to other businesses not easily or readily available to the general public including, but not limited to, medical practitioners, lawyers, accountants, architects, financial services, insurance agents, stockbrokers, engineers, realtors or other members of a recognized profession which may or may not require licensing by the Commonwealth of Massachusetts, or certification by a private accreditation society.

Public Utility: A public service corporation, either private or municipal, supplying or transmitting gas, water, electricity, or communications to any or all members of the public and subject to Federal, State, or Town regulations by virtue of its natural or legal monopoly.

Qualified Purchaser: A Low- or Moderate-Income Household that purchases and occupies an Affordable Housing Unit as its principal residence.

Qualified Renter: A Low or Moderate-Income Household that rents and occupies an Affordable Housing Unit as its principal residence.

Recharge Areas: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, or Zone III for purposes of the Groundwater Protection District.

Recorded or Of Record: Recorded with the Norfolk County Registry of Deeds or Registry District of the Land Court, or a record title to a parcel of land disclosed by any or all pertinent public records.

Recreational Facility: A public or private establishment designed and equipped for the conduct of sports, recreational, educational, and/or leisure-time activities including but not limited to fields, courts, swimming pools, rinks, tracks, golf courses, mini-golf, driving ranges, and other similar uses. The facility may be comprised of indoor and outdoor facilities, a clubhouse and/or other customary accessory buildings and uses and may include the provision of seasonal, organized youth and/or family oriented programs and overnight accommodations. *(Added 11-14-16)*

- **Recreational Facility, Commercial**: A recreational facility operated as a business and open to the general public for a fee. *(Added 11-14-16)*
- **Recreational Facility, Private**: A recreational facility open only to bona fide members and guests of such organization. *(Added 11-14-16)*

Renewable Energy: Energy derived from natural resources which are regenerated over time through natural processes. Such energy sources include the sun (solar); wind; moving water (hydro & wave); organic plant materials (biomass); and the earth's heat (geothermal). Renewable energy resources may be used directly, or used indirectly to create more convenient forms of energy. Renewable energy sources also include landfill gas, fuel cells, and advanced biofuels.

Recreational Vehicle: A vehicular type portable structure without a permanent foundation that can be towed, hauled or driven and that is primarily designed or modified to serve as a temporary living accommodation for recreational, camping and travel use and includes but is not limited to travel trailers, truck campers, caravan, camping trailers, and self-propelled motor homes. *(Added 5-9-16)*

Repair Shop: An establishment where household machines, equipment, tools, appliances and other similar items can be taken to be repaired or serviced, but not including vehicle repair. *(Added 11-14-16)*

Research and Development Facilities: Those used primarily 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 research and development facilities.

Restaurant: A business establishment principally engaged in the preparation, serving, and sale of food and beverages to be consumed either on or off the premises, which includes indoor and/or outdoor seating and which may include wait service. *(Added 11/16/15)*

Retail Bakery: An establishment engaged in the preparation and production of baked goods for direct sale to the general public. *(Added 11/16/15)*

Retail Sales: Establishments engaged in the buying, receiving, selling and renting of goods or merchandise to the general public and which may include the rendering or associated services incidental to the sale of such goods or merchandise. Said merchandise being offered shall be stocked and displayed primarily within the building.

Retail Sales, Outdoors: Retail sales establishments where the display of products occurs primarily outside of a building or structure, including but not limited to automotive and recreational vehicles, boats, garden supplies, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yard.

Retention Pond: A wet or dry stormwater holding area, either natural or manmade, which does not have an outlet to adjoining watercourses or wetlands other than an emergency spillway.

Roof: The primary outside protective covering of the top of a building. This includes but is not limited to hip, gable, flat, gambrel, mansard, and shed roof types. Roof shall also mean the exterior protective covering affixed to the top of all other elements projecting from a building façade or its roof including but not limited to porches, dormers, or other similar appurtenances.

Sawmill: A place or building in which timber from off the premises is sawed, split, shaved, planed, stripped, chipped or otherwise processed by machinery into planks, boards, mulch, firewood or other wood products. *(Added 11-14-16)*

Self-Storage Facility:A structure containing separate, individual, and private storage spaces of varying sizes leased or rented for varying period of time for personal, household, or business storage. *(Added 5-9-16)*

Senior: An individual who is fifty-five years of age or older.

Services: Establishments engaged primarily in providing assistance, as opposed to products, to individuals or businesses and other enterprises, including but not limited to business, social, personal and educational services.

Setback: The distance between a structure and any lot line.

Shed: A detached accessory structure not exceeding one hundred and twenty square feet in gross floor area and ten feet in height.

Shopping Center/Multi-Tenant Development: A group of two or more business establishments designed, planned, constructed and managed as a total entity, located in one or more buildings on one or more lots under single or multiple ownership, with customer and employee parking provided on site. *(Amended 5-9-16)*

Ski Area: An area developed for skiing, boarding or tubing with trails and which may include lifts, ski rentals and sales, and instruction and eating facilities. *(Added 11-14-16)*

Sign: Any object, design, device, display or structure intended for public view from outside a building, used by a private or public entity to identify, announce, advertise or direct attention to any place or location, object, business, institution, organization, profession, merchandise, product, activity, service, event, person, idea or statement, or to communicate information of any kind to the public by any means including words, letters, figures, designs, pictures, symbols, fixtures, colors, and illumination. Sign shall mean and include any permanent or temporary structure, models, objects, banners, pennants, insignias, trade flags, or other representations that are on a public way or on private property within public view from a public or private street, way or parking area. Any exterior structural surface that is internally or indirectly illuminated or decorated with gaseous tubes or other lights shall be considered a sign.

For definitions of types of signs, see Section 7.2.

Single Family House: A dwelling intended and designed to be occupied by a single family, but not including a trailer whether detached or attached to the ground.

Street:

- A public way or way which the Town Clerk certifies is maintained and used as a public way.
- A way shown on a definitive subdivision plan approved and endorsed under the Subdivision Control Law and recorded with the Norfolk County Registry of Deeds that is constructed or secured through a covenant or suitable performance guarantee.

- A way already physically in existence on the ground when the Subdivision Control Law become effective in Medway and having, in the opinion of the Planning and Economic Development Board, adequate width, construction, and grades for the needs of vehicular traffic for the existing and future buildings and uses abutting thereon or to be served thereby.

Structure: Anything constructed or erected at a fixed location on the ground to give support or to provide shelter.

Studio: A building, room or space where a craftsperson, artist, sculptor, photographer, musician or other artisan, designer or craftsperson works and which may include incidental accessory uses such as a gallery, retail sales of art produced on the premises, and instruction. *(Added 11-14-16)*

Subsidized Housing Inventory: The Massachusetts Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory pursuant to state regulations as may be amended from time to time.

Tent: A structure, enclosure or shelter constructed of fabric or pliable material with or without sidewalls or drops, supported by any manner except by air or the contents that it protects. *(Added 5-9-2016)*

Theatre: A building, part of a building or outdoor area where plays, dramatic presentations and stage entertainment, etc. are performed. *(Added 5-9-16)*

Town House: A residential building of two or more stories in height containing a single dwelling that is one of a group of three or more such buildings that are attached or semi-attached to one another sharing at least one common or party or fire wall and with each building having at least one floor at ground level with a separate entrance. A town house may be constructed on its own individual and separate lot or may be one of several individual dwellings on a common lot, but if it is part of an ARCPUD Single Family Subdivision, each town house shall be constructed on an individually defined home site on an individual lot.

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

Trailer - A non-motorized vehicle, often a long platform or box/container with two or more wheels, which is pulled behind a motorized vehicle and used to transport things. *(Added 11-14-16)*

Two Family House: A dwelling intended and designed to be occupied by two families living independently in separate dwelling units.

Useable Floor Space (Net Floor Area): The total area of all floors of principal and accessory buildings or structures on a lot, excluding stairwells and elevator shafts, equipment/utility rooms, rooms used for the storage of merchandise not accessible to the public, rooms/areas dedicated exclusively for employee use, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for permitted uses.

Vehicle Fuel Station: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sale of fuel for motor vehicles.

Vehicle Repair: Any building, land area, or other premises, or portion thereof, used for the maintenance, painting, servicing, repair or leasing of motor vehicles.

Veterinary Hospital: A building where animals are given medical care, observation and treatment including surgery for their diseases and injuries and which may include the short-term boarding of animals during their convalescence. *(Added 11-14-16)*

Warehouse/Distribution Facility: A building or area used primarily for the storage of raw materials, manufactured goods, products, cargo or equipment before their export or distribution for sale to retailers, wholesalers, or directly to consumers. *(Added 11-14-16)*

Wholesale: The business of selling things in large quantities to other businesses for resale rather than to individual retail consumers. *(Added 11-14-16)*

Wholesale/Commercial Bakery: An establishment engaged in the preparation and production of baked goods for transport and sale off site. The limited retail sale of baked goods may occur as an incidental or accessory use. *(Added 11/16/15)*

Wholesale Showroom: A room or space used for displaying a company's products, goods and merchandise not for direct sale to consumers. *(Added 11-14-16)*

Zone II: That area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation), as approved by the Department of Environmental Protection.

SECTION 3. ADMINISTRATION

3.1. ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. The Building Inspector appointed under the provisions of G.L. c. 143 is hereby designated and authorized as the officer charged with the interpretation and enforcement of this Zoning Bylaw.

B. It shall be unlawful for any owner or person to erect, construct, reconstruct, convert, or alter a structure, or change the use, increase the intensity of use, or extend or displace the use of any structure or lot without applying for and receiving from the Building Inspector the required permit therefore.

C. No premises, and no building erected, altered, or in any way changed as to construction or use under a permit or otherwise, shall be occupied or used without a certificate of occupancy issued by the Building Inspector. Such permit shall not be issued until the premises, structure, and its uses and accessory uses comply in all respects with this Zoning Bylaw, and if applicable, a site plan certificate of completion shall be issued.

D. **Enforcement.**

1. Any person may file a written request to the Building Inspector for enforcement of this Zoning Bylaw with reference to an alleged violation. If upon investigation and inspection the Building Inspector finds evidence of such violation, he shall give notice thereof in writing to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Inspector deems reasonable. Such notice and demand may be given by mail, addressed to the owner at his address as it then appears on the records of the Board of Assessors and to the occupant at the address of the premises.

2. If after such notice and demand the violation has not been abated within the time specified therein, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Medway to prevent, correct, restrain or abate such violation of this Zoning Bylaw.

3. If the Building Inspector determines that there is no violation, he shall give written notice of his decision to the complaining person within fourteen days after the receipt of such request.

E. **Appeal.** An appeal to the Board of Appeals may be taken by any person aggrieved by reason of inability to obtain a permit or enforcement action from the Building Inspector, as provided in G.L. c. 40A, § 8, as amended.

F. **Penalty.**

1. Anyone who violates a provision of this Zoning Bylaw, or any condition of a variance, site plan review decision or special permit, shall be punishable by a fine of not more than three hundred dollars for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.

2. As an alternative means of enforcement, the Building Inspector may impose noncriminal penalties pursuant to G.L. c. 40, § 21D and Article XX of the Town's General Bylaws, in accordance with the following schedule:

    a. First offense: warning (verbal or written)

    b. Second offense: one hundred dollars

    c. Third offense: two hundred dollars

    d. Fourth and each subsequent offense per violation: three hundred dollars

3.2. ZONING BOARD OF APPEALS

A. **Establishment.** There shall be a Zoning Board of Appeals (herein sometimes referred to as the "Board of Appeals") consisting of five members and two associate members appointed by the Board of Selectmen. No person shall be a member or an associate member of both the Planning and Economic Development Board and the Zoning Board of Appeals at the same time. The appointment, service, and removal or replacement of members and associate members and other actions of the Board of Appeals shall be as provided for in G.L. c. 40A.

B. **Powers.** The Board of Appeals shall have the following powers:

1. To hear and decide appeals in accordance with G.L. c. 40A, § 8, as amended.

2. To hear and decide, in accordance with the provisions of G.L. c. 40A, § 9, applications for special permits when designated as the special permit granting authority herein.

3. To hear and decide, in accordance with the provisions of G.L. c. 40A, § 6, applications for special permits to change, alter, or extend lawfully pre-existing non-conforming uses and structures to the extent allowed by Section 5.5.

4. To hear and decide petitions for variances in accordance with G.L. c. 40A, § 10.

5. To hear and decide applications for comprehensive permits for construction of low or moderate income housing, as set forth in G.L. c. 40B, §§ 20-23.

C. **Rules and Regulations**. The Board of Appeals shall adopt rules and regulations for the administration of its powers and shall file a copy of such regulations with the Town Clerk.

D. The Board of Appeals may adopt reasonable administrative fees and fees for employing outside consultants to assist the Board with is review of special permits, variances, administrative appeals, and applications for comprehensive permits in accordance with its regulations.

3.3. PLANNING AND ECONOMIC DEVELOPMENT BOARD

A. **Establishment.** There shall be a Planning and Economic Development Board consisting of five elected members, and one associate member appointed for a term of two years jointly by the Planning and Economic Development Board and Board of Selectmen, as provided in G.L. c. 40A, § 9.

B. **Powers**. The Planning and Economic Development Board shall have and exercise all the powers granted to Planning Boards by the General Laws, including Chapters 40, 40A, and 41, and by this Zoning Bylaw, including but not limited to the following:

   1. To hear and decide applications for special permits when designated as the special permit granting authority herein.

   2. To review site plans pursuant to Section 3.5.

C. **Rules and Regulations.** The Planning and Economic Development Board shall adopt rules and regulations not inconsistent with the provisions of the Zoning Bylaw for conduct of its business and otherwise carrying out the purposes of said Chapter 40A and this Zoning Bylaw, and shall file a copy of such rules in the office of the Town Clerk.

D. **Fees.** The Planning and Economic Development Board may adopt reasonable administrative fees for petitions for special permits and site plan review, and fees for employing outside consultants to assist the Board with is review of special permits in accordance with its regulations.

3.4. SPECIAL PERMITS

A. **Procedures.** Application for a special permit shall be filed in accordance with the rules and regulations of the applicable special permit granting authority and G.L. c. 40A.

B. **Public Hearing.** The special permit granting authority shall hold a public hearing within sixty-five days of receipt of a special permit application, and shall issue a decision no later than ninety days from the date of the public hearing. Notification requirements for a public hearing shall be in accordance with G.L. c. 40A, § 11.

C. **Decision Criteria**. Unless otherwise specified herein, special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include findings that all of the following criteria for granting a special permit are met:

1. The use is in harmony with the general purpose and intent of this Zoning Bylaw.
2. The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.
3. Adequate and appropriate facilities will be provided for the operation of the proposed use.
4. The proposed use will not be detrimental or otherwise offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, or visual or other nuisances.
5. The proposed use will not cause undue traffic congestion in the immediate area.
6. The proposed use is consistent with the Medway Master Plan.

D. **Conditions**. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this Zoning Bylaw. Such conditions may include but shall not be limited to the following:

1. Deadline to commence construction.
2. Dimensional standards more restrictive than those set forth in Section 6 of this Zoning Bylaw.
3. Limitations on signage, number of vehicles or parking spaces, noise, or hours of operation of construction equipment.
4. Limitation of size, method or hours of operation, extent of facilities, or other operating characteristics of a use.

5. Requirements pertaining to integrated emergency or alarm systems, maintenance, landscaping, dust control, wastewater disposal or water supply, bond or other performance guarantee.

6. Requirements for independent monitoring, at the expense of the applicant, and reporting to the Building Inspector, if necessary to ensure continuing compliance with the conditions of a special permit or of this Zoning Bylaw.

7. Term for years with or without automatic renewals, to the extent allowed by law.

8. Other limitations as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the proposed use, structure or activity with, the surrounding area.

E. **Lapse.** Special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause.

F. Special permits shall not take effect until recorded with the Registry of Deeds or Registry District of the Land Court, as applicable, as provided in G.L. c. 40A, § 11. Proof of recording shall be presented to the Building Inspector.

G. **Use of Outside Consultants**. Any special permit granting authority may hire professional consultants at the applicant's expense pursuant to G.L. c. 44, § 53G to assist with review of a special permit application, provided that the procedures for hiring outside consultants are set forth in the applicable board's rules and regulations.

3.5. SITE PLAN REVIEW

3.5.1 Purposes

Site plan review is a means of managing the aesthetics and environmental impacts of land use by the regulation of permitted uses, not their prohibition. Its purpose is to:

- assure protection of the public interest consistent with a reasonable use of the site for the purposes permitted in the district; and
- promote and encourage desired community characteristics as expressed in the *Master Plan* and *Design Review Guidelines*

3.5.2 Requirements

A. No building permit shall be issued for any use, site, or building alteration, or other improvement that is subject to this Section 3.5 unless an application for site plan review has been prepared in accordance with the requirements herein and unless such application has been approved by the Planning and Economic Development Board (hereinafter referred to in this Section as the Board) or its designee in the instance of administrative site plan review.

B. Unless specifically authorized by the terms of the site plan review decision, a final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions of the site plan review decision.

C. Any work done in deviation from an approved site plan shall be a violation of this Bylaw unless such deviation is approved in writing by the Board or its designee or is determined by the Building Inspector to be an insubstantial change.

3.5.3. Applicability

A. Site plan review shall apply to the following:

1. **Major Site Plan Review**:

   a. New construction or any alteration, reconstruction, change in use or renovation of any multi-family, commercial, industrial, institutional, or municipal use which involves one or more of the following:

      i. the addition of 2,500 square feet or more of gross floor area; or

      ii. the addition of fifteen or more new parking spaces; or

   b. The redesign, alteration or modification of an existing parking area involving the addition of fifteen or more new parking spaces.

   c. Construction of ground mounted solar photovoltaic installations of any size including solar canopy type systems in parking areas.

2. **Minor Site Plan Review**:

   a. New construction or any alteration, reconstruction, change in use or renovation of any multi-family, commercial, industrial, institutional, or municipal use which is not subject to Major Site Plan Review but which involves one or more of the following:

      i. the addition of 1,000 to 2,499 square feet of gross floor area; or

      ii. the addition of five or more but less than fifteen new parking spaces; or

   b. The redesign, alteration or modification of an existing parking area involving the addition of five or more but less than fifteen new parking spaces; or

   c. Any use or structure or expansion thereof exempt under Massachusetts G.L. c. 40A, § 3**.** only to the extent allowed by law.

3. **Administrative Site Plan Review**:

   a. New construction or any alteration, reconstruction, or renovation of any multi-family, commercial, industrial, institutional, or municipal use which is not subject to Major or Minor Site Plan Review but which involves one or more of the following:

      i. The addition of less than 1,000 square feet of gross floor area, or

      ii. Exterior alteration/renovation of an existing building or premises, visible from a public or private street or way which includes any of the following:

         a) installation or replacement of awnings

         b) change in a building's exterior surface material

         c) rearrangement or addition of windows or doors

         d) façade reconstruction/replacement

         e) roofing if the Building Inspector determines the roof to be a distinctive architectural feature of the building

   b. The redesign, alteration or modification of an existing parking area involving the addition of up to four new parking spaces

   c. A change in curb cuts/vehicular access to a site from a public way

   d. Installation or alteration of sidewalks and other pedestrian access improvements

   e. Removal of hedges, living shrubs, and trees greater than four inches in caliper

   f. Installation of fencing or retaining walls.

4. Consideration of planned activities subject to administrative site plan review may be advanced to minor site plan review status at the determination of the Building Inspector or

the Board when the collective scope and/or quantity of the proposed activities is substantial enough to merit review at a public meeting.

5. **Relationship to Other Permits and Approvals**.

a. If an activity or use requires major or minor site plan review and one or more special permits, the Board shall serve as special permit granting authority.

b. If both a special permit and major or minor site plan review are required, the Board shall review and conduct the public hearing concurrently and the Board may issue a single decision.

c. The Building Inspector shall not issue a building permit for any project subject to this Section 3.5 unless:

i. the Board has approved a site plan therefor or allowed ninety calendar days (in the instance of a major site plan project) to elapse from the site plan submission date unless the applicant has requested an extension in writing; or

ii. the Board has approved a site plan therefor or allowed sixty calendar days (in the instance of a minor site plan project) to elapse from the site plan submission date unless the applicant has requested an extension in writing; or

iii. Administrative site plan approval has been granted or twenty-one calendar days have elapsed from the site plan submission date unless the applicant has requested an extension in writing.

B. Exemptions. The following shall be exempt from Site Plan Review under this Section 3.5:

1. Single-family and two-family homes, including additions or enlargements and accessory structures.

2. Residential subdivisions approved by the Board under the Medway Subdivision Rules and Regulations.

3. Projects in which the only exterior change that is visible from a public or private way, requiring a building permit, pertains to the removal of architectural barriers to comply with the Americans with Disabilities Act (ADA) or regulations of the Massachusetts Architectural Access Board (AAB).

3.5.4 Procedures for Site Plan Review

A. Pre-Application Review – Before filing a site plan application, applicants for major site plan review shall and applicants for minor site review may schedule a pre-application meeting with the Town's interdepartmental project review team. Applicants may also request an informal, pre-application meeting with the Board to review conceptual plans.

B. Applicants shall submit an application for major and minor site plan review to the Town Clerk and the Board.

C. The site plan submission date shall be the date the site plan application is filed with the Town Clerk and the Board, unless the Board notifies the applicant within twenty-one days of submission that the application is incomplete. In such case, the site plan application will not be deemed to have been submitted.

D. For Major Site Plan Review applications, the Board shall hold a public hearing on the proposed site plan. The public hearing shall conform to the requirements for public hearings and notice under G.L. c. 40A, § 11, and the Board's Site Plan Rules and Regulations. All costs of the public notice requirements shall be at the expense of the applicant.

E. For Minor Site Plan Review applications, the Board shall review the site plan at a duly posted open meeting. Any public notice to abutters and other parties of interest shall be conducted in accordance with the Site Plan Rules and Regulations.

F. The Board shall review and act upon applications for major and minor site plan review, requiring such conditions as necessary to satisfy the Site Plan Review Standards under Section 3.5.5 B. below, and notify the applicant of its decision. The decision shall be by majority vote of the membership, shall be made in writing and shall be filed with the Town Clerk within ninety days of the date of application for Major Site Plan Review, or sixty days of the application date for Minor Site Plan Review. The applicant may request, and the Board may grant by majority vote of the membership, an extension of the time limit set forth herein.

G. The Board may approve a major and minor site plan or approve it with conditions, limitations, safeguards and mitigation measures or deny a site plan only if the plan does not include adequate information as required by the Site Plan Rules and Regulations, or if the plan depicts a use or structure so contrary to health, safety and welfare of the public that no set of conditions would render the project tenable.

H. The Board's designee shall review and act on applications for administrative site plan review and may require conditions as necessary to satisfy the Administrative Site Plan Review Standards.

3.5.5 Site Plan Rules and Regulations

A. The Board shall promulgate, after public notice and hearing, Site Plan Rules and Regulations to effectuate the purposes and intent of this Section 3.5, including but not limited to the following requirements and procedures for:

1. submission and review of major and minor site plans
2. administrative review of small-scale projects by the Board's designee without a public hearing or meeting
3. waivers

4. conditions/limitations/safeguards and mitigation measures
5. performance security
6. construction inspection
7. standards of review consistent with Section 3.5.5 B. below
8. decision criteria
9. modification of approved site plans and/or decisions

B. The Board's Site Plan Rules and Regulations shall include standards for major, minor and administrative site plan review that will at a minimum address the following:

1. Siting of facilities
2. Design guidelines
3. Open space and natural features
4. Pedestrian, bicycle, and vehicular circulation
5. Water quality
6. Stormwater
7. Utilities, exterior lighting, parking, and snow removal
8. Trees and landscaping
9. Site Amenities
10. Town character and historic significance
11. Impacts on public services and facilities
12. Signage
13. Safety
14. Energy efficient site design
15. Potential adverse effects and mitigation thereof.

3.5.6 Appeal

A. Any person aggrieved by the Board's major or minor site plan decision may appeal to the court within 20 days of the date the decision is filed with the Town Clerk, as provided in G.L. c. 40A, §17.

B. Any person aggrieved by an administrative site plan decision may appeal to the Planning and Economic Development Board.

(Section 3.5 was replaced in its entirety 5-9-16)

SECTION 4. ESTABLISHMENT OF DISTRICTS

4.1. DISTRICTS

For purposes of this Zoning Bylaw, the Town of Medway is divided into the following districts:

A. Residential Districts

1. Agricultural Residential I (AR-I)
2. Agricultural Residential II (AR-II)
3. Village Residential (VR) *(Added 11-14-16)*

B. Nonresidential Districts

1. Central Business (CB) *(Renamed from Commercial I on 11-14-16)*
2. Village Commercial (VC) *(Renamed from Commercial III & IV on 11-14-16)*
3. Commercial V (C-V)
4. Business/Industrial (BI)
5. Industrial I (I-I)
6. Industrial II (I-II)
7. Industrial III (I-III)

C. Overlay Districts

1. Flood Plain/Wetland Protection
2. Adaptive Use Overlay District (AUOD)
3. Groundwater Protection District
4. Multifamily Overlay District

4.2. ZONING MAP

A. Except for the Flood Plain/Wetland Protection District and Groundwater Protection District, the boundaries of these districts are defined and bounded on the map entitled, "Town of Medway Zoning Map," dated December 4, 2014, as may be amended and revised, with a list of the names of the members of the Planning and Economic Development Board and filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Zoning Bylaw.

B. All Flood Plain/Wetland Protection Districts shall be located and bounded as shown on the map described in Section 5.6.1 herein, which map is incorporated in and made a part of this Zoning Bylaw.

C. The Groundwater Protection District shall be located and bounded as shown on the maps described in Section 5.6.3 herein, which map is incorporated in and made part of this Zoning Bylaw.

4.3. LOTS DIVIDED BY DISTRICT BOUNDARIES

Where the boundary line of a zoning district divides a lot that was held in one ownership on the date that said boundary was established, the use regulations of the less restrictive district shall apply in the more restrictive district for a distance of twenty-five feet, provided that the dimensional regulations of the district in which more than fifty percent of the lot is located shall apply throughout.

4.4. ZONING DISTRICT BOUNDARIES

Where a zoning district boundary line is shown on the Zoning Map as being within a public or private street or right-of-way, the center line of the street or right-of-way shall be the zoning district boundary line. *(Added 5-9-16)*

SECTION 5. USE REGULATIONS

5.1. GENERAL PROVISIONS

A. No building or structure shall be erected and no building or structure, or land or water area shall be used for any purpose or in any manner except in accordance with this Zoning Bylaw.

B. No building permit shall be issued for any use that is subject to Section 3.5 unless a site plan has been reviewed and approved in accordance with the requirements therein.

C. Accessory uses.

1. An accessory use shall not alter the character of the premises on which it is located or have an adverse impact on the surrounding area.

5.2. PROHIBITED USES

A. Any use not listed in Section 5.4, Schedule of Uses, or otherwise allowable under the provisions of this Zoning Bylaw is prohibited.

B. All uses that pose a present or potential hazard to human health, safety, welfare, or the environment through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare are expressly prohibited in all zoning districts. In addition, the following uses are expressly prohibited in all zoning districts.

1. Abattoir and commercial slaughtering;
2. Manufacturing and storage of corrosive, poisonous or malodorous acids and chemicals;
3. Cement, lime, gypsum and plaster-of-Paris manufacture;
4. Fertilizer manufacture or fat rendering in manufacture of tallow, grease, and oils;
5. Glue, size and gelatin manufacture;
6. Petroleum and kerosene refining or distillation and derivation of by-products;
7. Manufacture, use, storage, transport or treatment, disposal and/or processing of explosive, toxic or hazardous materials;
8. Smelting and reduction of metals or ores;
9. Asphalt plants;
10. Concrete batch plants;
11. Reclamation and reprocessing of asphalt and/or concrete;
12. Lumber mills;

13. Self-Storage facilities *(Added 5-9-16)*

14. Any other use that produces disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.

No use variance shall be granted for any prohibited use set forth in this subsection within any district in the Town of Medway,

C. Mobile homes are prohibited, except that pursuant to Massachusetts G.L. c. 40A, Section 3, a mobile home or temporary manufactured home may be placed on the site of a residence destroyed by fire or natural disaster, for a period not to exceed twelve months while the residence is being rebuilt.

5.3. PERMITTED IN ALL DISTRICTS

The following uses are permitted in all districts:

A. Federal government use

B. State government uses to the extent that these Zoning Bylaws would prohibit the exercise of an essential government function.

C. Uses to the extent protected or exempt pursuant to G.L. c. 40A, Section 3 or other state law.

5.4. SCHEDULE OF USES

Table 1 Legend:

Y: A use permitted by right

N: A prohibited use

SP: A use that may be allowed by special permit from the Zoning Board of Appeals

PB: A use that may be allowed by special permit from the PEDB

TABLE 1: SCHEDULE OF USES										
	AR-I	**AR-II**	**VR**	**CB**	**VC**	**C-V**	**BI**	**I-I**	**I-II**	**I-III**
A. AGRICULTURE, CONSERVATION, RECREATION USES										
Agriculture, excluding piggeries and fur farms on less than 5 acres of land, and excluding livestock on less than 44,000 sq. ft. of land.	Y	Y	N	N	N	N	N	N	N	N
Poultry on less than 1 acre. Minimum lot size for poultry is 5,000 sq. ft. subject to Board of Health regulations.	Y	Y	Y	N	N	N	N	N	N	N
Commercial Greenhouse	SP	SP	N	N	N	Y	Y	N	N	N
Nursery	SP	SP	N	N	N	Y	Y	N	N	N
Recreational facility	SP	SP	N	N	N	N	Y	Y	N	N
Ski Area	SP	SP	N	N	N	N	N	N	N	N
Golf course	SP	SP	N	N	N	N	N	N	N	N
Livery riding stable	Y	Y	N	N	N	N	N	N	N	N
B. PUBLIC SERVICE										
Municipal use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Public utility	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y
C. RESIDENTIAL USES										
Detached single-family dwelling	Y	Y	Y	N	Y	N	N	N	N	N
Two-family dwelling, provided that the exterior of the dwelling has the appearance of a single-family dwelling.	N	SP	SP	N	N	N	N	N	N	N
Infill dwelling unit, subject to Section 8.1.	N	PB	PB	N	N	N	N	N	N	N
Open space residential development, subject to Section 8.4	PB	PB	N	N	N	N	N	N	N	N
Assisted living residence facility	PB	PB	N	N	N	N	N	N	N	N
Adult retirement community planned unit development, subject to Section 8.5	PB	PB	N	N	N	N	N	N	N	N
Multifamily dwellings and multifamily developments subject to Section 5.6.2 E and Section 5.6.4 *(Added 11/16/15)*	PB	PB	PB	N	PB	N	N	N	N	N
Multifamily units in combination with a commercial use that is permitted or allowed by special permit, subject to Section 5.4.1.	N	N	N	PB	N	N	N	N	N	N
Long-term care facility	SP	SP	N	N	N	N	N	N	N	N

C. RESIDENTIAL USES										
Accessory Uses										
Accessory family dwelling unit, subject to Section 8.2	SP	SP	SP	N	SP	N	N	N	N	N
Home-based business, subject to Section 8.3	Y	Y	Y	N	Y	N	N	N	N	N
Boathouse	Y	Y	N	N	N	N	N	N	N	N
Greenhouse	Y	Y	Y	N	N	N	N	N	N	N
D. BUSINESS USES										
Retail Trade										
Retail bakery *(Added 11/16/15)*	N	N	N	Y	Y	Y	Y	N	N	N
Retail sales	N	N	N	Y	Y	Y	Y	N	N	N
Retail store larger than 20,000 sq. ft.	N	N	N	SP	N	N	SP	N	N	N
Shopping center/multi-tenant development	N	N	N	SP	N	SP	SP	N	N	N
Auto parts	N	N	N	N	N	N	Y	N	N	N
Florist	N	N	N	Y	Y	Y	Y	N	N	N
Indoor sales of motor vehicles, trailers, boats, farm equipment, with accessory repair services and storage, but excluding auto body, welding, or soldering shop	N	N	N	Y	N	N	N	N	N	N
Retail sales, outdoors	N	N	N	N	N	N	Y	N	N	N
Hospitality and Food Services										
Restaurant providing food within a building, which may include outdoor seating on an adjoining patio	N	N	N	Y	Y	Y	Y	N	N	N
Restaurant providing live entertainment within a building, subject to license from the Board of Selectmen	N	N	N	Y	SP	SP	N	N	N	N
Brew pub	N	N	N	Y	Y	Y	Y	N	N	N
Motel or hotel	N	N	N	SP	N	N	N	N	N	Y
Bed and breakfast	SP	SP	SP	N	SP	N	N	N	N	N
Inn	SP	SP	SP	SP	SP	N	N	N	N	N
Cultural and Entertainment Uses										
Studio	N	N	SP	Y	Y	Y	N	N	N	N
Museum	N	N	N	Y	SP	SP	N	N	N	N
Movie theatre/cinema	N	N	N	SP	N	N	N	N	N	N
Theatre	N	N	N	Y	SP	SP	N	N	N	N
Gallery	N	N	N	Y	Y	Y	N	N	N	N
Commercial indoor amusement	N	N	N	SP	N	N	Y	Y	Y	Y

TABLE 1: SCHEDULE OF USES										
	AR-I	**AR-II**	**VR**	**CB**	**VC**	**C-V**	**BI**	**I-I**	**I-II**	**I-III**
D. BUSINESS USES										
Professional Uses and Financial Services										
Financial institution	N	N	N	Y	Y	Y	Y	N	N	N
Professional or business office	N	N	N	Y	Y	Y	Y	Y	Y	Y
Services										
Personal care service establishments	N	N	N	Y	Y	Y	Y	N	N	N
Consumer services such as but not limited to fitness facility, optician, dry cleaner, laundromat, shoe repair, photocopy/printing, tailor, and other similar businesses and services	N	N	N	Y	Y	Y	Y	N	N	N
Doggie Day Care	N	N	N	N	N	N	SP	N	N	N
Repair shop	N	N	N	N	Y	Y	Y	SP	N	N
Furniture Repair	N	N	N	N	Y	Y	Y	SP	N	N
Educational/instructional facility, commercial	N	N	N	Y	Y	Y	Y	Y	N	N
Funeral home	SP	SP	N	SP	Y	Y	Y	N	N	N
Veterinary hospital	SP	SP	N	N	N	Y	Y	N	N	N
Kennel	SP	SP	SP	N	SP	N	SP	SP	N	N
Medical office or clinic	N	N	N	Y	Y	Y	Y	N	N	N
Adult day care facility, subject to Section 8.5	PB	PB	N	N	N	N	N	N	N	N
Automotive Uses										
Vehicle fuel station with repair services	N	N	N	N	N	N	PB	N	N	N
Vehicle fuel station-with car wash	N	N	N	N	N	N	PB	N	N	N
Car wash	N	N	N	N	N	N	PB	N	N	N
Vehicle fuel station with convenience store	N	N	N	N	N	N	PB	N	N	N
Vehicle repair	N	N	N	N	PB	N	PB	Y	N	N
Auto body shop	N	N	N	N	N	N	PB	Y	N	N
Other Business Uses: Unclassified										
Adult uses	N	N	N	N	N	N	N	Y	N	N
Accessory Uses										
Drive-through facility	N	N	N	N	N	PB	PB	N	N	N
Outdoor display	N	N	N	SP	SP	SP	SP	N	N	N
Outdoor storage of materials and parking of vehicles and equipment associated with a business operated in a building on the premises	N	N	N	N	N	N	Y	Y	N	N

TABLE 1: SCHEDULE OF USES										
	AR-I	**AR-II**	**VR**	**CB**	**VC**	**C-V**	**BI**	**I-I**	**I-II**	**I-III**
E. INDUSTRIAL AND RELATED USES										
Warehouse/distribution facility	N	N	N	N	N	Y	N	Y	Y	Y
Wholesale bakery *(Added 11/16/15)*	N	N	N	N	N	N	N	Y	Y	Y
Wholesale showroom or office, including warehouse	N	N	N	N	N	N	Y	Y	Y	Y
Manufacturing, processing, fabrication, packaging and assembly, and storage of goods manufactured on the premises	N	N	N	N	N	N	Y	Y	Y	Y
Contractor's yard	N	N	N	N	N	N	Y	Y	N	N
Research and development	N	N	N	N	N	N	Y	Y	Y	Y
Brewery	N	N	N	N	N	N	Y	Y	Y	Y
Research and development and/or manufacturing of renewable or alternative energy products	N	N	N	N	N	N	Y	Y	Y	Y
Electric power generation including but not limited to renewable or alternative energy generating facilities such as the construction and operation of large-scale ground-mounted solar photovoltaic installations with a rated name plate capacity of 250 kW (DC) or more	N	N	N	N	N	N	N	N	Y	N
Gravel/loam/sand or stone removal, commercial	N	N	N	N	N	N	N	N	N	N
Accessory Uses										
Outdoor storage of materials and parking of vehicles and equipment associated with a business operated in a building on the premises	N	N	N	N	N	N	Y	Y	Y	Y
F. INSTITUTIONAL USES										
Community center	SP	SP	SP	SP	SP	SP	SP	N	N	N
Lodge or club	SP	SP	SP	N	N	N	N	N	N	N

NOTE – TABLE 1 was substantially amended at the 11-14-16 Town Meeting

5.4.1 Special Permits in the Central Business District

In the Central Business district, the following provisions shall apply to uses allowed by special permit and are also available to applicants for uses permitted by right in order to propose a flexible site design.

A. **Dimensional Requirements.**

1. Minimum lot size: 10,000 sq. ft.
2. Minimum continuous frontage: 50 ft.
3. Minimum front-yard setback: Principle buildings shall be set back a minimum of 10 feet from the front lot line. Architectural features such as bay windows, porches, balconies, porticos, canopies, etc. shall not be subject to the 10-foot minimum setback.
4. Minimum side-yard and rear-yard setback: For lot lines abutting a residential zoning district, 25 ft. of which the first 10 ft. nearest each lot line shall not be used for the parking or storage of vehicles and shall be suitably landscaped. There is no side-yard or rear-yard setback for properties abutting other properties within the Central Business district.
5. Maximum building height: 60 ft.

B. **Residential Uses in a Mixed Use Development.**

1. Except for assisted living residence facilities, a building comprised of multi-family dwelling units only shall not be permitted.
2. In a three-story building, no more than 67 percent of the gross floor area shall be comprised of multi-family dwelling units. In a two-story building, no more than 50 percent of the gross floor area shall be comprised of multi-family dwelling units.
3. Multi-family dwelling units may not be located on the ground floor of a mixed-use building or development unless:
   a. The building with the multi-family dwelling units is set behind another building which has business uses on the ground floor and a front façade that faces a public way or primary access drive; or
   b. The residential portion of the ground floor is set behind the business uses within the same building which has a front façade that faces a public way or primary access drive.
4. No more than 10 percent of the total number of a mixed-use development's residential dwelling units shall have more than two bedrooms.

C. A minimum of 15 percent of the site shall function as landscaped or public space. The landscaped or public space shall be architecturally integral to the site or, as appropriate and practical, to abutting sites. No space that is used for vehicular parking or circulation, or loading shall be included as landscaped and/or public space.

D. **Special Permit Review Criteria**

1. Special permits granted under this Section 5.4.1 are not subject to the special permit criteria under Section 3.4.

2. Before granting a special permit for a special permit use or flexible site design of a permitted use in the Central Business district, the special permit granting authority shall find that all of the following criteria are met:

   a. The proposed use represents the qualities of a traditional New England town center;

   b. The proposed site design is environmentally sound and is readily accessible to and useable by pedestrians;

   c. The proposed site design reflects and advances the goals and objectives of the Medway Master Plan as updated;

   d. Adequate pedestrian and (where applicable) vehicular linkages within the site and connecting to abutting properties are provided;

   e. Streets, driveways, sidewalks, landscaped areas and public services are laid out in a safe manner;

   f. Any detrimental impacts of the use on abutting properties and/or residential neighborhoods have been adequately mitigated; and

   g. The site design incorporates the site's existing topography and protects natural features to the maximum extent possible.

E. **Design Requirements**. The Planning and Economic Development Board shall adopt Central Business District Special Permit rules and regulations to administer this Section 5.4.1, including submission requirements and procedures and Central Business District design guidelines. Such guidelines may include any or all of the following:

1. Façade design for buildings visible from public ways;

2. Vehicular or pedestrian connections to abutting commercial or residential areas;

3. Provision of pedestrian amenities; and

4. Sustainability, i.e., efficient resource use throughout a building's life cycle from siting to design, construction, operation, maintenance, renovation and deconstruction.

(Amended 11-14-16 – Renamed Commercial I to Central Business)

5.5. NONCONFORMING USES AND STRUCTURES

A. **Applicability**. Except as herein after provided, this Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Zoning Bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a one-family or two-family residential structure does not increase the nonconforming nature of said structure.

B. **Commencement of Construction or Operation**. Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Zoning Bylaw, unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

C. **Nonconforming One-Family and Two-Family Dwellings**

1. No Increase in Nonconforming Nature. Lawfully existing nonconforming one-family and two-family structures may be reconstructed, extended, structurally changed or altered where the Zoning Board of Appeals finds that the reconstruction, extension structural change or alteration does not increase the nonconforming nature of the structure.

2. Increase in Nonconforming Nature. In the event that the Zoning Board of Appeals determines the nonconforming nature of the structure is increased, the Zoning Board of appeals may grant a special permit to allow such reconstruction, extension, alteration, or structural change upon finding that the proposed reconstruction, extension, alteration or structural change does not create a new nonconformity and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

3. The provisions of subsection C.1 and C.2 above shall not apply to the alteration, enlargement, structural change or reconstruction (collectively referred to herein as "alterations") of a legally existing, nonconforming single or two family structure in the following circumstances:

    a. The proposed alterations do not increase the maximum height of the pre-existing structure; and

    b. The proposed alterations comply with setback requirements, or, if they do not comply, the proposed alterations do not result in a decrease in the distance between any lot line and the nearest point of the structure.

For the purpose of this Zoning Bylaw, alterations meeting the criteria set forth in this subsection C.3 shall not be deemed to increase the nonconforming nature of the structure,

and are allowable as a matter of right. Upon determination of the Building Inspector that this subsection C.3 is complied with, the Building Inspector may issue a building permit for the alterations. This provision does not preclude the Zoning Board of Appeals from determining that other alterations, extensions or reconstruction to a legally existing, nonconforming single or two family home do not increase the nonconforming nature of the structure.

D. **Nonconforming Uses**. The Board of Appeals may grant a special permit to change or substantially extend a nonconforming use only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

E. **Nonconforming Structures Other Than One-Family and Two-Family Dwellings.** A legally pre-existing nonconforming building or structure may be structurally altered, enlarged or reconstructed provided that such alteration, enlargement or reconstruction is in compliance with the applicable dimensional regulations and does not increase the extent of the nonconformity, provided that the Board of Appeals determines by the grant of a special permit that such alteration, enlargement or reconstruction will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

F. **Abandonment or Non-Use**. Any nonconforming use that has been abandoned, or not used for more than two years, shall lose any protected nonconforming status, and shall be subject to all of the provisions of this Zoning Bylaw. *(Revised 11/16/15)*

G. **Change.** Once changed to a conforming use, no structure or land shall revert to a non-conforming use without obtaining a variance from the Zoning Board of Appeals.

5.6. OVERLAY DISTRICTS

5.6.1. Flood Plain/Wetland Protection District

A. **Purposes.** The purposes of the Flood Plain/Wetland Protection District are to ensure public safety by reducing threats to life and personal injury; eliminate new hazards to emergency response officials; prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding; avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; eliminate costs associated with the response and cleanup of flooding conditions; and reduce damage to public and private property resulting from flooding waters.

B. **Overlay District**. The Flood Plain/Wetland Protection District shall be deemed to be superimposed over other districts in this Zoning Bylaw. In the event any regulations of this Flood Plain/Wetland Protection District are in conflict with the regulations of any other districts, the more restrictive regulation shall govern.

C. **Applicability.** The Flood Plain/Wetland Protection District includes:

1. All special flood hazard areas designated as Zone A or AE on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Medway are panel numbers 25021C - 0136E, 0137E, 0138E, 0139E, 0141E, 0142E, 0413E, and 0144E with a preliminary date of June 12, 2009 and an effective date of July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) with an effective date of July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning and Economic Development Board, Conservation Commission, Building Department and Board of Assessors.

2. All land bordering any natural water body that lies within a horizontal distance of twenty-five feet from the mean high water line except as otherwise defined on the Flood Plain/Wetland Protection District Map.

3. All water bodies encircled by boundary lines of the District.

4. All that land along the following named brooks and their tributaries: Stall Brook, Hopping Brook, Chicken Brook and certain unnamed brooks and streams that lie within a horizontal distance of twenty-five feet of the thread of said brooks and streams except as otherwise defined on the Flood Plain/Wetland Protection District Map.

5. All those wetlands which may be described as upland swamps or marshes which lie at the source of the brooks or their tributaries or which lie in surface depressions without drainage outlets, as defined on the Flood Plain/Wetland Protection District Map.

D. **Definitions.** As used in this Section 5.6, the following terms shall have the following meanings:

Area of Special Flood Hazard: the land in the floodplain that is subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

Base Flood: the flood having a one percent chance of being equaled or exceeded in any given year.

Development: any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District: floodplain district.

Federal Emergency Management Agency (FEMA): the agency that administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Hazard Boundary Map (FHBM): an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map (FIRM): an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Lowest Floor: the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

New Construction: for floodplain management purposes, new construction means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, New Construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

One-Hundred-Year Flood: see Base Flood.

Regulatory Floodway: see Floodway

Special Flood Hazard Area: an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1 30, VE.

Structure: as used in this Section and for floodplain management purposes, "structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Damage: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Zone A: the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

Zone A1-30 and Zone AE (for new and revised maps): the 100-year floodplain where the base flood elevation has been determined.

Zones B, C, and X: areas identified in the Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

E. **Base Flood Elevation and Floodway Data**

1. Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

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

F. In a riverine situation, the Conservation Agent shall notify the following of any alteration or relocation of a watercourse: adjacent communities, NFIP State Coordinator (Department of Conservation and Recreation), and NFIP Program Specialist (FEMA Region 1).

G. **Use Regulations**

1. Permitted Uses. The following uses shall be permitted in the Flood Plain/Wetland Protection District provided that the Conservation Commission has acted within the scope of its jurisdiction under G.L. c. 131, § 40.

   a. Underlying permitted uses are allowed provided they meet the requirements of this Section 5.6.1 and the State Building Code dealing with construction in flood plains.

   b. Uses directly related to the conservation of water, plants and wildlife.

   c. Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted.

   d. Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any water course.

   e. Grazing and farming, including truck gardening and harvesting of crops.

   f. Forestry and nurseries.

   g. Small non-residential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage, or sale of crops raised on the premises.

   h. Creation of ponds with a total water surface area at normal elevation not in excess of 40,000 square feet.

   i. Removal of salt and other accumulated debris from a water course which tends to interfere with natural flow patterns of the water course.

   j. Access driveways to land outside the Flood Plain/Wetland Protection District not otherwise accessible.

   k. Buildings lawfully existing prior to the adoption of these provisions.

2. All manmade changes to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, including structural and nonstructural activities, whether permitted by right or by special permit, shall comply with G.L. c. 131, § 40, and the following:

   a. Sections of the State Building Code (780 CMR) which address floodplain and coastal high hazard areas;

   b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00).

d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

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

4. Prohibited Uses. The following shall be prohibited in the Flood Plain/Wetland Protection District:

a. New construction of a building or structure except as otherwise provided in this Section 5.6.1;

b. Movement, alteration, or expansion of an existing building or structure so as to increase its ground coverage by more than a total of 20 percent;

c. Dumping or filling or relocation of earth materials except as may be required for the uses permitted in Section 5.6.1 G (1)(h)(i) and (j).

d. Storage of road salt, fertilizer, manure, or other organic or chemical leachable material.

e. In Zone AE along watercourses that have a regulatory floodway designated on the Norfolk County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

H. **Subdivisions.** All subdivision proposals shall be designed to assure that:

1. Such proposals minimize flood damage;

2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

3. Adequate drainage is provided to reduce exposure to flood hazards.

4. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

I. **Lot Area Allowance**. If any portion of a lot in a single-family residence district is overlaid by the Flood Plain/Wetland Protection District, said portion may be used to meet the minimum lot area regulations of the single-family district. However, no building or structure shall be erected on the portion outside the Flood Plain/Wetland Protection District unless it contains suitable space for a building or structure, for installation of adequate sewage disposal facilities in accordance with Title V of the State Environmental Code, and for meeting the setback, frontage, and other dimensional requirements of this Zoning Bylaw, but in no case less than 10,000 square feet.

J. A lot with a dwelling existing thereon at the time of the adoption of this Zoning Bylaw shall not be deemed a non-conforming lot solely because any portion of it lies within the Flood Plain/Wetland Protection District.

K. **Special Permits**. The Board of Appeals may grant a special permit for any of the following upon finding that the purposes of the Flood Plain/Wetland Protection District have been met.

1. A special permit from the Board of Appeals shall be required for construction on any lot in a commercial or industrial district when a portion of the lot is overlaid by the Flood Plain/Wetland Protection District.

2. Determination of Flooding and Suitability.

   a. The Board of Appeals may grant a special permit for a use permitted in the underlying district if the Board determines that:

      i. The land is not subject to flooding or unsuitable because of drainage conditions;

      ii. The proposed use of such land will not interfere with the general purposes for which the Flood Plain/Wetland Protection District has been established, and will not be detrimental to the public health, safety and/or welfare; and

      iii. The proposed use or structure will comply with all other provisions of the underlying district within which the land is located.

   b. The Board of Appeals shall refer such special permit applications to the Planning and Economic Development Board, Conservation Commission, and Board of Health for review and comment, and shall not act until these agencies have reported their recommendations or forty-five days have elapsed after such referral and no report has been received.

   c. Any special permit granted hereunder shall be conditional upon receipt of all other permits or approvals required by local, state, or federal law.

3. No construction requiring a public utility, including electric, water, gas, and telephone lines or waste disposal or drainage facilities, shall be permitted unless the Board of Appeals determines that all such utilities are located, elevated, and constructed so as to minimize or eliminate flood damage and that methods of disposal of sewage, refuse, and other wastes and methods of providing drainage are adequate to reduce flood hazards.

4. Special permit application, review, and decision procedures shall be in accordance with Section 3.4 of this Zoning Bylaw and the rules and regulations of the Board of Appeals.

5.6.2. Adaptive Use Overlay District

A. **Purposes.** The purposes of the Adaptive Use Overlay District are to promote economic development and preserve community character by encouraging conversion of existing buildings in a manner that maintains their architectural integrity; to provide for limited business uses within portions of residential districts, subject to design and performance standards, in order to preserve older buildings by providing economic uses for structures that may be obsolete for their original intended uses; and implement the goals of the Medway Master Plan.

B. **Overlay District**. The Adaptive Use Overlay District shall be as shown on the Zoning Map on file with the Town Clerk.

C. **Applicability.** The Planning and Economic Development Board may grant an Adaptive Use Special Permit for any property with at least 50 feet of frontage on a Town way in the Adaptive Use Overlay District, provided that each lot in the development includes at least one building constructed prior to June 28, 2004.

D. **Use Regulations**

1. Uses Allowed As of Right: All uses permitted in the underlying zoning district shall be permitted within the Adaptive Use Overlay District unless prohibited under subsection D.3 hereof.

2. Uses Allowed by Special Permit: In approving an Adaptive Use Special Permit, the Planning and Economic Development Board may provide for the following uses or combination of uses and no others. The Adaptive Use special permit shall identify the uses that are specifically allowed, and may impose any conditions, safeguards and limitations deemed necessary by the Planning and Economic Development Board.

   a. Offices for business or professional uses.

   b. Studios for artists, photographers, interior decorators, and similar design-related uses.

   c. Retail sales for handcrafted merchandise, original arts and crafts or copies thereof, antiques, second-hand goods, gifts, clothing, accessories, and decorative home furnishings. *(Revised 11/16/15)*

   d. Food services including, but not limited to bakeries, cafes, coffee shops, delicatessens, frozen dessert shops, pastry shops, sandwich shops and other specialty food items, not to exceed 3,000 sq. ft. *(Revised 11/16/15)*

   e. Repair shops for small electronic equipment, appliances or tools.

   f. Personal care services such as barber shops, beauty parlors and nail salons.

   g. Florists

   h. Individual consumer services including but not limited to opticians, personal fitness, tailor, shoe repair, music lessons and travel agency. *(Added 11/16/15)*

i. The alteration of, addition to, and/or conversion of an existing building to one or two residential dwelling units and one or more business uses listed in items a-g above, provided that the appearance of the building is characteristic of a single-family dwelling.

3. Prohibited Uses: The following uses are prohibited in the Adaptive Use Overlay District:

   a. Motor vehicle sales, repair, or sales of parts

   b. Manufacturing

   c. Drive-through windows of any kind

   d. Exterior storage of equipment or materials

E. **Medway Mill Conversion Subdistrict**. The existing Medway Mill building and property within the Adaptive Use Overlay District present unique features and opportunities as part of the district. In addition to the purposes listed in Section 1, the Mill property provides an opportunity to promote diverse housing types and mixed uses. In recognition of these unique features, there is hereby created the Medway Mill Conversion Subdistrict within the Adaptive Use Overlay District, as shown on the Zoning Map. The following provisions shall apply to the Medway Mill Conversion Subdistrict.

1. Permitted Uses. In addition to the uses listed above in Section D(1) and D(2), multifamily dwellings may be allowed by special permit within any of the existing buildings or within any new buildings on the premises, provided that the average number of bedrooms in the development shall not exceed two per unit.

2. Density and Dimensional Requirements.

   a. Residential density shall not exceed 12 units per acre, exclusive of any wetlands as determined by the Conservation Commission. Residential space, measured in square feet, shall not exceed 25 percent of the usable building space on the premises, and the amount of commercial space at the time of adoption of this section shall not be reduced by conversion to housing unless the Planning and Economic Development Board finds that a greater percentage and/or conversion of commercial space to housing is in the Town's best interests as evidenced by a documented need for the type of housing proposed.

   b. Maximum building coverage shall be 1.25 times the footprint of buildings existing as of the date of adoption of this section.

F. **Adaptive Use Site Development Standards**. The Planning and Economic Development Board shall adopt Adaptive Use Rules and Regulations to administer this Section 5.6.2. Such Rules and Regulations shall include submission requirements and procedures and may provide for site development standards addressing any or all of the following:

1. Restoration and renovation standards, and guidelines for new construction;

2. Amount and location of off-street parking, and provisions for parking waivers;
3. Stormwater management and erosion control;
4. Curb cuts;
5. Pedestrian and bicycle access, and bicycle parking.
6. Landscaping;
7. Exterior lighting; and
8. Business signage, which shall comply with Section 7.2, Sign Regulations.

G. Sidewalks shall be provided or replaced along the entire frontage of the Adaptive Use parcel along existing Town ways, including the frontage of any lots held in common ownership with the parcel within five years prior to the submission of the Adaptive Use Special Permit application. Where sidewalk construction is not feasible or practical, the Planning and Economic Development Board may require the applicant to provide a sidewalk in another location or make a payment in lieu of sidewalk construction to the Town of Medway special sidewalk fund in an amount determined by the Planning and Economic Development Board.

H. **Procedures.** Submission requirements and review procedures shall be in accordance with the Planning and Economic Development Board's Adaptive Use Rules and Regulations. The uses and improvements for which an Adaptive Use Special Permit is granted shall be exempt from Site Plan Review.

I. **Decision Criteria**. The Planning and Economic Development Board may grant an Adaptive Use Special Permit upon finding that:

1. The proposed use is allowed under this Section 5.6.2.
2. The site is adequate for the proposed us in terms of size, configuration, and use of abutting properties.
3. Provisions for traffic and parking are adequate for the proposed use.
4. Provisions for pedestrian and bicycle access are adequate, based on site characteristics and the proposed use.
5. The proposal restores or enhances the aesthetic appeal of the primary building and its site.
6. The impact on neighborhood visual character, including views and vistas, is positive.
7. The provisions for utilities, including sewage disposal, water supply and stormwater management are adequate.
8. The proposed project complies with the goals of the Medway Master Plan and the purposes of this Section 5.6.2.

5.6.3. Groundwater Protection District

A. **Purposes.** The purposes of the Groundwater Protection District are to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Medway; to preserve and protect existing and potential sources of drinking water supplies; to conserve the natural resources of the Town; and to prevent temporary and permanent contamination of the environment.

B. **Overlay District**. The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

C. **Establishment and Delineation of Groundwater Protection District:** For the purposes of this district, there are hereby established within the Town certain groundwater protection areas consisting of all Department of Environmental Protection approved Zone II recharge areas located within the Town of Medway's boundaries, which are delineated on four maps, all on file with the Town Clerk. The maps are entitled:

   1. "Medway, MA Zone II and Zone III Delineation", prepared by D.L. Maher Co., and approved by the Department of Environmental Protection in October 1998 (Well #2);

   2. "Zone II Delineation, Well #1 and Well #3, Medway Water Department, Medway, MA", prepared by Tighe & Bond, Inc., and approved by the Department of Environmental Protection in August 2001.

   3. "Bellingham, MA Conceptual Zone II – Wells #7 & #8, Zone II and Zone III Delineation", prepared by Anderson-Nichols & Co., Inc. and approved by the Department of Environmental Protection in November 1992;

   4. "Wellhead Protection Zones – Medway Production Well No. 4", prepared by Haley and Ward Inc., dated February 25, 2004 and approved by the Department of Environmental Protection on May 31, 2005.

D. **District Boundary Disputes**: If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary ambiguities shall be through a special permit application to the Board of Appeals. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

   The burden of proof shall be upon the owner of the land in question to show where the bounds should properly be located. At the request of the owner, the Town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individuals parcels of land and may charge the owner for all or part of the cost of the investigation.

E. **Use Regulations**: In the Groundwater Protection District, the following regulations shall apply.

1. Permitted Uses. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained, and subject to subsections E.2 and E.3 herein:

   a. Conservation of soil, water, plants, and wildlife;

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

   c. Foot, bicycle and/or horse paths, and bridges;

   d. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;

   e. Maintenance, repair, and enlargement of any existing structure;

   f. New construction;

   g. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;

   h. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;

   i. Underground storage tanks related to these activities are not categorically permitted.

2. Prohibited Uses**.** The following uses are prohibited:

   a. Landfills and open dumps as defined in 310 CMR19.006;

   b. Storage of liquid petroleum products, except the following: normal household use, outdoor maintenance, and heating of a structure; waste oil retention facilities required by statute, rule or regulation; emergency generators required by statute, rule, or regulation; treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that such storage is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity;

   c. Landfills receiving only wastewater residuals and/or septage;

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

   e. 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;

f. Storage of animal manure unless stored within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

g. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 6 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 excavations for building foundations, roads, or utility works;

h. Facilities that generate, treat, store or dispose of hazardous waste subject to G.L. c. 21C and 310 CMR 30.000, except the following:

   i. Very small quantity generators as defined under 310 CMR 30.000;

   ii. Household hazardous waste centers and events under 310 CMR 30.390;

   iii. Waste oil retention facilities required by G.L. c. 21, § 52A;

   iv. Water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;

i. Automobile graveyards and junkyards, as defined in G.L. c. 140B, § 1;

j. Treatment or disposal works subject to 314 CMR 5.00, for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following:

   i. The replacement or repair of existing system that will not result in a design capacity greater than the design capacity of existing system;

   ii. Treatment works approved by the Department of Environmental Protection designed for treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and

   iii. Publicly owned treatment works.

k. Storage of hazardous materials, as defined in G.L. c. 21E, unless in a free standing container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity;

l. Industrial and commercial uses which discharge process wastewater on-site;

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

n. Storage of commercial fertilizers, as defined in G.L. c. 128, § 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;

o. The use of septic system cleaners which contain toxic or hazardous chemicals.

3. 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 the Board may require.

   a. Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;

   b. The application of fertilizers for non-domestic or non-agricultural uses. Such application shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;

   c. 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 zone (except as prohibited under subsection E.2). Such activities shall require a special permit to prevent contamination of groundwater;

   d. The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements. Such activities shall not adversely affect water quality or quantity;

   e. Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quantity. For non-residential uses, recharge shall be by stormwater 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.

F. **Special Permits.**

1. The Board of Appeals may grant a special permit in the Groundwater Protection District if it determines, in consultation with the Board of Health, the Conservation Commission, the Water and Sewer Commission, the Department of Public Services, and the Planning and Economic Development Board, that the special permit addresses the purposes and requirements of Section 3.4 and this Section 5.6.3. Specifically, 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 Groundwater Protection District, and

   b. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

2. The Board of Appeals shall not grant a special permit under this Section 5.6.3 unless the applicant's submission includes, in the Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relations to the standards given herein.

The Board of Appeals shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.

3. Submission requirements and hearing procedures shall be in accordance with the rules and regulations of the Board of Appeals and Section 3.4 of this Zoning Bylaw. Any agency to which the special permit application is referred for review shall provide written comments to the Board of Appeals within 35 days. Failure to respond in writing within 35 days of receipt by the Board shall be deemed lack of opposition thereto. The necessary number of copies of the application shall be furnished by the applicant.

G. The Board of Appeals may adopt regulations to govern design features of projects. Such regulations shall be consistent with the Planning and Economic Development Board's subdivision rules and regulations.

5.6.4 Multifamily Housing

A. **Purpose:** The purpose of this sub-section is to further the goals of the Medway Master Plan and the Medway Housing Production Plan to encourage the provision of a diversity of housing types, to promote pedestrian oriented development, and to increase the number of affordable housing units by establishing a special permit option to allow for the development of Multifamily Dwellings or Apartment Houses, and Multifamily Developments within the capacities of existing Town utilities and services.

B. **Applicability:**

1. The Planning and Economic Development Board may grant a Multifamily Housing special permit for a Multifamily Dwelling or Apartment House, and/or a Multifamily Development on a tract of land within the AR-I, AR-II, Village Residential, Village Commercial zoning districts whether on one parcel or a set of contiguous parcels, with a minimum of fifty feet of frontage on an existing street located within the Multifamily Housing Overlay District as shown on a map on file with the Medway Town Clerk. The street shall, in the opinion of the Planning and Economic Development Board, have sufficient capacity to accommodate the projected additional traffic flow from the development.

   (Amended 11-14-16)

2. Tracts of land within residential subdivisions approved and constructed under the Subdivision Control Law since September 29, 1952 or granted a special permit under the Medway Zoning Bylaw shall not be eligible for a special permit under this Sub-Section.

3. Multifamily Dwellings or Apartment Houses and Multifamily Developments within the Adaptive Use Overlay District must comply with the Medway Zoning Bylaw, Adaptive Use Special Permit Site Development Standards.

4. These provisions apply to the following:

   a. The alteration/rehabilitation and conversion/adaptive reuse of existing buildings

   b. Construction of new buildings or additions to existing buildings.

C. **Dimensional Regulations**

1. The minimum dimensional requirements for area and setbacks shall be the same as for the underlying zoning district in which the parcel is located. However, the Planning and Economic Development Board may adjust these dimensional requirements by a four-fifths vote if, in its opinion, such adjustment will result in a more desirable design of the development or provide enhanced buffering for adjacent residential properties.

2. Legally pre-existing nonconforming buildings shall be eligible for a Multifamily Housing special permit provided there is no increase in any dimensional nonconformity or the creation of a new nonconformity, and the applicant can demonstrate compliance with the parking and open space requirements of this section.

3. Maximum building height: 2.5 stories or 40’

D. **Density Regulations:** The density of a Multifamily Dwelling or Apartment House, and a Multifamily Development shall not exceed twelve dwelling units per acre or portions thereof, except that the Planning and Economic Development Board may grant a density bonus for one or more of the following:

1. + one unit when the project involves the rehabilitation/adaptive reuse of an existing structure at least seventy-five years of age and is completed in a manner that preserves and/or enhances the exterior architectural features of the building;

2. + one unit for each three thousand sq. ft. of existing interior finished space that is substantially rehabilitated in accordance with the Board's *Multifamily Housing Rules and Regulations.*

3. + two units when twenty-five percent of the dwelling units are designated as affordable independent of the provisions of the Section 8.6 Affordable Housing.

In no case shall total density, including bonus units, exceed twenty dwelling units per acres.

E. **Special Regulations:**

1. Affordable Housing Requirement: Projects approved pursuant to this Sub-Section shall comply with:

   a. The Town's Affordable Housing requirements as specified in Section 8.6 Affordable Housing;

   b. the Massachusetts Department of Housing and Community Development (DHCD)'s Local Initiative Program (LIP) Guidelines, July 1996, as may be amended; and

2. Open Space: There shall be an open space or yard area equal to at least fifteen percent of the parcel(s) total area. This area shall be unpaved and may be landscaped or left natural, with the balance being trees, shrubs and grass suitable for the site. This area shall not be built upon but may include a play area.

3. Parking: At least one and one-half off-street parking spaces shall be provided for each dwelling unit plus one additional visitor parking space for every two dwelling units.

4. There shall be Town water and sewer available in the street on which the Multifamily Dwelling or Apartment House or Multifamily Development has its frontage and said water and sewer lines shall have sufficient capacity to accommodate the project.

5. A Multifamily Dwelling or Apartment House shall not contain more than twelve dwelling units.

6. Any Multifamily Development shall not exceed forty dwelling units.

F. **Rules and Regulations:** The Planning and Economic Development Board shall adopt *Multifamily Housing Rules and Regulations* which shall include application submittal requirements, public hearing and review procedures, and site development and design standards including but not limited to landscaping, buffering, lighting, building style, pedestrian access, off-street parking, utilities, and waste disposal.

G. **Development Limitation:** The maximum number of Multifamily Dwelling units authorized pursuant to this sub-section shall not exceed five percent of the number of detached single-family dwellings located in the Town of Medway, as determined by the Board of Assessors.

H. **Special Permit Procedures:**

1. The special permit application, public hearing, and decision procedures shall be in accordance with this Sub-Section, the Planning and Economic Development Board's *Multifamily Housing Rules and Regulations*, and Section 3.5 Site Plan Review and Approval.

2. Application Requirements. The Applicant shall submit a Multifamily Housing special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning and Economic Development Board's *Multifamily Housing Rules and Regulations*.

3. The special permit review of Multifamily Dwelling or Apartment Houses, and Multifamily Developments shall incorporate site plan review pursuant to Section 3.5 Site Plan Review and Approval.

I. **Decision:** The Planning and Economic Development Board may grant a Multifamily Housing special permit with any conditions, safeguards, and limitations necessary to mitigate the project's impact on the surrounding area and to ensure compliance with this Sub-Section and Section 3.5 Site Plan Review and Approval, upon finding that the Multifamily Dwelling or Apartment House, or the Multifamily Development will:

1. meet the purposes and requirements of this Sub-Section, and the Planning and Economic Development Board's *Multifamily Housing Rules and Regulations* and *Site Plan Rules and Regulations*;

2. is consistent with the goals of the Medway Master Plan and the Medway Housing Production Plan;

3. not have a detrimental impact on abutting properties and adjacent neighborhoods or such impacts are adequately mitigated;

4. provide for greater variety and type of housing stock.

SECTION 6. DIMENSIONAL REGULATIONS

6.1. SCHEDULE OF DIMENSIONAL AND DENSITY REGULATIONS

Each use, building, or structure shall comply with the standards described in Table 2, Schedule of Dimensional and Density Regulations, except where otherwise provided in this Zoning Bylaw.

TABLE 2. DIMENSIONAL AND DENSITY REGULATIONS

Requirement	AR-I	AR-II	VR	CB	VC	C-V	B-I	I-1	I-2	I-3
Minimum Lot Area (Sq. Ft.)	44,000	22,500 30,000 [a, b]	22,500 30,000 [a, b]	10,000	10,000	20,000	20,000	20,000	20,000	40,000
Minimum Lot Frontage (Ft.)	180'	150'	150'	NA	NA	NA	75'	100'	150'	100'
Minimum Setbacks (Ft) [c]										
Front	35'	35'	20' [d]	10'	20' [d]	35'	25'	30'	30'	30'
Side	15'	15'	10' [d]	10' 25' [e]	10' [d]	15'	15'	20'	20'	20'
Rear	15'	15'	10' [d]	25'	10' [d]	15'	15'	30'	30'	30'
Maximum Building Height (Ft.)	35'	35'	35'	40'	40'	40'	40'	60'	40'	60'
Maximum Lot Coverage (Pct. of lot) (Primary and accessory buildings)	25%	30%	30%	80%	80%	40%	40%	NA	NA	NA
Maximum Impervious Coverage (Pct. of lot)	35%	40%	40%	NA	NA	80%	80%	80%	80%	80%
Minimum Open Space (Pct. of lot)	NA	NA	NA	15%	NA	20%	20%	20%	20%	20%

Notes to TABLE 2

NA means not applicable

a) For a two family house. No parking shall be permitted within 10 feet of an adjoining lot line

b) For a newly constructed two-family house or when a single family detached house is enlarged for 2 family house.

c) When a nonresidential use abuts a residential use, the first 10 feet within the required side or rear setback of the nonresidential use along the lot line shall be used as a buffer

d) Or the average setback of the existing primary buildings within 300' of the lot on the same side of the street and within the same zoning district, whichever is less.

e) When abutting a residential district.

(Amended 11-14-16)

6.2. GENERAL PROVISIONS

A. **One Dwelling Per Lot**. More than one dwelling on a lot is prohibited unless specifically authorized by other provisions of this Zoning Bylaw.

B. **Change in Lot that Results in Noncompliance**. No conforming lot may be changed to make it nonconforming.

C. **Lot Shape Factor.** No lot shall be created so as to be so irregularly shaped or extended that it has a "Shape Factor" in excess of twenty-two. Shape Factor equals the square of the lot perimeter divided by the lot area. That portion of the lot in excess of the required lot area may be excluded from the computation of the Shape Factor using an imaginary lot line, provided that the entire required frontage is included in the portion used for the calculation.

D. **Buildable Lot.** No dwelling may be erected on any lot unless at least 50 percent of the required minimum lot area for the district is contiguous upland. The upland shall be land that is not subject to protection under the Wetlands Protection Act, G.L. c. 131, § 40. The upland shall not include wetland replication areas that may be required by the Conservation Commission.

E. **Lot Frontage.**

1. Minimum Lot Frontage Required. Every lot must have at least the minimum frontage set forth in Table 2 for the district in which the lot is located on a street, as defined in Section 2 of the Zoning Bylaw.

2. Measurement of Lot Frontage. Frontage is measured in a continuous line along the sideline of the street right-of-way between the points of intersection of the side lot lines with the street right-of-way line. The measurement of lot frontage excludes jogs in the street width, backup strips and other irregularities in the street line.

3. Access**.** An owner shall provide a means of access for vehicles from the frontage to a principal building for emergency services, for deliveries, and for off-street parking.

SECTION 7. GENERAL REGULATIONS

7.1. SITE DEVELOPMENT STANDARDS

7.1.1. Off-Street Parking and Loading

A. **Purposes.** The purposes of this Section 7.1 are to ensure the availability of safe and convenient vehicular parking areas; to encourage economic development; to promote safety for pedestrians, bicyclists, motor vehicle occupants, and property and business owners; to reduce impervious surfaces; and to protect adjoining lots and the general public from nuisances and hazards associated with off-street parking areas.

B. **Applicability.** No building or structure shall be used or changed to a category of greater parking demand, determined in accordance with Table 3 below, except in accordance with this Section 7.1.1. Single-family and two-family dwellings and exempt uses listed in Section 3.5 shall be exempt from the requirements herein.

C. **Administration**. This Section 7.1.1 shall be administered by the Planning and Economic Development Board as part of site plan review pursuant to Section 3.5, or for a use or activity not subject to site plan review, by the Building Inspector.

D. **Schedule of Off-Street Parking Requirements**. The minimum number of off-street parking and loading spaces shall be as set forth in Table 3. Off-street parking requirements for a use not specifically listed in Table 3 shall be as specified by the Building Inspector based on a listed use of similar characteristics of parking demand generation.

TABLE 3. SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

Use	Minimum Number of Parking Spaces
Multifamily unit in a mixed-use development	1.5 spaces per unit
ARCPUD housing unit (as defined in Section 8.5)	2 spaces per unit
Business, professional and governmental office, bank	1 space per 300 sq. ft.
Medical office or clinic	1 space per 300 sq. ft.
Veterinary hospital	1 space per 300 sq. ft.
Retail store	1 space per 300 sq. ft.
Service establishment	1 space per 300 sq. ft.
Warehouse/distribution facility	1 space per each 2 persons employed or anticipated to be employed on the largest shift and 1 additional space for each 1,000 sq. ft.
Manufacturing	1 space per each 2 persons employed or anticipated to be employed on the largest shift and 1 additional space for each 1,000 sq. ft.
Restaurant	1 space for each employee and 1 space for every 3 seats.

TABLE 3. SCHEDULE OF OFF-STREET PARKING REQUIREMENTS	
Use	**Minimum Number of Parking Spaces**
Vehicle fuel station	1 space per fueling position plus 1 space per 300 sq. ft. including service areas and retail/convenience store areas. The temporary parking areas at fueling positions shall not count toward the sq. ft. parking requirement.
Vehicle repair shops	1 space per 300 sq. ft. plus 2 spaces per service bay
Dance/martial arts/other exercise studios	1 space per 300 sq. ft.
Studios for artists/design professionals	1 space per 300 sq. ft.
Other uses not specified herein	Where a use is not specifically referenced in this table, the parking requirement for the most nearly comparable use or industry standards shall apply.
*In all instances in Table 3, sq. ft. shall mean net floor area. **ARCPUD parking requirements may be waived by the Planning Board in accordance with Section 8.5.	

E. **General Parking Requirements**. Except as may be determined pursuant to Subsection J herein, the following parking requirements shall be met:

1. Computation of Required Parking Spaces.

   a. The minimum number of parking spaces shall be the largest whole number obtained after calculating the parking requirements in accordance with Table 3. Any fractional parking space shall be rounded up to the next whole number.

   b. For a parcel with two or more uses, the minimum number of parking spaces shall be the sum of the minimum number of spaces required for each use, determined in accordance with Table 3, except as may be authorized pursuant to Subsection J herein.

   c. No existing off-street parking spaces shall be eliminated if their removal would cause the total number of spaces provided on a site to be less than the number required in Table 3.

   d. For purposes of determining compliance with this Section 7.1.1, parking spaces that serve as loading or unloading areas shall not be credited toward the minimum required number of off-street parking spaces in Table 3.

2. Location of Parking Areas. All required off-street parking spaces shall be located on the same premises as the uses they serve except as provided in Section J below.

3. Dimensional Standards. Off-street parking spaces shall be laid out as a rectangle in compliance with the following standards:

   a. Standard Parking Space: Nine feet wide by eighteen feet long, exclusive of maneuvering and driving lanes.

   b. Small Vehicle Parking Space: Eight feet wide by fifteen feet long, exclusive of maneuvering and driving lanes.

   c. Parallel/Curbside Parking Space: Eight feet wide by twenty-two feet long

   d. Motorcycle Parking Space: Four feet wide by eight feet long.

e. Standard, Small, and Motorcycle Spaces. In off-street parking facilities with more than forty parking spaces, up to 30 percent of the minimum required number of spaces may be designed for small vehicles and an additional 3 percent of the minimum required number of spaces may be designed for motorcycle use. Parking spaces for small vehicles or motorcycles shall be grouped in one or more locations within a parking area and shall be designated by clearly visible signs.

F. **Parking Area Design.**

1. Surface. Parking areas shall have durable, all-weather paved surfaces and shall provide for the satisfactory management of surface water. Parking areas composed of pervious or semi-pervious surfaces are encouraged in low traffic areas such as reserve parking and may be used to meet all or any part of the required parking, subject to environmental limitations.

2. Parking spaces that count toward the minimum required number of spaces for the uses on a site shall not be used for storage of materials or equipment, display of merchandise, or loading or unloading areas.

3. Parking areas shall be designed that no vehicle will be required to back onto a public way in order to enter or exit from a parking space.

4. Off-street loading and unloading spaces shall be designed so that no delivery vehicles will be required to back onto or off of a public way, travel against one-way traffic, obstruct drive-through traffic or parking spaces, or park on a public way while loading or unloading, or waiting to do so.

5. Parking spaces shall be clearly delineated by white or yellow pavement markings at least four inches in width or the equivalent based on industry standards or, as applicable, the standards of the Architectural Access Board (AAB).

6. Driveways/egresses serving ten or more parking spaces shall have stopping and intersection sight distances based on the AASHTO Standards for Geometric Design of Highways and Streets.

7. As part of its Site Plan Rules and Regulations, the Planning and Economic Development Board may supplement the requirements herein with parking lot design standards.

G. Location of Parking. To the maximum extent feasible, off-street parking for retail, office, and other commercial uses shall be located behind or beside buildings. Vehicular parking between the front building line and the street alignment is permitted only if no other reasonable alternative exists.

H. Off-street parking areas shall be designed and constructed so as to maximize safety for pedestrians, bicyclists, motor vehicle occupants, and property and business owners and their customers. Impacts on scenic roads, historic districts, natural resources and community character shall be minimized.

I. **Bicycle Parking.**

1. Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy of any new building that results in the need for additional vehicular parking facilities. The minimum required number of bicycle spaces shall be one per twenty motor vehicle spaces unless waived during Site Plan Review or, where Site Plan Review is not required, by the Building Inspector, based on individual site conditions.

2. Off-street parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the user may lock a bicycle. Structures that require a user-supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (not just the wheel).

3. Bicycle parking facilities shall be securely anchored and located in a clearly designated, safe, and convenient location. Whenever possible, the bicycle parking shall be placed within fifty feet of building entrances and in well-lit areas.

J. **Reduced Parking.** The number of parking spaces required pursuant to Table 3 may be reduced by special permit from the Planning and Economic Development Board, subject to the provisions herein. Where the Board of Appeals is the special permit granting authority for the proposed use, the Board of Appeals shall have the authority to administer this section.

1. The reduction shall not exceed 30 percent of the minimum number of spaces required under Table 3.

2. The applicant shall demonstrate to the Board's satisfaction that a reduction is warranted due to circumstances such as but not limited to:

   a. Peak parking needs generated by the proposed uses occur at different times.

   b. Demographic or other characteristics of site users.

   c. For a nonresidential development, the applicant agrees to participate in a transportation demand management program.

   d. The extent to which the applicant's proposal accommodates other means of transportation to or circulation within the site, such as sidewalks or bicycle racks, or safe and convenient pedestrian walkways between buildings in a multi-building development.

   e. Safe, convenient forms of pedestrian access between the proposed development and nearby residential uses.

   f. The presence of a public or private parking lot within 400 feet of the proposed use.

   g. The availability of legal on-street parking.

The Board may grant a special permit for reduced parking only upon finding that:

   h. The reduced number of parking spaces is consistent with the general purposes of this Section 7.1.1.

i. The proposed number of parking spaces will be sufficient for the proposed uses.

j. The decrease in required off-street parking is supported by a parking analysis prepared by a registered professional engineer. Such analysis shall consider existing and proposed uses on the site; rate of parking turnover for various uses; expected peak traffic and parking loads for various uses based on customary hours of operation; availability of public transportation; industry parking standards for various uses; and other factors.

3. In granting a special permit for reduced parking, the Board may impose reasonable conditions including but not limited to requiring additional parking should uses change over time, or requirements to designate green space for reserve parking.

7.1.2. Outdoor Lighting

A. **Purposes.** The purposes of this Section 7.1.2 are to create a standard for outdoor lighting so that its use is consistent and provides functionality and convenience; to enhance public safety and security; to minimize light trespass, glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive or unnecessary and providing for lighting that will complement the character of the community; to reduce the cost and waste of unnecessary energy consumption by promoting energy conservation; and to preserve the night sky as a natural resource to enhance nighttime enjoyment of property in Medway.

B. **Definitions.** Unless the context clearly indicates otherwise, the following terms shall have the following meanings in this Section 7.1.2:

1. Direct Light: Light emitted directly by a lamp, off a reflector, or through a refractor of an outdoor light fixture.

2. Filtered: When referring to an outdoor light fixture means that the fixture is to be fitted with a glass acrylic, or other translucent enclosure of the light source.

3. Indirect Light: Direct light that has been reflected off other surfaces not part of the luminaire.

4. Lamp: The component of an outdoor light fixture that produces the actual light.

5. Light Trespass: Direct light emitted by an outdoor lamp fixture that shines beyond the boundaries of the property on which the outdoor light fixture is installed.

6. Luminaire*:* A complete lighting system, including a lamp or lamps and a fixture.

7. Lumen*:* A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For this purpose, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

8. Shielded: When referring to an outdoor light fixture, shielded means that the fixture allows no up lighting.

9. Up-Light: Direct light emitted by an outdoor light fixture above a horizontal plane through the fixture's lowest light-emitting part.

C. **Applicability.**

1. Except as exempted herein, this Section 7.1.2 shall apply to all municipal industrial, commercial, business, institutional, and residential uses, including modification, extension, or expansion of an existing outdoor lighting installation.

2. Exemptions. The following types of lighting are exempt from this Section 7.1.2:

   a. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code (NEC).

   b. Exit signs and other illumination required by the Building Code.

c. Lighting for stairs and ramps as required by the Building Code.

d. Temporary decorative or holiday lighting (less than 30 days use in any one year).

e. Low voltage landscape lighting, but such lighting should be shielded in a way as to eliminate glare and light trespass.

f. Lighting of flagpoles.

g. Signage lighting shall be subject to Section 7.2, but all lights for signs should be fully shielded.

h. Public roadway illumination or other lighting installed on streets or ways to control traffic or other lighting for public safety as may be required or installed by governmental agencies.

D. **Requirement for Lighting Plan.** Wherever outside lighting is proposed, the applicant for a building permit, special permit, site plan review, or variance, or an electrical permit, shall submit a lighting plan to the applicable approval authority which shall include the following information:

1. Location, orientation, type and height of all proposed outdoor luminaires including those around all structures, driveways, driveway entrances, walkways, pathways and parking areas;

2. Luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles

3. The type of lamp such as metal halide, compact fluorescent, high pressure sodium, LED, etc.

4. A photometric plan showing the intensity of illumination, expressed in foot candles, at ground level in the interior of the property and at the property boundaries.

5. Times of illumination.

E. **Standards for the Control of Glare and Light Trespass.**

1. Lighting shall meet the requirements of the Building Code for Energy Efficiency Chapter 13 or current requirement. Light trespass onto any street or abutting lot is not permitted. Lighting shall be directed onto the site. This may be demonstrated by manufacturer's data, cross section drawings or other means. Foot-candle readings at property lines between residential and non-residential properties shall not exceed 0.01 foot candles at any elevation.

2. Any outdoor luminaire subject to these provisions with a lamp or lamps rated at a total of more than 2,000 lumens shall be fully shielded and shall not emit any direct light above a horizontal plane passing through the lowest part of the light-emitting luminary.

3. Hours of Operation. Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m., with the following exceptions:

a. Outdoor lighting shall be permitted on the premises of a business open to customers or where employees are working; or for an institution or place of public assembly where an activity is being conducted, outdoor lighting shall be permitting during the activity and for not more than one-half hour after the activity ceases.

b. Low-level lighting sufficient for the security of persons or property, provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.

4. Lighting shall be provided at the lowest brightness and intensity levels possible to allow for emergency nighttime access.

F. **Special Permi**t. The Board of Appeals may grant a special permit for lighting that exceeds the limitations imposed herein, provided it determines that the requested relief is not inconsistent with the purposes of this Section 7.1.2. In such cases, the burden of proof shall be on the applicant to demonstrate to the Board's satisfaction that:

1. An extraordinary need for additional security lighting exists due to a history of vandalism or other reasonable data;

2. Conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;

3. Such a minor change is proposed to an existing non-conforming lighting installation, that it would be unreasonable to require complete replacement of the entire installation; or

4. The complete shielding of direct light is technically infeasible due to the geometry of a lot, building, or structure.

The Zoning Board of Appeals may also authorize a special permit for athletic field or stadium lighting, but only after identifying steps to be taken to minimize glare and light trespass, and to utilize sensible curfews.

7.2. SIGNS

7.2.1. General

A. **Purposes.** This purposes of this Section are to preserve and enhance the historical ambience and aesthetic character of the Town, reduce traffic hazards, promote economic development, and maintain public safety, consistent with constitutional requirements protecting freedom of speech.

B. **Applicability.** Except as provided herein, no sign shall be erected, constructed, reconstructed, enlarged, redesigned, repaired, replaced, relocated or altered in any way until a Sign Permit has been issued by the Building Inspector.

C. **Definitions**

1. General. As used in this Section 7.2, the following terms shall have the following meanings:

Building Sign Frontage: The distance in feet of the interior width of space occupied by an establishment based on the building side that faces a public or private street, way, or parking area.

Façade: The substantially vertical exterior surface of a building or structure exposed to public view.

Master Signage Plan: A written and graphic document, submitted during the Site Plan process and reviewed by the Design Review Committee that portrays a coordinated signage scheme for all signs for a building that contains two or more establishments, or a multi-tenant development. A Master Signage Plan shall address sign type, design, location, dimensions, surface area, materials, and lighting.

Multi-Tenant Development: A group of two or more establishments located in one or more buildings on one or more lots of land under single or multiple ownership, that is designed, planned, constructed or managed as a single entity, with customer and employee parking provided on-site. This includes but is not limited to what is commonly understood and recognized to be a shopping center, office park, or industrial park.

Parapet*:* A low wall or railing that extends above the roof.

Sign: As defined in Section 2 of this Zoning Bylaw.

Sign Height: The shortest vertical distance from grade at sign structure base to the top of the sign structure.

Sign Structure: All physical components of and related to a sign including the base, supports, framing elements and detailing, but not including the sign face.

Sign Surface Area/Sign Face: Sign surface area/sign face shall be the smallest single rectangle as measured with vertical and horizontal lines, enclosing the entire graphic display area of a sign including but not limited to all lettering and wording, all accompanying designs, logos or symbols, and the extreme limits thereof of the accompanying background or mounting panel that is attached to the building or structure.

2. Types of Signs.

Back Lighted Letter Sign: An internally illuminated reverse channel letter sign comprised of letters, symbols, or logos, where the front and side sign faces are fabricated of an opaque material, and the back face is open or has a translucent surface, such that the light from the sign is directed against the surface behind the sign producing a halo effect around it.

Banner: A sign of lightweight fabric or similar material that is affixed at one or more edges or corners to a substantially vertical surface including but not limited to a pole, tree, fence or building. Official flags of any institution, organization or business are banners.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source. Also, any light with one or more beams that rotate or move.

Box/Cabinet Sign: An enclosed sign structure with a distinct frame and face components. This includes but is not limited to a pan face sign as defined herein and sign panels for individual establishments that may be included in a freestanding sign.

Channel Letter Sign: A sign of fabricated or formed three dimensional letters, symbols or logos that contains an internal light source, where the back and side faces of the sign are fabricated of an opaque material and the face is translucent such that the light is directed outward and away from the sign face.

Construction Sign: A sign, erected on a premises or lot under construction and only during the period of such construction. Such sign typically indicates the names of owners, developers, architects, engineers, landscape architects, contractors, lenders, realtors, and other similar individuals or firms having a role or interest with respect to the structure or project.

Dimensional Letter Sign: Letters, logos, or symbols that are cut out, cast, molded or fabricated to create a raised condition from the surface to which they are attached.

Development Sign: A permanent, freestanding sign used to display the name and address of a multi-tenant development as defined herein.

Directory Sign: A sign that identifies the names and/or locations of establishments in a multi-tenant building or multi-tenant development. A directory sign may be attached to a building or structure. A directory sign may also be a freestanding sign placed along a road or access way leading to multi-tenant building or through a multi-tenant

development, or in a pedestrian area. A directory sign may include arrows to assist in guiding vehicular and pedestrian traffic to the establishments so listed.

Door Sign: A sign placed on the surface of an establishment's primary public entry door limited to the name, address and trademark/logo/recognized symbol of the establishment.

Drive-through Menu Sign: A freestanding sign that displays the menu of a drive-through restaurant.

Externally Illuminated Sign: A sign on which its message is illuminated by an external light fixture or device that casts artificial light directly onto the face of the sign which light is then reflected back to the viewer. *(Added 11/16/15)*

Freestanding Sign: A non-movable sign not affixed to any building, but constructed on a permanently fixed location on the ground with its own support structure and displaying a sign face on one or more sides. Freestanding signs include but are not limited to:

- Pole Sign: A sign that is mounted on a freestanding pole, column or other support device; also often referred to as a pylon sign.
- Ground/Monument Sign: A sign, other than a pole sign, with a lower overall height in which the entire bottom is in contact with or close to the ground, independent of any other structure.
- Tower Sign: A sign, other than a pole or ground/monument sign that is incorporated into a built structure with more than two sign faces.

Home Occupation Sign: A sign advertising or identifying a permitted home occupation/home based business operating on the premises.

Inflatable Sign: Any display capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise an establishment, product or event.

Internally Illuminated Sign – A sign for which the source of artificial light is enclosed within or behind the sign face. Internal illumination also includes illumination designed to project light against the surface behind the sign, lettering, or graphic, also referred to as a backlit channel lettering or halo lighting. *(Added 11/16/15)*

Moveable Sign - A sign which is not permanently attached to the ground or to a building or permanent structure, but is intended to be portable or transported including but not limited to signs designed to be transported by means of wheels; signs converted to an A-Frame, H-Frame or T-Frame placed on the surface of the ground or temporarily staked into the ground; menu and sandwich board signs; balloons used as signs; umbrellas used as advertising; and signs attached to or painted on or placed on a vehicle parked and visible from the public right-of-way unless said vehicle is regularly used in the normal day-to-day operations of the businesses. This shall not apply to moveable signs related to agricultural products.

Off-premises sign: A sign which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted, sold or offered on a lot other than the lot on which the sign is permanently erected, or for an establishment or development which is not located on the street to which the sign is oriented.

Pan Face Sign: A sign in which the face is molded into a three dimensional shape. Also referred to as molded face, molded and embossed face, or molded and debossed face.

Pavement Sign: A sign that is marked on the pavement around or adjacent to an establishment's location.

Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, or other such device, usually in series, designed to move in the wind.

Political Sign: A temporary sign announcing or supporting political candidates or issues in connection with any national, state, county, or local election.

Product Sign: Any sign which bears advertising directly related to specific brands/ products/services for sale at the establishment to which the sign is accessory.

Projecting Sign: A sign, other than a wall sign, affixed to a building or wall in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall. Projecting signs include but are not limited to:

- Awning/Canopy Sign: Any sign that is part of, attached to, or incorporated within an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

- Banner*:* A banner shall be considered to be a projecting sign if the sign face projects more than eight inches from any face of the building.

- Marquee Sign: Any sign attached to a permanent roof-like structure projecting beyond a building or extending along and projecting beyond any face of the building, generally designed and constructed to provide protection from the weather.

- Suspended Sign - A sign that is suspended or cantilevered from and supported by a building, wall, or pole in such a way that the sign is perpendicular to the façade, wall or pole to which it is attached. Also referred to as a shingle or blade sign.

Push Through Sign: A sign in which the letters, symbols and logos are cut out of the sign face and where a backing material is mounted on the inside of the sign face so that the backing material is flush with or extends through and beyond the front plane of the sign face. Push through signs are normally internally illuminated so that only the letters, symbols, and logos, not the background, are visibly lit.

Real Estate Sign: A sign advertising information about the sale, lease or rental of the premises to which it is accessory.

Residential Development Sign: A permanent sign positioned at the entrance to a residential neighborhood such as a single-family subdivision, multi-family apartment, or condominium complex

Restaurant Menu Sign: A wall mounted sign which displays the menu of a restaurant located in the building to which the sign is accessory

Roof Sign: A sign that is affixed to or in any way projected above or on the roof. This shall include but is not limited to any sign affixed to the sloping face of a mansard, gambrel, gable, hip, or shed roof.

Special Event Sign: A sign which by its design and/or use is temporary in nature, frequently composed of paper, poster board, cardboard, fabric, canvas, vinyl, plastic, or other durable material, displayed for a period not to exceed fifteen days, or the period to which the information on the sign is relevant, whichever is less, advertising a special event, sale, or service. The date of sign posting shall be included on the sign.

Temporary Business Sign: A sign normally fabricated of vinyl, plastic, canvas, plywood, or other durable material, designed or intended to be displayed for a period not to exceed ninety days, for purposes of temporarily identifying the location of an establishment until a permanent sign is installed. The date of the sign posting shall be included on the sign.

Variable Message Sign*:* A sign or portion thereof designed to accommodate message changes composed of characters, letters, numbers, symbols or illustrations that can be changed or rearranged, either manually or electronically. Also referred to as a changeable copy panel, changeable copy sign, or reader board sign.

Wall Sign: A sign which is permanently affixed to the façade of a building or structure, or to its porch, canopy, awning, such that its exposed face and all sign surface areas are parallel or approximately parallel to the plane of the building or wall to which it is attached or mounted, including such signs as may be affixed to a parapet. Wall signs may include but are not limited to window, channel letter, back lighted letter, dimensional letter, box/cabinet, pan face, and push through type signs.

Window Sign: A sign located, positioned, attached or affixed on or behind the glass surface of a window or door and intended to be visible from the outside of a building.

Vehicle, Stationary: A motor vehicle, not customarily used to transport persons, properties, merchandise or materials, which is regularly positioned and intended for public view from a public or private street, way or parking area.

7.2.2. Exempt Signs

The following signs do not require a Sign Permit but must be constructed and maintained in accordance with Section 7.2.4(E) below. Illumination shall be done by external or indirect means only. Internal illumination is not permitted.

A. **Exempt Signs in All Districts**

1. Flags, emblems, and insignia of any governmental agency except when displayed in connection with commercial promotion.

2. Legal notices or informational devices erected or required by governmental agencies.

3. Standard fuel signs on service station fuel pumps bearing thereon in usual size and form, the name, type, and price of gasoline or other fuels.

4. Integral decorative or architectural features of a building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other light.

5. On-premise devices guiding and directing traffic and parking, such as entrance and exit signs, each not exceeding four square feet in sign surface area, bearing no advertising matter.

6. Official historic markers and commemorative tablets or plaques erected by a recognized historical agency or governmental body, not exceeding four square feet in sign surface area.

7. Signs up to two square feet in sign surface area, used for identifying rest rooms, telephones, and other public facilities.

8. Temporary festive lighting in observance of a national or religious occasion.

9. Construction Signs. One construction sign per residential or business development, not exceeding thirty-two square feet in sign surface area with a single face not exceeding twenty-four square feet. Such signs shall not be erected prior to the endorsement of a subdivision or site plan approved by the Town and shall be removed within fourteen days after completion of construction or the issuance of the occupancy permit for the last building, whichever occurs first.

10. Real Estate Signs: One real estate sign per lot, not in excess of eighteen square feet in sign surface area.

11. Political signs.

12. “Private Property” signs not to exceed one square foot in sign surface area per sign.

13. Barber shop poles of usual size and form.

14. “Open” or “Welcome” signs not exceeding six square feet in sign surface area, not to exceed one such sign per establishment.

15. Traffic control or directional signage owned or installed by a governmental entity including handicap-parking signs.

16. Religious organizations. The following signs are allowed without permit:

    a. One bulletin or announcement board, identification sign, or entrance marker for the premise upon which a church, synagogue, mosque, temple, or other religious institution is located, not exceeding thirty-two square feet in sign surface area with a single face not exceeding twenty-four square feet.

b. Temporary non-commercial signs advertising an event or activity related to or conducted by a church, synagogue, mosque, temple, or other religious institution, not exceeding twelve square feet in sign surface area.

c. Other signs on the property shall be subject to regulations pertaining to the sign standards in Paragraphs 7 and 8.

17. Seasonal signs advertising produce and horticultural goods provided that such sign shall not exceed twenty square feet of sign surface area nor shall any sign exceed six feet in height, or be exhibited for more than one-hundred and twenty days.

18. Banner signs affixed to poles, not in excess of three square feet of sign surface area per side, incorporating only seasonal graphic designs.

19. Wall mounted restaurant menu signs not exceeding six sq. ft. in sign surface area.

20. Temporary banner type special event signs not exceeding thirty-two square feet in sign surface area advertising community oriented events sponsored by local government, civic and non-profit organizations or denoting seasonal business sponsorship of local sports teams and activities or special events as such may be installed outdoors on fences or other structures located on private property or on public property including but not limited to municipal fields, parks, school grounds, and roadways. Such signs shall be removed within ten days of the conclusion of the season or event. Such signs shall not be installed without the written authorization of the owner of the property on which the sign is to be located.

21. Pavement signs that provide direction to vehicular traffic and bear no advertising matter.

22. Store hour signs, which may bear advertising matter, not exceeding a total of two square feet in sign surface area, and not to exceed a total of one such sign per establishment.

23. Contractor's temporary lawn signs not exceeding a total of eight square feet of sign surface area (for both sides). One temporary contractor's lawn sign may be installed on a parcel during the course of that contractor's construction work on the premises. The sign must be removed within thirty days after completion of construction work.

24. "Now Hiring" signs not exceeding six square feet of sign surface area, not to exceed one such sign per establishment.

25. Signs for community based civic/fraternal organizations not exceeding four square feet of sign surface are per sign, not to exceed a maximum of six signs per organization located throughout the community subject to approval of the Board of Selectmen and Police Department.

26. One permanent inside window sign per establishment not to exceed four square feet of sign surface area.

27. Door sign not exceeding two square feet of sign surface area per door.

B. **Exempt Signs in all Agricultural and Residential Zoning Districts**

1. Resident identification signs not exceeding six square feet in sign surface area displaying the name of the owner or occupant and address.

2. Temporary non-commercial signs not exceeding six square feet in sign surface area advertising home, bake, yard, rummage or garage sales, or personal messages and announcements, provided that such signs shall not be displayed more than seven days.

C. **Exempt Signs in all Commercial and Industrial Zoning Districts**

1. Special event signs which shall not occupy an area in excess of twenty percent of the area of the window glass to which they are affixed, and shall pertain only to the establishment's own special sale, event or service lasting no more than fifteen days.

2. Temporary business sign.

3. One wall mounted directory sign, as defined herein, attached to the front of a building adjacent to its main entrance not exceeding eight square feet in sign surface area.

4. One permanent window sign, as defined herein, per establishment located above the first story of the building in which the establishment is located provided that:

    a. The sign surface area does not exceed twenty percent of the area of the glass of the window or six square feet, whichever is less;

    b. The window is part of the premises to which the sign is accessory;

    c. The sign consists of individual letters or symbols affixed to the window or mounted on a clear, transparent background; and

    d. The individual symbols or letters do not exceed six inches in height.

5. One permanent wall or projecting sign per establishment located on the building façade above the first floor of the building in which the establishment is located provided that:

    a. The sign surface area of the sign shall not exceed six square feet.

    b. The location on the façade where the sign is attached is part of the premises to which the sign is accessory.

6. Permanent, signs painted on or attached flat against the surface of an awning on the ground floor of a building provided that:

    a. The total sign surface area does not exceed two square feet and the height of individual letters or symbols does not exceed six inches;

    b. The sign consists of individual letters or symbols affixed to or printed on the fabric of the awning; and

    c. No other form of graphic, logo or symbol appears on the awning.

7. All exempt signs as specified in Section 7.2.2(A).

7.2.3. Prohibited Signs

Any sign not expressly permitted under these Bylaws or exempt pursuant to Section 7.2.2 above shall be prohibited. Prohibited signs include, but are not limited to:

A. Beacons

B. Signs that advertise or call attention to any activity, business, product or service no longer sold, produced, or conducted on the premises upon to which the sign is accessory.

C. Signs which contain or consist of pennants, ribbons, streamers, spinners, or other similar devices which flash, rotate or make noise, except that the date and time of day, indicated by moving hands of a clock, may be displayed, and only if the clock face and support structure bear no advertising matter.

D. Signs which have blinking, flashing, or fluttering lights, strings of light bulbs, or other illuminating devices except that the date and time of day, or temperature may be displayed by numerals which may change periodically

E. Roof signs and signs affixed to any type of roof.

F. Moveable or portable signs

G. Signs which overhang any public way or public property except projecting signs as allowed herein

H. Signs which by reason of illumination, location, shape, size, or color interfere with traffic or confuse or obstruct the view or effectiveness of any official traffic sign, traffic signal, or traffic markers. Any imitation of official traffic signs or signals and the use of such words as STOP, LOOK, DANGER, GO SLOW, CAUTION, or WARNING, which may be confused with or obstruct the view of any authorized traffic sign or signal

I. Signs erected so as to obstruct the visibility at intersections, driveways or outlets, or block any door, window, stairway or fire escape on a building

J. Neon tubing outlining the perimeter of a window, affixed to the interior or exterior of a window

K. Variable message signs for commercial/business establishments except for changeable copy drive-through menu signs and free-standing signs displaying fuel prices to the extent that no more than 20 percent of the sign surface area is dedicated to fuel price information.

L. Signs on stationary vehicles, not including “For Sale” signs

M. Tower signs

N. Product signs fastened to a pole or between poles, or staked in the ground

O. Inflatable signs

P. Pavement signs that contain advertising matter

Q. Signs that are attached to utility poles other than special event signs that advertise community-oriented events sponsored by local civic and non-profit organizations

R. Any sign that advertises, identifies or pertains to a business no longer conducted, or a product no longer sold, on the premises where such sign is located.

S. Any sign located on municipal property that advertises or identifies an off-site business or establishment, except as otherwise provided in these regulations.

T. Internally illuminated signs where light emitting diodes (LEDs) are directly visible from the front of the sign except for internally illuminated free-standing signs displaying fuel prices to the extent that no more than 20 percent of the sign surface area is dedicated to illuminated fuel price information. *(Revised 11/16/15)*

7.2.4. Basic Requirements; All Districts

A. **Sign Identification**. All signs shall be plainly marked with the name of the person, firm or corporation hanging or erecting the sign and the corresponding sign permit number. Such identification must be readily visible.

B. **Location of Signs**.

1. Except as may be provided herein for temporary signs, all signs shall be permanently mounted on a building or structure or permanently installed in the ground.

2. All signs shall be located on the same lot with the principal use to which they pertain except as provided in Section 7.2.6(C) for off-premises signs. A freestanding directory sign and a development sign may be located on any lot within the multi-tenant development to which the sign is accessory. A wall sign for a business/organization shall be affixed only to the building where the establishment is located and conducts its operation.

3. All signs shall be painted, posted, or otherwise securely affixed to a substantial intermediary removable surface that shall be securely affixed to the building. No sign shall be painted or posted directly on the exterior surface of any building or wall except for a sign composed of individual letters or devices securely affixed to an exterior building wall.

4. No sign, portion of a sign, or structural support for such sign shall be located on the roof of a building, except that for a one-story building having a continuous parapet above the roof line, signs may be placed below the highest point of the parapet rather than below the roof line.

5. Signs near traffic signals or intersections shall not obscure visibility or create confusion when viewed from a vehicle stopped at or approaching a signal or intersection.

6. Permitted and exempt signs shall be located on private property (not in the public right of way) except for:

a. Signs specifically authorized to be in the public right of way by license from the Board of Selectmen;

b. Traffic control or directly signage owned or installed by a governmental entity

c. Temporary banner-type signs under Section 7.2.3, subject to property owner approval.

7. Temporary special event signs advertising civic/community functions shall not be extended over a public right-of-way without approval from the Board of Selectmen. Such signs shall not require a sign permit. The Board of Selectmen may adopt a Banner Display Policy governing such signs. The Board of Selectmen may designate the Town Administrator to approve signs under this subsection and may specify the terms and circumstances under which the Town Administrator or his designee may approve such signs, and may revoke such designation at any time.

C. **Sign Illumination**. Where this Zoning Bylaw allows illumination of signs in a district, the illumination must conform to the following:

1. All lighting shall be continuous and installed in a manner that will prevent direct light from shining onto any street or adjacent property. Whenever an external artificial light source is used to illuminate a sign, such source shall be located, shielded, and directed so as to not be directly visible from any public street or private residence. External light fixtures shall be hooded or shielded to reduce light trespass. Flashing, traveling, or intermittent light creating flashing, moving, changing, or animated graphics is prohibited, except that a warning sign, a device intended to tell the time and temperature, day and date, or official traffic and directional signs may have changing illumination.

2. Except for clocks, sign illumination is permitted only between the hours of 7:00 a.m. and 11:00 p.m., except that the signs of commercial and industrial establishments may be illuminated during any hours that these establishments are open to the public or in operation. This provision shall not apply to illuminated signs at public safety facilities.

3. Only white lights shall be used for the external illumination of a sign. Such illumination shall be shaded, shielded, directed and maintained at a sufficiently low intensity and brightness that it shall not affect the safe vision of operators of vehicles moving within the premises or on any adjacent public or private ways.

4. In all districts, no outdoor floodlighting or decorative lighting shall be permitted except lighting primarily designed to illuminate walks, driveways, outdoor living areas, or outdoor recreational facilities, and except temporary holiday lighting in use for not longer than a six week period in any calendar year. Such permanent lighting shall be continuous, external or indirect, and installed in a manner that will prevent direct light from shining onto any street or adjacent property.

5. The front faces of internally illuminated channel letter type signs shall have non-clear surfaces such that the neon tubing is not directly visible.

D. **Landscaping**. Landscaping is required around the base of all freestanding signs and a landscaping plan shall be provided with the sign permit application. The minimum landscaped

area shall extend at least three feet beyond all sign faces or supporting structures in all directions.

E. **Sign Surface Area**

1. In calculating the sign surface area, there shall be no deductions for open space or other irregularities between letters and designs, symbols and logos. For a freestanding sign, all open spaces between individual sign panels shall be included in calculating the sign surface area/sign face.

2. All faces of a multi-faced sign shall be counted in computing a sign's total sign surface area.

3. Structural members, framework and bracing for awning, marquis and canopy structures that are incidental to the sign itself and do not bear advertising matter shall not be included in computing sign surface area unless such are internally illuminated.

F. **Sign Maintenance**

1. Signs shall be constructed and maintained in a structurally sound and attractive manner in compliance with the State Building Code.

2. All signs, together with their structural elements, shall be kept in good repair, in a proper state of preservation, and in a safe condition to the satisfaction of the Building Inspector. The owner of a sign and the owner of the premises on which a sign is located shall be jointly and severally liable to maintain such sign in a safe and secure condition and in good working order and to prevent deterioration in the physical appearance or safety of such sign.

3. When any sign structure becomes insecure, in danger of falling, or is otherwise unsafe or poorly maintained as evidenced by illegibility or excessive defacement or missing sections, or if any sign is unlawfully installed, erected or maintained in violation of any of the provisions of the Zoning Bylaw, the Building Inspector may enforce this and direct the owner, or the lessee thereof, or the person or firm maintaining same, to make such sign structure conform to the provisions of this Zoning Bylaw. Failure to maintain and/or correct said sign structure as directed by a written notice from the Building Inspector may constitute immediate non-conformance with this Zoning Bylaw.

4. In any zoning district, an existing sign structure shall be removed within sixty days, or such further reasonable period as allowed by the Building Inspector, following the permanent closing of the establishment. The expense of such removal shall be that of the owner or lessee thereof.

5. Landscaping is required around the base of all freestanding signs and a landscaping plan shall be provided with the sign permit application. The minimum landscaped area shall extend at least three feet beyond all sign faces or supporting structures in all directions.

7.2.5. Sign Standards

A. Except as may be limited under Section 7.2.5 above or Subsection B below, signs which do not exceed the standards in Tables 4, 5, 6, 7, 8, 9, and 10 are allowed by right provided the Building Inspector issues a Sign Permit therefor. When noted in the tables, NA means not applicable. *(Revised 11/16/15)*

B. Additional Requirements in Nonresidential Districts

1. Number of Signs. Each establishment shall be restricted to no more than three permanent signs for which a sign permit shall be secured.

2. Projecting Signs. The height of a projecting sign where it is affixed to a façade shall not exceed twelve feet provided that the top of the sign structure is below the sill line of the second floor windows or below the height of the eave, whichever is less. If positioned over a pedestrian walkway, projecting signs shall be at least eight feet above the finished grade immediately below the sign.

3. Special Event Signs. Special event signs displayed in the windows or doors of a ground-floor establishment shall not occupy more than 30 percent of the area of the window or door glass to which the sign is affixed. Special event signs shall not exceed sixty-four sq. ft. in sign surface area.

4. Directory Signs. Freestanding directory signs shall be set back a minimum of seventy-five feet from a public way and shall not exceed sixteen sq. ft. in sign surface area per sign. The design and placement of freestanding directory signs shall be prescribed in the master sign plan developed during the site plan approval process.

5. For any restaurant approved for drive-through service, two one-sided freestanding drive-through menu signs are permitted; one sign shall not exceed forty sq. ft. of sign surface area and the other sign shall not exceed twenty sq. ft. of sign surface area. The sign height of drive-through menu signs shall not exceed eight feet. Such signs shall not be viewable beyond the boundaries of the restaurant site.

6. The size of a temporary business sign shall be the size allowed for a wall sign for the district in which the establishment is located.

7. Computation of Sign Area for Awning Signs

   a. For signs on internally illuminated awnings where the awning is comprised in whole or in part with translucent material, the sign surface area shall be considered to be the smallest single rectangle as measured with vertical and horizontal lines, enclosing the entire area that is fabricated with the translucent material including but not limited to all lettering and wording, all accompanying designs, logos or symbols, and any contrasting background area.

   b. For signs on externally illuminated awnings, the sign surface area shall include the entire area of awning that is externally illuminated.

8. When noted in the sign tables, a ground floor establishment occupying a location that provides two or more building sign frontages may have one additional wall sign. The total maximum sign surface area permitted for all wall signs per establishment shall be 2X the amount of sign surface area that is allowed by the sign standard requirement of the respective zoning district. Said factor shall be applied to the building sign frontage where the establishment's main public entrance is located or, in the instance of a corner entrance, to the longest building frontage. *(Added 11/16/15)*

TABLE 4

Agricultural and Residential Districts I and II and Village Residential

(Title amended 11-14-16)

Signs for Authorized Home Based Businesses					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height(feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Projecting Sign	6 sq. ft. for a two sided sign	1 per establishment	6	10	External
Residential Development Signs					
Freestanding Sign	32 sq. ft. for a one sided sign	1 per development at primary entrance Additional residential development signs may be allowed by special permit from the Zoning Board of Appeals when a development has multiple public entrances.	6	10	External
Other Signs Signs for pre-existing non-conforming establishments (examples – VFW & Medway Manor), for any municipal buildings, for non-residential establishments authorized by special permit or use variance, or for an establishment which is an exempt use (examples – public schools, private schools, municipal buildings, agriculture, religious organization/house of worship, etc.)					
Wall Sign	Building Sign Frontage x 1.0 not to exceed 30 sq. ft. per establishment	1 per establishment*	NA	NA	External
Freestanding Sign	40 sq. ft. for a 2 sided sign; 30 sq. ft. for a one sided sign	1 per lot or development	6	8	External
Projecting Sign	12 sq. ft. for a one sided sign	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	NA	External
* Unless an establishment has two or more building sign frontages. If so, See 7.2.5.B.8 *(Revised 11/16/15)*					

TABLE 5

Central Business District - Route 109 Business District					
Individual Freestanding Establishment NOT Located in a Multi-Tenant Development					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Freestanding Sign	48 not to exceed 36 per sign face	1 per establishment	8	10	External
Wall Sign	Building Sign Frontage x 1.0 not to exceed 120 per establishment	2 per establishment not to exceed 1 per building face	NA	NA	External Internal
Projecting Sign	12	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	NA	External

TABLE 5 - Continued

Central Business District - Route 109 Business District *(Title amended 11-14-16)*					
Multi-Tenant Development – 5 Acres or More ***(On a Lot or Lots Comprised of 5 or More Acres)***					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Development Sign	Primary 100 not to exceed 75 per sign face _____ Secondary 30 not to exceed 20 per sign face	1 per approved curb cut. *(Revised 1/16/15)* One sign shall be considered to be the primary sign and all others shall be considered to be secondary signs.	Primary 12 _____ Secondary 6	Primary 15 _____ Secondary 10	External
Individual Establishment Wall Sign	Building Sign frontage X 1.0 not to exceed 120 per establishment	3 for a freestanding establishment not to exceed 1 per façade 2 for an establishment located in a multi-unit building not to exceed 1 per façade 1 for all others	NA	NA	External Internal
Individual Establishment Projecting Sign	12	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	NA	External
Freestanding Directory Sign	16	Per Master Signage Plan	6	See 7.2.5.B.4 *(Revised 11/16/15)*	External
Multi-Tenant Development – Less Than 5 Acres ***(On a Lot or Lots Comprised of Less Than 5 Acres)***					
Development Sign	60 not to exceed 40 per sign face	1 per development	8	10	External Indirect
Individual Establishment Wall Sign	Building Sign Frontage X 1.0 not to exceed 80 per establishment	2 for an establishment located in a multi-unit building not to exceed 1 per façade 1 for all others*	NA	NA	External Internal
Individual Establishment Projecting Sign	12	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	NA	External
Freestanding Directory Sign	16	Per Master Signage Plan	6	See 7.2.5.B.4 (Revised 11/16/15)	External
* Unless an establishment has two or more building sign frontages. If so, see 7.2.5.B.8 *(Revised 11/16/15)*					

TABLE 6

Industrial Districts I, II & III					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Development Sign	Primary 80 not to exceed 60 per sign face _____ Secondary 30 not to exceed 20 per sign face	1 per approved curb cut not to exceed 1 per street frontage. One sign shall be considered to be the primary sign and all others shall be considered to be secondary signs.	Primary 12 _____ Secondary 6	Primary 15 from any street lot line _____ Secondary 10 from any street lot line	External
Individual Establishment Wall Sign	Building Sign Frontage x 1.0 not to exceed 100 per establishment*	2 per establishment	NA	NA	External Internal
Individual Establishment Freestanding Sign	40 not to exceed 30 per sign face	1 per establishment	6	10	External
Freestanding Directory Sign	16	Per Master Sign Plan	6	See 7.2.5.B.4 *(Revised 11/16/15)*	External
Projecting Sign	12	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	Not applicable	External
* Unless an establishment has two or more building sign frontages. If so, see 7.2.5.B.8 *(Revised 11/16/15)*					

TABLE 7

Commercial District V. – Intersection of Route 109/126					
Individual Freestanding Establishment					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Wall Sign	Building Sign Frontage x 1.0 not to exceed 60 per establishment *	2 per establishment not to exceed 1 per façade	NA	NA	External
Freestanding	40 not to exceed 30 per sign face	1 per establishment	8	8	External
Projecting Sign	12	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	NA	External
Multi-Tenant Development					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Development Sign	40 not to exceed 30 per sign face	1 per development	8	8	External
Individual Establishment Wall Sign	Building Sign Frontage x 1.0 not to exceed 40 per establishment *	1 per establishment	NA	NA	External
Individual Establishment Projecting Sign	12	1 per establishment	See 7.2.5.B.2 *(Revised 11/16/15)*	NA	External

TABLE 8

Adaptive Use Overlay District (AUOD) Special Permit Developments					
Individual Freestanding Establishment					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Freestanding Sign	24 for a 2 sided sign; 18 for a 1 sided sign	1 per lot	6	10	External
Wall Sign	Building Sign Frontage x 1.0 not to exceed 30 per establishment*	1 per establishment	NA	NA	External
Projecting Sign	12	1 per establishment	See 7.2.5 B.2.	NA	External
Multi-Tenant Development					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Development Sign	30 for a 2 sided sign; 20 for a 1 sided sign	1 per development	8	8	External
Individual Establishment Wall Sign	Building Sign Frontage x 1.0 not to exceed 20 per establishment*	1 per establishment	NA	NA	External
Individual Establishment Projecting Sign	8	1 per establishment	See 7.2.5 B.2.	NA	External
* Unless an establishment has two or more building sign frontages. If so, see 7.2.5.B.8					

TABLE 9

Business/Industrial District					
Individual Freestanding Establishment					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Wall Sign	Building Sign Frontage x 1.0 not to exceed 60 per establishment*	1 per establishment	NA	NA	External Internal
Freestanding Sign	48 for a 2 sided sign; 36 for a 1 sided sign	1 per establishment	8	8	External
Projecting Sign	12	1 per establishment	See 7.2.5 B.2.	NA	External
Multi-Tenant Development					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Development Sign	60 for a 2 sided sign; 40 for a 1 sided sign	1 per development plus one additional development sign may be allowed by special permit of the Zoning Board of Appeals if it determines that additional signage is necessary to facilitate safe ingress to the site.	8	8	External
Individual Establishment Wall Sign	Building Sign Frontage x 1.0 not to exceed 60 per establishment*	1 per establishment	NA	NA	External Internal
Individual Establishment Projecting Sign	8	1 per establishment	See 7.2.5 B.2.	NA	External
* Unless an establishment has two or more building sign frontages. If so, see 7.2.5.B.8					

TABLE 10

Village Commercial District *(Title amended 11-14-16)*					
	Total Maximum Sign Surface Area (square feet)	***Maximum # of Signs***	***Maximum Sign Height (feet)***	***Minimum Setback from any Street Lot Line (feet)***	***Illumination***
Freestanding Sign or Development Sign	40 for a 2 sided sign; 30 for a 1 sided sign	1 per lot	8	8	External
Wall Sign	Building Sign Frontage x 1.0 not to exceed 30 per establishment	1 per establishment	NA	NA	External
Projecting Sign	12	1 per establishment	See 7.2.5 B.2.	NA	External
* Unless an establishment has two or more building sign frontages. If so, see 7.2.5.B.8					

7.2.6. Administration

A. **Sign Permit.**

1. No sign shall be erected, constructed, reconstructed, enlarged, redesigned, repaired, replaced, relocated or altered in any way without a Sign Permit issued by the Building Inspector in conformance with this Zoning Bylaw, unless specifically exempted from this requirement as provided in Paragraph 5 herein.

2. Application. Application for a Sign Permit shall be made to the Building Inspector on a specified form. The applicant shall provide all of the following information:

   a. The name, address, telephone number, and signature of the sign owner, sign maker/installer and property owner, developer or their designee

   b. The proposed location and position of the sign in relation to the site and building;

   c. A scaled drawing/sketch/rendering depicting the design, dimensions including all sign surface areas and sign heights as defined herein, construction materials, means of support, and sign colors.

   d. The proposed illumination plan including the type of lighting, fixture specifications, and dimensions of sign area to be illuminated;

   e. Photographs showing existing building with signs to be maintained on the premises;

   f. A sketch showing the building sign frontage calculation;

g. For any freestanding sign, a landscape design plan that illustrates the proposed landscape treatment including placement and type of all plant beds and plant matter and any accent lighting and supplementary landscape features such as walls, fencing and paving.

h. A listing and calculation of the area of all signs presently existing for the establishment; and

i. For any freestanding sign and for any other sign that has six square feet or more of sign surface area, a copy of the Review Letter from the Medway Design Review Committee. *(Added 11/16/15)*

j. Such other pertinent information as the Building Inspector may require to insure compliance with this Zoning Bylaw and other applicable laws, all of which constitutes a complete application. *(Revised 11/16/15)*

3. Design Review

a. Before filing for a sign permit with the Building Inspector for any freestanding sign and for any other sign with six square feet or more of sign surface area, a sign design review application must first be made to the Design Review Committee. The Design Review Committee shall review proposed signs for compliance with the Medway Design Review Guidelines. The submittal of application shall be in form and format as specified by the Design Review Committee. *(Revised 11/16/15)*

b. The Design Review Committee shall meet with the applicant or its representative to review the proposed sign within fifteen days of the receipt of a complete sign design review application (referred to herein as the application date). No later than thirty days from the application date, the Design Review Committee shall send its written review letter with recommendations regarding sign design to the Building Inspector. Failure of the Design Review Committee to act within thirty days shall be deemed a lack of opposition thereto. These deadlines may be extended by mutual agreement of the Design Review Committee and the applicant. Any such extension shall automatically extend the period within which the Building Inspector is required to act on a sign permit under this Section 7.2.6. *(Revised 11/16/15)*

4. Decision. Within forty-five days of the application date, the Building Inspector shall issue or deny the Sign Permit.

5. Lapse**.** A Sign Permit shall lapse if:

a. The business activity specific to a sign is discontinued for a period of one hundred twenty consecutive days;

b. The work authorized by the Sign Permit has not been completed within six months from the date the permit was issued, unless the Building Inspector issues an extension for up to one year from the date the permit was issued.

6. Inspections: The applicant shall notify the Building Inspector after the sign has been installed. Within thirty days thereof, the Building Inspector shall complete a final

inspection. Any discrepancies between the approved sign and the sign as constructed shall be identified and may result in a cease and desist order or sign removal and reconstruction in accordance with the Sign Permit if so ordered by the Building Inspector.

7. Revocation. The Building Inspector may revoke a Sign Permit if it is found that there has been concealment or misrepresentation of material facts in either the application or plans.

B. **Special Permits**

1. Off-Premises Signs

   a. The Zoning Board of Appeals may grant a special permit for a permanent off-premises sign if it determines that such sign will promote the public interest, will not endanger the public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood. An off-premises sign shall not exceed the standards for the district in which it is to be located. Where directions to more than one establishment are to be provided, all such directional information shall be incorporated into a single sign.

   b. Except as may be authorized elsewhere in this Section 7.2, the Zoning Board of Appeals may grant a special permit for a seasonal or permanent off-premises sign denoting corporate sponsorship of a municipal or non-profit program, service, activity, site or facility, if the Board determines that such sign will not endanger public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood. The Zoning Board of Appeals may impose any conditions and limitations on the special permit as it deems necessary and in the Town's best interest.

   c. The Zoning Board of Appeals shall not issue a special permit for an off-premises sign without the property owner's written consent.

2. The Zoning Board of Appeals may grant a special permit in the Industrial III district for a wall sign designed to be viewed primarily from Interstate 495 when such sign exceeds the maximum sign surface area and dimensional standards of this Section 7.2, provided the Board determines that such sign will promote the public interest, will not endanger the public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood.

3. The Zoning Board of Appeals shall refer any special permit application under this Section 7.2 to the Design Review Committee for review and comment. The Zoning Board of Appeals shall not act on a special permit until it has received a written recommendation from the Design Review Committee or 45 days has elapsed after such referral is made and no report has been provided. The Design Review Committee shall review a special permit application in accordance with the Sign Design Guidelines.

7.3. ENVIRONMENTAL STANDARDS

A. No land or building shall be used or occupied in any district in any manner which will produce a hazard or nuisance from fire, explosion, radioactivity, electrical disturbance, smoke, fly ash, dust, fumes, vapors, other forms of air pollution, liquid or solid wastes, vibration, noise, odors, or glare in a manner or amount as to affect the surrounding area. Any use may be undertaken and maintained provided that it conforms to the use regulations in Section 3 and to the performance standards listed below:

B. The following performance standards shall apply to all districts and shall be determined at the location of use:

1. *Fire and Explosion Hazards:* All activities and all storage of flammable and explosive materials, at any point, shall be provided with adequate fire-fighting and fire-suppression equipment and devices.

2. *Radioactivity or Electrical Disturbance:* No activities which emit dangerous radioactivity at any point shall be permitted. No electrical disturbances (except from domestic household appliances and from communications equipment subject to control of Federal Communications Commission or appropriate federal agencies) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance shall be permitted.

3. *Smoke*: No emission of visible smoke of a shade darker than No. 2 on the *Ringlemann Smoke Chart* published by The U.S. Bureau of Mines shall be permitted.

4. *Fly Ash, Dust, Fume, Vapors, Gases, Other Forms of Air Pollution:* No emission which can cause damage to health, to animals or vegetation, or other forms of property, or which cause any excessive soiling at any point shall be permitted. In no event shall any emission from any chimney or otherwise of any solid or liquid particles in concentration exceeding 0.3 grain per cubic foot of the conveying gas or air be permitted. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 °F and 50% excess air.

5. *Liquid or Solid Waste:* No discharge, at any point, into a private sewage disposal system, stream, or the ground, of any materials in such a way or of such a nature or temperature as can contaminate any running streams or water supply, or otherwise cause the emission of dangerous or objectionable elements, shall be permitted except in accord with standards approved by the Massachusetts Department of Public Health.

C. The following performance standards shall apply to all districts and shall be determined at the property line of the use.

1. *Vibration:* No vibration which is discernible to the human sense of feeling for 3 minutes or more in any hour between 7 A.M. and 7 P.M. or of 30 seconds or more in any one hour from 7 P.M. to 7 A.M. shall be permitted. No vibration at any time shall produce an acceleration of more than 0.1g or shall result in any combination of amplitude and frequencies beyond the "safe" range or Table 7, U.S. Bureau of Mines Bulletin NO. 442.

2. *Noise.*

   a. Maximum permissible sound pressure levels-measured at the property line nearest to the noise source for noise radiated continuously from the noise source between 10 PM and 7 AM shall be as follows:

Frequency Band (Cycles per Second)	Sound Pressure Level (Decibels re 0.0002 Dyne/CM2)
2 – 72	69
75 – 150	54
150 – 300	47
300 – 600	41
600 - 1,200	37
1,200 - 2,400	34
2,400 - 4,800	31
4,800 - 10,000	28

   b. For noise levels between 7 A.M. and 10 P.M., and if the noise is not smooth and continuous, the following corrections shall be added to each of the decibel levels given above:

      Daytime operation only: +5

      Noise source operated less than 20% of any 1-hour period: +5

D. Odors. In all districts, no emission of odorous gases or odoriferous matter in such quantities as to be discernible outside the property line shall be permitted. Any industrial process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system. No objectionable odor greater than that caused by 0.001201 oz. per thousand cubic feet of hydrogen sulfide or any odor threshold as defined in Table III in Chapter 5 of Air Pollution Abatement Manual (copyright 1951 by Manufacturing Chemists Assoc., Inc., Washington, DC) shall be permitted.

SECTION 8. SPECIAL REGULATIONS

8.1. INFILL HOUSING

A. **Purposes.** The purposes of this Infill Housing bylaw are to increase the supply of affordable housing for low-and moderate-income households, encourage development at a scale and density compatible with existing neighborhoods in the AR-II district and Village Residential district and further the goals of the Medway Master Plan by guiding development toward established areas. *(Amended 11-14-16)*

B. **Applicability.** The Planning and Economic Development Board may grant a special permit to construct an infill dwelling unit on a lot that does not comply with the minimum lot area or frontage requirements of the AR-II district or Village Residential district including a lot held in common ownership with an adjoining lot, provided such lot existed as of January 1, 2009 and meets the requirements of this section. *(Amended 11-14-16)*

C. **Basic Requirements.**

1. An infill dwelling unit shall be a detached single-family dwelling with not more than three bedrooms. No infill dwelling unit approved under this Section 8.1 shall be converted to a two-family or multi-family dwelling and shall not be altered to include an accessory dwelling unit.

2. Affordable Housing. An infill dwelling unit shall be rented or sold only to a low- or moderate-income household, subject to an affordable housing deed restriction with a term of not less than 30 years. The unit shall be eligible for inclusion in the Chapter 40B Subsidized Housing Inventory.

3. To be eligible for an Infill Housing special permit, the lot shall meet the following requirements:

   a. Area. An infill lot shall have at least 6,000 sq. feet of land area.

   b. Lot Shape. An infill lot shall have a "Shape Factor" that falls within 15 percent of the average of the Shape Factor of the lots adjacent to and across the street from it.

   c. Setbacks. The minimum front, side, and rear setbacks shall be not less than the average corresponding setbacks of principal structures located adjacent to and across the street from the infill lot. Vacant lots shall not be used to determine setbacks.

   d. Frontage. An infill lot shall have frontage on an existing public way or private way that provides safe and adequate access as determined by the Planning and Economic Development Board. The minimum required frontage shall be not less than the average frontage of lots with principal structures located adjacent to and across the street from the infill lot.

   e. Utilities**.** An infill lot shall connect to the public sewer and water system.

f. Parking. There shall be at least two off-street parking spaces per infill dwelling unit. No parking shall be located nearer than 10 feet to the adjoining property line. Unless waived by the Planning and Economic Development Board, no parking shall be located in the front yard. Parking areas shall be suitably screened from abutting properties.

4. An infill lot approved under this Section 5.5.1 shall not be further subdivided or reduced in area, or changed in size or shape. It may be used only for an infill dwelling as provided herein.

5. Minimum Design Standards

   a. The Design Review Committee shall review the infill dwelling unit in accordance with the Medway Design Guidelines and provide a recommendation to the Planning and Economic Development Board.

   b. The proposed infill dwelling shall similar to and consistent with the character and scale of the neighborhood and the bulk and height of adjacent residences.

   c. The primary entrance and façade of the infill residence shall be oriented toward the adjacent street.

6. Maximum Infill Residential Use Limitation. The maximum number of infill dwelling units that may be permitted under this section shall be limited to a number equal to 1 percent of the total number of detached single-family dwellings in the Town of Medway as determined by the Board of Assessors.

8.2. ACCESSORY FAMILY DWELLING UNIT

A. **Purposes**. The purpose~~s~~ of this sub-section are to:

1. establish an option for the creation of Accessory Family Dwelling units to provide suitable housing for a family member and/or a caregiver for a family member who is an occupant of the premises;

2. provide opportunities to support residents who wish to age in place; and

3. maintain the residential character of neighborhoods.

B. **Applicability.** The Board of Appeals may grant a special permit for an accessory family dwelling unit in accordance with this Section 8.2 and Table 1: Schedule of Uses.

C. **Basic Requirements**

1. An accessory family dwelling unit shall be located within:

   a. a detached single-family dwelling (principal dwelling unit); or

   b. an addition to a detached single-family dwelling (principal dwelling unit); or

   c. a separate structure on the same premises as a detached single-family dwelling (principal dwelling unit).

2. There shall be no more than one accessory family dwelling unit associated with a detached single-family dwelling (principal dwelling unit).

3. No accessory family dwelling unit shall have more than one bedroom, unless a second bedroom is authorized by the Board of Appeals pursuant to 8.2.C. 8. herein.

4. An accessory family dwelling unit shall not exceed 800 sq. ft. of gross floor area unless:

   a. there is an existing detached accessory structure larger than 800 sq. ft. located on the same lot as a detached single-family dwelling (principal dwelling unit) and the Board of Appeals determines its use as an accessory family dwelling unit is in character with the neighborhood; or

   b. authorized by the Board of Appeals pursuant to 8.2.C.8. herein.

5. There shall be at least one designated off-street parking space for the accessory family dwelling unit in addition to parking for the occupants of the detached single-family (principal dwelling unit). The off-street parking space shall be located in a garage or in the driveway, and shall have vehicular access to the driveway. The location, quantity and adequacy of parking for the accessory family dwelling unit shall be reviewed by the Board of Appeals to ensure its location and appearance are in keeping with the residential character of the neighborhood.

6. Occupancy of the single-family dwelling (principal dwelling unit) and accessory family dwelling unit shall be restricted as follows:

   a. The owners of the property shall reside in one of the units as their primary residence, except for bona fide temporary absences due to employment, hospitalization, medical care, vacation, military service, or other comparable absences which would not negate the primary residency standard. For purposes of this section, "owners" shall mean one or more individuals who hold legal or beneficial title to the premises.

   b. The accessory dwelling unit and the detached single-family dwelling (principal dwelling unit) shall be occupied by any one or more of the following:
      i. the owner(s) of the property
      ii. the owner's family by blood, marriage, adoption, foster care or guardianship
      iii. an unrelated caregiver for an occupant of the detached single-family dwelling or the accessory family dwelling unit, who is an elder, a person with a disability, handicap or chronic disease/medical condition, or a child.

      Prior to the Town's issuance of a certificate of occupancy for the accessory family dwelling unit, the property owner shall submit to the Building Inspector a notarized statement of the property owner's relationship to the occupant of the dwelling unit not occupied by the property owner.

7. An accessory family dwelling unit shall be designed so as to preserve the appearance of the single-family dwelling (principal dwelling unit) and be compatible with the residential character of the neighborhood. Any new separate outside entrance serving an accessory family dwelling unit shall be located on the side or in the rear of the building.

8. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility or a chronic medical condition, the Board of Appeals may allow reasonable deviations from the Basic Requirements where necessary to install features in the accessory family dwelling unit to facilitate the care of, and access and mobility for, disabled and handicapped individuals and persons with limited mobility or a chronic medical condition. This may include, but is not limited to, authorizing a second bedroom in the accessory family dwelling unit.

D. **Decision**

1. The Board of Appeals, in making its decision, shall make findings that all of the special permit criteria specified in SECTION 3.4 C. herein are met.

2. Conditions, Limitations and Safeguards – Special permits shall be subject to the conditions, limitations, and safeguards set forth in SECTION 3.4.D. herein subject to such exceptions as the Board of Appeals may deem appropriate. Every special permit shall include the following conditions:

   a. Recording. The special permit shall be recorded with the Registry of Deeds prior to issuance of an occupancy permit for the accessory family dwelling unit.

b. Transfer of Ownership. If the new owner(s) desires to continue to exercise the special permit, they must, within thirty (30) days of the conveyance, submit a notarized letter to the Building Inspector stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences, and that the accessory family dwelling unit is to be occupied by one of parties specified in C. 6. b. herein.

c. Bi-Annual Certification. The owner of the property shall provide a bi-annual certification to the Building Inspector verifying that the unit not occupied by the owner is occupied by one of the parties specified in C. 6. b. herein or that the space is being used for another lawfully allowed use pursuant to this Bylaw.

(8.2 was replaced in its entirety 5-9-16)

8.3. HOME-BASED BUSINESS

A. **Purposes.** The purposes of the Home-Based Business bylaw is to provide for the conduct of home occupations in a residential or mixed-use district while preserving the residential character of the premises and preventing adverse effects on the neighborhood.

B. **Applicability.** A Home-Based Business shall be allowed by right as shown in Table 1 if it meets the requirements of this Section 8.3.

C. **Basic Requirements.**

1. The business use is subordinate to the residential use of the premises. No more than 20 percent of the gross floor area of the dwelling and any accessory structures, up to a maximum of 1,000 square feet of gross floor area, shall be used for the home-based business.

2. There shall be no visible evidence of the home-based business from the street or an adjacent lot. A home-based business shall be conducted entirely indoors within the principal dwelling on the lot or a building accessory thereto.

3. There shall be no outside storage associated with the home-based business. Accessory structures such as sheds, detached garages, and barns may be used for unheated storage of the home-based business's stock in trade, commodities, tools, equipment, or products.

4. Not more than one non-resident shall be employed on the premises at any time, and the maximum number of customers on the premises at any given time shall not exceed the number that can be accommodated in one passenger vehicle.

5. The maximum number of off-street parking spaces for employee and customer parking shall be two. *(Revised 11/16/15)*

6. There shall be no outside parking of more than two Class 3 commercial motor vehicles and no commercial motor vehicles rated Class 4 and above as defined by gross vehicle weight rating (GVWR). *(Added 11/16/15)*

7. There shall be no change in the exterior appearance of the dwelling or accessory building used for the home-based business. Any new building constructed for the business shall not deviate from the residential character of the area. No signs shall be permitted for a home-based business except as provided in Section 7.2.2 of this Zoning Bylaw.

8. No equipment or process shall be used in the home-based business which creates noise, vibration, odor, fumes, gas, smoke, dust, or electrical disturbance detectable to the normal senses off the lot.

9. A home-based business shall not generate any solid waste or sewage discharge in volume or type greater than that associated with a typical residential use.

10. Deliveries or pick-ups of supplies or products for the home-based business are allowed between 8 am and 8 pm. Vehicles used for such delivery and pick-ups shall be limited to those that customarily serve residential neighborhoods.

11. The owner or operator of the home-based business shall reside on the premises. *(Added 11/16/15)*

D. There is no limit to the number of home based businesses that may occupy a single dwelling unit, provided that the cumulative total of the area used for home-based businesses on the premises shall not exceed Paragraph C(1) above.

E. **Special Permits**. A home-based business that does not comply with all of the above standards shall only be allowed by special permit from the Zoning Board of Appeals. Special permits granted hereunder shall be based upon the criteria in Section 3.4.

F. **Registration.** Pursuant to G.L. c. 110, Sections 5-6 and Chapter 227, § 5A, most home-based businesses are required to register with the Town Clerk and obtain a Business Certificate before commencing business operations.

8.4. OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

A. **Purposes.** The purposes of open space-residential development (OSRD) are to preserve open space, agricultural and forestry land, viewsheds, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources; minimize the total amount of disturbance on a site; encourage more efficient development that consumes less open land and respects existing topography and natural features better than a conventional or grid subdivision; encourage flexibility and creativity in the design of residential developments; and through flexible design and more efficient use of land, facilitate the provision of a variety of housing opportunities in the Town.

B. **Applicability.** The Planning and Economic Development Board may grant a special permit for an OSRD concept plan for any tract of land with 10 or more contiguous acres in the AR-I or AR-II district, or a tract of land with less than 10 acres if such property directly abuts the Charles River, Chicken Brook, or Hopping Brook and land abutting any of these waterways is included in the minimum required open space under Subsection F, Common Open Space (below). For the purposes of this Section 8.4, parcels directly opposite each other on an existing street, each with at least 25 feet of frontage on the same 25-foot section of roadway, may be considered contiguous if they have practical development potential as determined by the Planning and Economic Development Board.

C. **Land Division.** The OSRD may be a subdivision or a division of land pursuant to G.L. c. 41, § 81P, or a condominium on land not so divided or subdivided.

D. **Use Regulations**. An OSRD special permit may provide for any of the following uses as determined by the Planning and Economic Development Board:

1. Detached single-family dwellings
2. Attached single-family dwellings up to a maximum of five per building
3. Local convenience retail, up to a maximum of 7,500 sq. ft. of gross floor area
4. Community center

E. **Density and Dimensional Regulations.**

1. The maximum number of dwelling units in an OSRD shall be determined by the Planning and Economic Development Board based upon a Yield Analysis as described in Paragraph I below.
2. The Planning and Economic Development Board may waive the applicable minimum lot area, lot shape, minimum lot frontage, and other bulk requirements for lots within an OSRD, subject to the following:
    a. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD unless such reduced lots are consistent with established development patterns in the neighborhood, as determined by the Planning and Economic Development Board.

b. The minimum lot frontage shall be 50 feet.

c. The minimum front setback shall be 25 feet unless a reduction is authorized by the Planning and Economic Development Board.

d. The minimum lot area per unit shall be 50 percent of the minimum lot area in the district in accordance with Section 6 of this Zoning Bylaw.

3. There shall be a buffer area at least 15 feet wide, consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, located along the boundary of the site where it abuts existing neighborhoods unless waived by the Planning and Economic Development Board.

4. In order to allow flexibility and creativity in siting buildings while also promoting privacy, buildings shall be separated as follows:

Type/Size of Building	Average Separation (linear feet)
Single family detached dwelling units with 2500 sq. ft. or less of habitable space	20
Two or three attached dwelling units with an average of 2500 sq. ft. or less of habitable space each	
Single family detached dwelling units with more than 2500 sq. ft. of habitable space	30
Four or five attached dwelling units with an average of 2500 sq. ft. or less of habitable space each	
Four or five attached dwelling units with an average of more than 2500 sq. ft. of habitable space each	35

The calculation of average separation distances shall be based on buildings that can be connected with an imaginary line that does not cross a roadway. On a through road, the separation distances on each side of the road shall be calculated separately. On a cul-de-sac, all of the buildings that can be connected by an imaginary line on both sides and around the bulb of the cul-de-sac shall be counted. On a loop road, the buildings on the exterior and interior of the loop will be calculated separately. Detached accessory buildings such as garages up to two bays and one-story sheds that do not require a building permit shall not be considered in calculating the distances between buildings.

F. **Common Open Space**. The OSRD must provide Common Open Space to be protected in perpetuity. Common Open Space shall comprise at least 50 percent of the site for parcels of 25 acres or less, and at least 60 percent of the site for parcels of more than 25 acres. The Common Open Space shall not be further subdivided, and a notation to this effect shall be placed on the plan to be recorded with the Norfolk Registry of Deeds. The following standards apply to the Common Open Space in an OSRD.

1. Use, shape and location.

    a. Common Open Space shall be functional for wildlife habitat, passive recreation, resource preservation, agriculture or equestrian uses.

    b. To the maximum extent feasible, the Common Open Space shall be undisturbed, unaltered and left in its natural or existing condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area. Not more than 10 percent of the open space may be covered by gravel roadways, pavement or structures accessory to the dedicated use or uses of the open space. However, principal or accessory structures and access roads essential to an agricultural use are exempt from this limitation.

    c. While protecting natural resources is a primary goal of this Section 8.4, the Common Open Space may provide for recreation areas such as commons, parks, and playgrounds.

    d. The percentage of open space that includes wetlands shall not exceed the percentage of the site that includes wetlands unless waived by the Planning and Economic Development Board.

    e. Wherever feasible, the Common Open Space shall be contiguous, and linked to other existing open space.

    f. The following shall not qualify for inclusion in the Common Open Space unless approved by the Planning and Economic Development Board:

        i. Existing or proposed utility easements;

        ii. Surface stormwater management systems or sub-surface drainage, septic, and leaching systems pursuant to Title 5;

        iii. Land within 30 feet of any dwelling unit;

        iv. Median strips, landscaped areas within parking lots, or narrow, unconnected strips of land.

        v. The perimeter buffer as required under Subsection E above.

2. Ownership. Common Open Space shall be conveyed in accordance with G.L. c. 40A, § 9: either to the Town and accepted by it for a park or open space use, or to a nonprofit organization the principal purpose of which is the conservation of open space, or to a corporation or trust owned by the owners of lots or residential units within the project, or any combination of the above. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units in perpetuity. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and not to be built for residential use or developed for accessory uses such as parking and roadway. The

restriction shall further provide for maintenance of the common land in a manner which will ensure its suitability for its function, appearance, and maintenance.

G. **Four-Step Design Process**. The proposed layout of streets, dwelling units, and open space in an OSRD shall be designed according to the following four-step design process, which the applicant shall conduct with assistance of a registered landscape architect (RLA).

1. Identify primary and secondary conservation areas and potential development areas, and features to be preserved. Primary conservation areas shall include wetlands, riverfront areas, and floodplains, and secondary conservation shall include unprotected elements of the natural landscape, e.g., steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats, and historic and archeological sites and scenic views. To the maximum extent feasible, potential development areas shall consist of land outside identified primary and secondary conservation areas.

2. Locate the approximate sites of dwelling units within the potentially developable areas. Include the delineation of private yards and shared amenities so as to reflect an integrated community, emphasizing consistency with the Town's historic development patterns. The number of homes with direct access to the development's amenities should be maximized.

3. Align streets in order to access the house lots or dwelling units. New streets and trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, existing or proposed new open space parcels, and trails on abutting public or private property.

4. Draw in lot lines, where applicable.

H. **Pre-Application Process**

1. Pre-Application Review Meeting. The applicant shall schedule an informal pre-application review meeting at a regular meeting of the Planning and Economic Development Board. The purpose of pre-application review is to allow the applicant to receive feedback from the Planning and Economic Development Board, minimize the applicant's costs of engineering and other technical experts, begin negotiations with the Planning and Economic Development Board at the earliest possible stage in the site design process, and set a timetable for filing a formal OSRD special permit application. The Planning and Economic Development Board shall invite other Town boards to review the pre-application materials and attend the informal pre-application review.

2. Plans and Documentation. At the pre-application review meeting, the applicant shall present a conceptual plan for the site, natural and cultural resources inventories, maps, photographs, and any other information the Planning and Economic Development Board needs in order to understand and respond to the applicant's proposal. Pre-application materials shall be in accordance with the Planning and Economic Development Board's development regulations and may be based on existing sources of information.

3. Site Visit. The applicant shall grant permission to Planning and Economic Development Board, Open Space Committee, and Conservation Commission members and agents to visit the site.

I. Special Permit Procedures

1. General. The special permit application, public hearing, and decision procedures shall be in accordance with this Section 8.4 and the Planning and Economic Development Board's OSRD Rules and Regulations, and Section 3.4 of this Zoning Bylaw.

2. Application Requirements. The Applicant shall submit an OSRD special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning and Economic Development Board's OSRD Rules and Regulations. At minimum, such applications shall contain:

   a. A site context and analysis map;

   b. An OSRD Concept Plan: a schematic representation of the proposed OSRD and supporting documentation;

   c. A Neighborhood Density Analysis that includes all other existing residential development within 2500 feet of the site's perimeter.

   d. A Yield Analysis, the purpose of which is to demonstrate the maximum number of building lots that could be developed on the site under a conventional subdivision plan and the maximum number of units that may be permitted in an OSRD. The Yield Analysis shall identify the total area of the site, existing utility easements, and wetland and riverfront areas as determined by the Conservation Commission. The Yield Analysis shall be based on the formula shown below. For purposes of this computation, "net site area" shall mean the total area of the site minus existing upland utility easements. (Land located both within utility easements and wetland resource areas shall not be counted twice.) The result shall be rounded down to the nearest whole number. The PEDB shall review the Yield Analysis to determine whether it accurately reflects the maximum number of lots that may be constructed in a conventional subdivision.

$$\text{Maximum Number of Dwelling Units} = \frac{\text{Net Site Area} - (50\% \times \text{wetlands}) - (10\% \text{ Net Site Area})}{\text{Zoning District Minimum Lot Area}}$$

3. Decision.

   a. The Planning and Economic Development Board may grant a special permit for an OSRD with any conditions, safeguards, and limitations necessary to ensure compliance with Section 3.4 and this Section 5.5.3, only upon finding that:

      i. The conceptual design and layout of the proposed OSRD is superior to a conventional development in preserving open space for conservation and recreation, preserving natural features of the land, achieving more efficient

provision of streets, utilities and other public services, and providing a high degree of design quality;

ii. The OSRD provides for a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;

iii. The OSRD furthers the purposes of this section and the goals of the Medway Master Plan.

b. The Planning and Economic Development Board may deny a special permit upon finding that the application does not provide sufficient information or does not comply with the provisions of this Zoning Bylaw; or that the site is not suitable for an OSRD and would be more appropriate for a conventional subdivision plan.

4. Effect of special permit approval. Approval of a special permit under this Section 8.4 shall not be considered approval for any construction. The special permit is a preliminary approval, intended to give guidance to the proponent for the development of an OSRD definitive plan, and to determine whether the proponent's submittal meets the objectives of this section. Any subsequent application for an OSRD definitive plan shall comply with all material aspects and conditions of the special permit granted hereunder.

J. **Definitive Plan Procedures.** Following issuance of an OSRD special permit, the applicant may submit an OSRD definitive plan to the Planning and Economic Development Board. An OSRD that involves a subdivision shall be submitted under the Town's subdivision rules and regulations. For an OSRD that does not involve a subdivision, the definitive plan shall be a site plan submitted in accordance with Section 3.5. The Planning and Economic Development Board may approve a definitive plan that substantially complies with the special permit granted under Subsection I above and meets all of the following additional requirements for common facilities, operations and maintenance:

1. Each unit and the OSRD as a whole shall be served by a privately owned and maintained on-site sewage disposal or treatment systems. An approved on-site sewage disposal or treatment system serving more than one dwelling unit may be located on land owned in common by the owners of the residential units in the OSRD, subject to requirements of the Board of Health and Title 5 of the State Environmental Code or approved in accordance with the requirements of Department of Environmental Protection Groundwater Discharge Permit Program.

2. To ensure proper maintenance of the Common Open Space and common facilities, the OSRD shall have a residents association in the form of a corporation or trust, established in accordance with state law by a suitable legal instrument or instruments properly recorded with the Registry of Deeds. As part of the definitive plan submission, the applicant shall supply a copy of such proposed instruments.

3. The Planning and Economic Development Board may conditionally approve an OSRD definitive plan that does not substantially comply with the special permit. A conditional approval shall identify where the plan does not substantially comply with the special

permit, identify the changes to the special permit required to bring the plan into compliance with the special permit, and require the special permit to be amended within a specified time. The public hearing on the application to amend the special permit shall be limited to the significant changes identified in the Planning and Economic Development Board's conditional approval.

4. The Planning and Economic Development Board may disapprove a definitive plan for failure to comply with the special permit or for failure to meet the general design standards in Subsection K below. The definitive plan will be considered not to comply with the special permit if the Planning and Economic Development Board determines that any of the following conditions exist:

   a. Any increase in the number of buildings or dwelling units;

   b. A significant decrease in acres of Common Open Space; or

   c. A significant change in the general development pattern which adversely affects natural landscape features and open space preservation.

K. **General Design Standards**. Wherever possible, the Applicant shall address the Planning and Economic Development Board's OSRD General Design Standards, which the Board shall adopt as part of its OSRD Rules and Regulations. The Board may modify or waive any OSRD General Design Standards provided that the proposed OSRD is substantially consistent with the purposes of this Section 8.4, as determined by the Board. Such standards may address any or all of the considerations listed below.

1. Landscape preservation;

2. Views;

3. Cultural resources;

4. Open space access;

5. Pedestrian paths or sidewalks;

6. Architecture;

7. Common driveways;

8. Off-Street parking; and

9. Maximum length of dead-end streets and provisions for waiver of the same.

8.5. ADULT RETIREMENT COMMUNITY PLANNED UNIT DEVELOPMENT

A. **Purpose.** The purposes of the Adult Retirement Community Planned Unit Development (ARCPUD) are to develop a variety of housing for senior citizens and accommodate their long-term social, cultural, recreational, and continuing care needs.

B. **Applicability.** The Planning and Economic Development Board may grant a special permit for an Adult Retirement Community Planned Unit Development (ARCPUD), ARCPUD Assisted Living Residence Facility, ARCPUD Congregate Living Facility, or ARCPUD Long-Term Care Facility for any tract with 10 or more acres, whether in one parcel or a set of contiguous parcels in the AR-I or AR-II district.

C. **Definitions.** Where the following terms appear in this Section 8.5, they shall have the following meanings.

1. **ARCPUD Community Center or Community Building:** A building or group of buildings erected solely for the use of the residents of an ARCPUD and their guests that provides educational, recreational or social services such as: adult education center, adult day care facility, library, place of worship, game room, entertainment room, sewing room, kitchen, cafeteria or dining room, laundry facilities, exercise room, toilet facilities, locker rooms for men and women and similar facilities.

2. **ARCPUD Coordinated Unit:** A building or group of buildings under common management, such as a condominium, and serving purposes that assist the elderly in maintaining an independent lifestyle.

3. **ARCPUD Independent Living Residence Facility:** A facility that provides residential accommodations for senior adults who are in good health and do not require medical or skilled nursing care. Residents shall have individual dwellings with living and bathroom facilities, and which may have individual kitchen facilities. The Independent Living Residence Facility may include an ARCPUD Community Center or Community Building, or similar common areas such as a common dining facility and space for the provision of social, physiological and educational programs. The facility may provide home health care or other community-based services on an individual basis and offer meals, linen and housekeeping services. The Independent Living Residence Facility may provide residence for a superintendent or for maintenance staff, but there shall be no on-site residence of medical or other staff.

4. **ARCPUD Resident Services**: A nursing home; drug store or other Local Convenience Retail use; transportation services for residents; laundry facilities; financial services; barber/beautician; medical evaluation; home health care; adult day care facility; meals on wheels program; exercise or physical therapy center; recreational and education activities; and other similar services or activities. All Resident Services shall be operated primarily for the benefit of residents of the ARCPUD.

5. **ARCPUD Residential Subdivision:** A subdivision of land within an ARCPUD that results in creation of individual lots to serve as home sites upon which individual single-family dwellings are to be constructed for residency by seniors. The individual single-family

dwellings may be detached homes, attached townhouses or other building type(s) approved by the Planning and Economic Development Board that is/are each designed for occupancy by an individual family.

D. **Use Regulations**. An ARCPUD is a master planned residential community for people fifty-five years of age and older. It allows for a greater variety of uses and building types, a higher density of development, and greater flexibility in site planning than would normally be allowed in the AR-I or AR-II district. An ARCPUD shall provide a range of housing types and facilities, as follows.

1. The ARCPUD shall include at least one of the following residential uses.

    a. Congregate housing

    b. Assisted living facility

    c. Long-term care facility

    d. Coordinated units (see Section 2 of this Zoning Bylaw)

    e. Independent living facility

    f. Residential subdivision

2. The ARCPUD may include any of the following:

    a. Detached single-family dwelling or cottage

    b. Townhouse

    c. Multifamily dwelling

    d. Conservation, agricultural, and recreation uses

    e. Accessory uses, provided that aggregate floor area for accessory uses shall not exceed 5 percent of the total gross floor area of the buildings in the ARCPUD:

        i. Local convenience retail, up to a maximum of 4,500 sq. ft. of gross floor area

        ii. Medical office or clinic

        iii. Adult day care

        iv. Community center

E. **Density and Dimensional Regulations**.

1. The maximum number of units permitted in an ARCPUD shall be determined by multiplying the gross acreage of the ARCPUD site by a factor of three. However, the applicant is not entitled to the maximum number of housing units described in this section.

The number of housing units for an ARCPUD shall be determined by the Planning and Economic Development Board.

2. For purposes of this Section 8.5, a housing unit shall be defined as equal to:

   a. A home site in an ARCPUD subdivision, a dwelling unit in an ARCPUD Independent Living Residence Facility, a townhouse, or a dwelling unit as defined in Section 2 of this Zoning Bylaw;

   b. Two studios or suites of rooms in an ARCPUD Assisted Living Residence Facility or Congregate Living Residence Facility;

   c. Three rooms in an ARCPUD Long-Term Care Facility.

3. Each tract of land proposed for an ARCPUD shall have a minimum of 250 linear feet of frontage on an existing public way.

4. Each building in the ARCPUD shall have a minimum front yard of no less than 20 feet and a side yard of not less than 10 feet, both measured from the edge of the paved way to the closest point of the structure.

5. No buildings shall be constructed within 50 feet from the right-of-way line of a public way or within 50 feet from the perimeter lot line. The 50-foot buffer shall be maintained in its natural state or a landscaped open space.

6. In an ARCPUD residential subdivision, the minimum lot area per unit shall be 6,000 square feet and each lot shall comply with the upland and lot shape requirements of this Zoning Bylaw.

7. There shall be no minimum side setback on lots within an ARCPUD unless required by the Planning and Economic Development Board.

F. **Age Restriction.** All dwellings in an ARCPUD shall be subject to an age restriction in a legal instrument approved by the Planning and Economic Development Board and recorded with the Norfolk Registry of Deeds or Norfolk Registry District of the Land Court. The age restriction shall limit occupancy of the dwelling units to people age fifty-five or older and their spouses (if applicable) of any age, and provide for reasonable time-limited guest visitation rights. It also shall authorize exceptions for a person of any age to occupy an ARCPUD unit as a personal care assistant for a resident senior with disabilities. The special permit including the age restriction shall run with the land in perpetuity and shall be enforceable by any owner of dwelling units in the ARCPUD or by the Town of Medway.

G. **ARCPUD Rules and Regulations**. The Planning and Economic Development Board shall adopt ARCPUD Rules and Regulations, including submission requirements and procedures and ARCPUD Site Development Standards. Such standards may include any or all of the following:

1. Orientation of buildings;

2. Preservations of trees and groundcover;

3. Off-Street parking;

4. Design standards and maintenance requirements for roadways, driveways, and parking areas;

5. Location of utilities and on-site storage;

6. All solid waste removal within the ARCPUD shall be the responsibility of the residents, owners or their agents.

H. **Open Space.** At least 40 percent of the total land area of the ARCPUD shall be set aside and maintained as open space in accordance with the following standards.

1. A minimum of 40 percent shall be suitable and designed for recreational purposes.

2. A minimum of 50 percent of the space in an ARCPUD shall be Common Open Space as described in Section 5.5.3(F) and subject to the requirements and specifications provided therein unless modified or waived by the Planning and Economic Development Board.

3. Wetland resources as defined in Medway Wetlands Protection Bylaw shall comprise not more than 50 percent of the required ARCPUD open space unless waived by the Planning and Economic Development Board.

4. Drainage facilities shall not be located in the ARCPUD open space, but land within the open space may be utilized as natural courses for disposal of stormwater runoff. Other than minor berming and riprap at pipe outflows, no significant disruption of the open space land for drainage shall be permitted.

I. **Pre-Application Process**. An ARCPUD is subject to the pre-application process outlined in Section 8.4 of this Zoning Bylaw.

J. **Four-Step Design Process**. An ARCPUD shall be designed in accordance with the four-step design process outlined in Section 8.4 of this Zoning Bylaw.

K. **Special Permit Procedures**

1. General. The special permit application, public hearing, and decision procedures shall be in accordance with this Section 8.5, the Planning and Economic Development Board's ARCPUD Rules and Regulations and Section 3.4 of this Zoning Bylaw.

2. Application Requirements. The Applicant shall submit an ARCPUD special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning and Economic Development Board's ARCPUD Rules and Regulations.

L. **Decision.** The Planning and Economic Development Board may grant an ARCPUD special permit with any conditions, safeguards, and limitations necessary to mitigate the project's

impact on the surrounding area and to ensure compliance with Section 3.4 and this Section 8.5, only upon finding that:

1. That the ARCPUD meets the purposes, requirements, and design standards of this Section 8.5, and

2. That the ARCPUD is consistent with the goals of the Medway Master Plan.

M. **Development Limitation**. The maximum number of housing units in all permitted ARCPUD developments shall be equal to 10 percent of the existing detached single-family dwellings (excluding ARCPUD units) located in the Town of Medway, as determined by the Board of Assessors.

8.6. AFFORDABLE HOUSING

A. **Purposes.** The purposes of this Affordable Housing Bylaw are to provide housing in Medway for people of varying ages and income levels; to increase the supply of affordable housing for low and moderate income households; to promote a mix and geographic distribution of affordable housing throughout the Town; to provide housing options for people who work in Medway; and to create housing units eligible for listing in the Department of Housing and Community Development (DHCD) Chapter 40B Subsidized Housing Inventory,

B. **Applicability**. This Section 8.6 shall apply to any residential or mixed-use development that results in a net increase of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space, whether on one or more contiguous parcels. Construction of a residential development shall not be segmented to avoid compliance with this section. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of six or more lots or dwelling units above the number existing 36 months earlier on any parcel or set of contiguous parcels held in common ownership on or after the effective date of this Section 8.6. This Section shall also apply to an Adult Retirement Community Planned Unit Development (ARCPUD) or an ARCPUD Independent Living Residence approved pursuant to an ARCPUD special permit under Section 8.5 of this Zoning Bylaw.

   This Section shall not apply to the construction of six or more single-family dwellings on individual lots if said lots were in existence prior to the effective date of this Section.

C. **Mandatory Provision of Affordable Housing Units**. In any development subject to this Section 8.6, at least 10 percent of the dwelling units shall be affordable housing. Fractions shall be rounded up to the next whole number.

D. **Density Bonus: Affordable Housing Special Permit**

   1. The Planning and Economic Development Board may grant an Affordable Housing special permit to modify or waive dimensional requirements in order to increase the total number of market-rate units to a number equal to one-half of the required number of affordable units under Subsection C above. For example, in a development that must provide two affordable units, an additional market-rate unit may be allowed. Fractions shall be rounded up to the next whole number. The density bonus may be granted for developments that provide affordable units on site or off-site in another location in Medway, pursuant to Section E below. In addition, the density bonus may be granted for a development that provides affordable units voluntarily, i.e., a development not subject to this Section 8.6.

   2. Dimensional Requirements. The minimum lot area, minimum lot frontage, and minimum front, rear, and side setbacks normally required in the applicable district may be adjusted to allow for the increase in total number of dwelling units as long as the layout of lots meets one of the following requirements:

      a. No individual lot shall be reduced in area or frontage to less than 80 percent of the required minimum in the district, and any lot with an affordable dwelling unit shall represent the median lot in area and frontage; or

b. The lot area and lot frontage of all lots in the subdivision shall not vary by more than 10 percent.

3. Type of dwelling unit. An increase in the total number of dwelling units may be accommodated by allowing unit types not otherwise permitted in the district. For example, in a district where only single-family dwellings are allowed by right, a development with an affordable housing density bonus may include duplexes, townhouses, or multi-family dwellings.

4. No density bonus shall be granted when the requirements of this Section 8.6 are met with a payment in lieu of units pursuant to Section E below.

E. **Methods of Providing Affordable Housing Units.**

1. On-site units. Construction of affordable units on the locus of the development shall be permitted as of right.

2. The Planning and Economic Development Board may grant a special permit for one or more of the following methods, alone or in combination. In no event shall the total number or value of off-site units, land area, or cash payments provided be less than the equivalent number or value of affordable housing units that could be built on-site pursuant to Section E(1) above.

a. "Off-site units," or comparable affordable units on another site in Medway. Off-site units need not be located in the same district as the development. The approved location of the off-site affordable housing units shall be identified in the special permit decision. Preservation of existing dwelling units for affordable housing may be accomplished by purchasing deed restrictions and providing funds for capital improvements to create housing with equal or greater value as new-construction units.

b. Donation of developable land in Medway to the Medway Affordable Housing Trust or another entity as determined by Planning and Economic Development Board, provided the receiving organization agrees in writing to accept the land and the applicant demonstrates that the land is developable for an equivalent number of affordable units in conformance with this Zoning Bylaw. Donated land need not be located in the same district as the development, and shall be subject to a deed restriction limiting its use to affordable or mixed-income housing.

c. Payment of a fee in lieu of affordable units to the Medway Affordable Housing Trust. The payment shall be an amount equal to the number of affordable housing units required by this Section 8.6 multiplied by the calculated Equivalent Affordable Housing Unit Value for that development.

i. The affordable purchase price shall comply with Local Initiative Program (LIP) guidelines in effect when the Affordable Housing special permit application is filed.

ii. The assumptions used to determine an affordable purchase price shall be consistent with first-time homebuyer mortgage products available from commercial lending institutions located in or serving Medway, all in accordance with the Planning and Economic Development Board's rules and regulations and requirements of the DHCD.

iii. Payments in lieu shall be made according to the schedule set forth in paragraph 9 herein.

F. **Location and Comparability of Affordable Housing Units (On and Off Site)**

1. Affordable units shall be dispersed throughout a development and be as accessible to public amenities as the market-rate units in the same development. In addition, they shall:

   a. Be integrated with the rest of the development, and the exterior shall be comparable to the market-rate units in terms of design, exterior appearance, quality of materials, and energy efficiency, and shall include a garage if the market-rate units have a garage.

   b. Comply with the Local Initiative Program's minimum design and construction standards;

   c. Contain at least 1,500 square feet of living area and at least three bedrooms for single family detached houses and a minimum of 1,200 square feet of living area and at least two bedrooms for attached or multifamily units, excluding basement space. The Planning and Economic Development Board may make reasonable exceptions for the size of existing units that are purchased and resold or rented as affordable housing units with an appropriate deed restriction.

2. The special permit application shall include a plan showing the proposed location of the affordable housing units. When a special permit is not needed, the location of the affordable housing units shall be identified on plans submitted to the Town for any other required permit.

3. The owners and tenants of market-rate and affordable units shall have the same rights and privileges to access any amenities within the development.

G. **Marketing Plan for Affordable Housing Units.** The selection of qualified purchasers or qualified renters shall be carried out under an affirmative fair marketing plan submitted by the applicant and approved by the Planning and Economic Development Board in consultation with the Medway Affordable Housing Committee or the Medway Affordable Housing Trust. The marketing plan shall comply with LIP guidelines in effect on the date of the special permit or other permit application.

The affordable units may be sold to the Town of Medway, the Medway Housing Authority, the Medway Affordable Housing Trust, or to any non-profit housing development organization serving the Town of Medway, in order to carry out the affirmative marketing plan and homebuyer or renter selection process.

H. **Timing of Construction.**

1. Affordable units shall be constructed or otherwise provided in proportion to market-rate units, but in no event shall the construction of affordable housing units be delayed beyond the schedule below. Proportionality shall be determined by the number of building permits or certificates of occupancy issued for affordable and market-rate units, or lot releases, as applicable. Affordable units shall not be the last units to be built in any development that is subject to this Section 8.6.

Percent Market-Rate Units	**Percent Affordable Units**
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

2. In the case of payments in lieu of affordable units, the following methods of payment may be used at the option of the applicant:

   a. The total amount due shall be paid upon the release of any lots or, in the case of a development other than a subdivision, upon the issuance of the first building permit; or,

   b. The total amount due shall be divided by the total number of market rate units in the development. The resulting quotient shall be payable at, or prior to, the closing of each market rate unit. or,

   c. A combination of the above methods if approved by the Planning and Economic Development Board.

I. **Preservation of Affordability**

1. Affordable units provided under this Section 5.5.6 shall be subject to an affordable housing restriction that complies with Local Initiative Program requirements for inclusion in the Chapter 40B Subsidized Housing Inventory and is enforceable under G.L. c. 184, § 26 or §§ 31-32.

2. No building permit shall be issued until the affordable housing deed restriction has been executed and recorded with the Norfolk Registry of Deeds.

3. For homeownership units, no certificate of occupancy shall be issued until the applicant provides documentation acceptable to the Planning Department that a DHCD-approved affordable housing deed rider has been signed by the qualified purchaser and recorded with the Norfolk Registry of Deeds.

8.7. WIRELESS COMMUNICATIONS FACILITIES

A. **Purposes.** The purpose of these regulations is to minimize adverse impacts of wireless communication facilities on adjacent properties and residential neighborhoods and to limit the number and height of these facilities to only what is essential.

B. **General Requirements**.

1. No wireless communications facility shall be constructed except in compliance with these guidelines and by special permit of the Zoning Board of Appeals.

2. Only free standing monopoles, with associated antennas and/or panels are allowed. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.

3. To the greatest extent feasible, all service providers shall co-locate on a single facility. Wireless communication facilities shall be designed to accommodate the maximum number of users as technically practical.

4. When co-location on an existing monopole is not feasible, the applicant must demonstrate that another site is required to address a substantial gap in coverage and the location must, for technical reasons, be located in the Town of Medway.

5. A facility shall not be erected or modified nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished grade of the facility base.

6. An attachment shall not exceed ten feet in height above the level of its attachment to structure.

7. Any proposed modification of an existing facility, such as addition of cells, antennas or panels, that does not substantially change the physical dimensions of the tower or base station may be allowed by right by the Building Inspector. Any other modification, as well as construction of any new facility or any replacement facility shall be subject to a new application.

8. Wireless facilities shall be suitably screened from abutters and residential neighborhoods. Painting and landscaping, when deemed necessary by the Zoning Board of Appeals, will be required at the expense of the owner.

9. Fencing shall be provided to control access to wireless facilities.

10. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number for twenty-four hour access to owner or agent.

11. Night lighting is prohibited, except as required by the Federal Aviation Administration (FAA) and for emergency service.

12. All facilities or parts thereof or accessory facilities which have not been used for one year shall be dismantled and removed at the owner's expense within 90 days.

C. **Location of Wireless Communication Facilities**

1. The primary wireless communication facility location for the Town currently exists at a site on the south edge of property located at 113 Main Street. All new applications must demonstrate technical inability to co-locate at this site before consideration will be given to another site.

2. The second location for wireless communication facilities shall be on any existing high-tension power structures. No addition to a power structure shall be within 200 feet from the base of that structure to a residential property line.

D. **Procedures for Special Permit**

1. All applications for modification of existing or construction of new wireless communications facilities shall be submitted in accordance with the rules and regulations of the Zoning Board of Appeals.

2. A locus plan at a scale of 1" = 40' will be provided showing the exact location of proposed structures, abutting streets, landscape features, residential dwellings and all buildings within 500 feet of the tower base.

3. The following information must be prepared by a professional engineer:

   a. Description of facility and technical, economic, and other reasons for the proposed location, height and design;

   b. Confirmation that the facility complies with all applicable Federal and State standards;

   c. Description of facility capacity including number of type of panels, antennas and/or transmitters that can be accommodated and basis for calculations;

   d. Written statement that proposed facility complies with FAA and Federal Communications Commission (FCC) guidelines.

8.8. SMALL WIND GENERATION

A. **Purposes**. Massachusetts laws and policies have established the need for clean and renewable energy resources to ensure the long-term health, prosperity and security of the people and environment of the Commonwealth. Wind energy is important to help meet the Commonwealth's energy goals and improve the reliability of electricity supply through the diversification of energy generation resources. Accordingly, this Section 8.8 provides by special permit for the construction and operation of responsibly sited small wind energy systems and to provide standards for the placement, design, construction, monitoring, modification, and removal of small wind energy systems that are appropriately designed, address public safety, minimize impacts on the Town's scenic, natural and historic resources and provide adequate financial assurance for decommissioning.

B. **Applicability.** This Section 8.8 applies to small wind energy systems between 2 and 60 kilowatts of rated nameplate capacity. It is intended that this Section 8.8 apply primarily to single stand-alone tower mounted turbines. However, other small wind generating systems such as roof-mounted, building integrated, building-mounted, or architectural wind systems and other forms as evolving technology provides will be considered.

C. **Definitions**. For the purposes of this sub-section, the following words and phrases shall have the following meanings:

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.

Small Wind Energy System: All equipment, machinery and structures utilized in connection with the conversation 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, which has a rated nameplate capacity between 2kW and 60kW.

Tower: The vertical component of a wind energy system that elevates the wind turbine generator and associated appurtenances above the ground.

Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades but may include other components as technology innovations occur.

D. **General Requirements**

1. The Building Inspector shall not issue a building permit to erect, construct, install or modify a small wind energy system unless the Zoning Board of Appeals has first issued a special permit authorizing such use.

2. The Zoning Board of Appeals may grant a special permit for a small wind system in any district, provided that the use complies with all requirements set forth in Subsections E, F, and G below and the Board makes the following findings:

   a. The specific site is an appropriate location for such use;

   b. The use is not expected to adversely affect the neighborhood;

   c. There is not expected to be any serious hazard to pedestrians or vehicles from the use;

   d. No nuisance including but not limited to flicker and shadow is expected to be created by the use.

   The Board may impose reasonable conditions, safeguards, and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the small wind energy system, should they occur.

3. All small wind energy systems shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.

4. Compliance with Law. The construction and operation of any small wind energy system shall comply with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

5. Utility Notification. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.

E. **Siting Standards**

1. Wind turbines shall be set back a minimum distance equal to the total height of the wind turbine from all inhabited structures, overhead utility lines, public road or right of way, and property lines. No portion of a wind turbine shall extend into the air space of any adjacent property.

2. For purposes of this Section 8.8., the height of a wind turbine shall be measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

3. The Zoning Board of Appeals may increase the minimum setback distance as appropriate based on site specific considerations and technological innovations in the design of small wind energy systems if the project satisfies all other criteria for the granting of a special permit under the provisions of this sub-section.

F. **Design Standards**

1. Color and Finish. The Zoning Board of Appeals shall have discretion over the color of the wind generator and tower. A neutral, non-reflective exterior color designed to blend with the surrounding environment is required.

2. Lighting. Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting shall be limited to that required for safety and operational purposes, shall be designed to minimize glare on adjacent properties, and shall be reasonably shielded from abutting properties with cut-off fixtures to reduce light pollution.

3. Signage and Advertising. Signs and advertising shall be limited only to the smallest possible reasonable identification of the manufacturer or operator of the small wind energy system, a 24-hour emergency contact telephone number, and any standard safety warnings.

4. Utility Connections. Reasonable efforts shall be made to locate utility connections from the small wind energy system underground.

G. **Safety and Environmental Standards**

1. Unauthorized Access. Wind turbines or other structures part of a small wind energy system shall be designed to prevent unauthorized access. The tower 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 eight feet above the ground.

2. Noise. The small wind energy system and associated equipment shall conform with the provisions of the DEP's Division of Air Quality Noise Regulations (310 CMR 7.10), unless the DEP and the Zoning Board of Appeals determine that those provisions shall not be applicable.

3. Land Clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and local bylaws.

4. Emergency Services. The applicant shall provide a copy of the project summary and site plan to the local emergency services entity, as designated by the Board of Selectmen. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan.

5. Liability Insurance. The Zoning Board of Appeals may require the applicant or the property owner to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the system.

H. **Monitoring and Maintenance**

1. Facility Conditions. The owner shall maintain the small wind energy system in good condition, and shall be responsible for the cost of maintaining the small wind energy system and the cost of repairing any damage occurring as a result of operation and construction. Maintenance shall include, but not be limited to painting, structural repairs, and security measures. Site access shall be maintained to a level acceptable to the local emergency services entity.

2. Modifications. All material modifications to a small wind energy system made after issuance of the special permit shall require approval of the Zoning Board of Appeals.

I. Abandonment or Decommissioning

1. Removal Requirements. Any small energy wind system which has reached the end of its useful life or has been abandoned shall be removed. A small energy wind system shall be considered abandoned when it fails to operate for one year. Upon a notice of abandonment issued by the Building Inspector, the small wind energy system owner will have thirty days to provide sufficient evidence that the system has not been abandoned or the Town shall have the authority to enter the owner's property and remove the system at the owner's expense.

2. When a small wind system is removed, the site shall be restored to the state it was in before the system was constructed. At minimum, the owner shall be responsible for:

   a. Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.

   b. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.

   c. Stabilization or re-vegetation of the site as necessary to minimize erosion.

3. Financial Surety. The Zoning Board of Appeals may require the applicant for the small wind energy system to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the small wind energy system, of an amount and form determined to be reasonable by the Zoning Board of Appeals, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for inflation adjustments.

J. Procedures

1. Submission requirements and procedures shall be in accordance with Section 3.4 of this Zoning Bylaw and the rules and regulations of the Zoning Board of Appeals.

2. The Zoning Board of Appeals shall refer a small wind energy system special permit application to the Energy Committee, the Design Review Committee, the Building Inspector, and any other boards or committees or departments as it deems appropriate for review and comment. Any such board or agency to which the special permit application is referred for comment shall make its recommendations in writing to the Zoning Board of Appeals within forty-five days of receipt of the referral request or there shall be deemed no opposition or desire to comment. The Zoning Board of Appeals shall not act on the special permit until either comments from referred boards or agencies have been received or forty-five days have elapsed, whichever is sooner.

K. Term of Special Permit

1. A special permit issued for a small wind energy system shall expire if the system is not installed and functioning within twenty-four months from the date the permit is issued or if the system is abandoned.

2. Once constructed, the special permit authorizing a small wind energy system shall be valid for twenty-five years, unless extended or renewed. The time period may be extended or the permit renewed by the Zoning Board of Appeals upon satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the special permit. Submitting a renewal request shall allow for continued operation of the facility until the special permit granting authority acts. At the end of that period (including extensions and renewals), the wind facility shall be removed as required by this section.

8.9. REGISTERED MARIJUANA DISPENSARY

A. **Purposes**. The purposes of this Section are to address possible adverse public health and safety consequences and impacts on the quality of life of the Town of Medway related to the passage of Chapter 369 of the Acts of 2012; provide for the limited establishment of a Registered Marijuana Dispensary (RMD) in an appropriate place and under strict conditions in accordance with Chapter 369 of the Acts of 2012, and 105 CMR 725.000; minimize the adverse impacts of a RMD on adjacent properties, residential neighborhoods, schools, playgrounds and other land uses potentially incompatible with such a facility; regulate the siting, design, placement, security, safety, monitoring, modification, and removal of RMDs; and limit the overall number of RMDs in the community to what is essential to serve the public necessity.

B. **Applicability**.

1. The commercial cultivation [unless it meets the requirements for an agricultural exemption under G.L. c. 40A, § 3], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Section 8.9.

2. No RMD shall be established except in compliance with the provisions of this Section 8.9.

3. Nothing in this Section 8.9 shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

C. **Definitions.** As used in this Section, the following terms shall have the following meanings:

Host Community Agreement (HCA): A written agreement between an operator of a Registered Marijuana Dispensary and the Town of Medway that specifies measures an operator will take to anticipate, mitigate and address potential adverse impacts of the Registered Marijuana Dispensary on the Town, neighborhood, or community at large, including but not limited to public safety services and infrastructure. *(Added 11/16/15)*

Marijuana: The same substance defined as "marijuana" under 105 CMR 725.004.

Marijuana for Medical Use: Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients as defined in105 CMR 725.004.

Registered Marijuana Dispensary (RMD): Shall mean a not-for-profit entity, as defined by Massachusetts law only, registered by the Massachusetts Department of Public Health under 105 CMR 725.000 that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their registered personal caregiver as determined by 105 CMR 725.000.

D. **Eligible Locations for Registered Marijuana Dispensaries**. Registered Marijuana Dispensaries, other than agricultural operations meeting exemption standards under G.L. c. 40A § 3, may be allowed by special permit from the Planning and Economic Development

Board in the following zoning districts, provided the facility meets the requirements of this Sub-Section:

1. Industrial I
2. Industrial II
3. Industrial III
4. Business/Industrial
5. Central Business *(renamed from Commercial I on 11-14-16)*

E. **General Requirements and Conditions for all Registered Marijuana Dispensaries**

1. All non-exempt RMDs shall be contained within a permanent building or structure. No RMD shall be located inside a building containing residential units or inside a movable or mobile structure such as a van, trailer, cargo container or truck.
2. Size standards: *(Revised 11/16/15)*
   a. A standalone dispensary shall not exceed 3,500 sq. ft. for product display, client dispensary, and patient consultation area.
   b. The RMD shall be of adequate interior space to accommodate all activities inside the building so as not to have outside patient queuing on sidewalks, in parking areas, or in other areas outside the RMD.
3. A RMD shall not be located in a building that contains any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
4. The hours of operation of RMDs shall be set by the Planning and Economic Development Board, but in no event shall the on-site retail sale or dispensing of medical marijuana and/or related products to customers occur between the hours of 8:00 PM and 8:00 AM. *(Amended 11-14-16)*
5. No RMD shall be located on a lot within 500 linear feet of any lot with the following:
   a. Residence
   b. Public school
   c. Private educational entity that provides instruction to children and youth in an ongoing organized basis
   d. Licensed registered childcare facility
   e. Library
   f. Religious facility

g. Playground, public park, or ball field

h. Recreation center

i. Registered Marijuana Dispensary

j. Halfway house or similar facility

k. Drug or alcohol rehabilitation facility.

The distance requirement may be reduced by the Planning and Economic Development Board if the applicant demonstrates that the RMD would otherwise be effectively prohibited from locating within the municipality and that adequate security measures will be employed to prevent the diversion of medical marijuana to minors who are not qualifying patients.

Distances shall be calculated by direct measurement in a straight line without regard for intervening structures from the nearest property line of the land used as noted above to the nearest portion of the building in which the RMD is located.

6. No smoking, burning or consumption of any product containing marijuana or marijuana-infused products shall be permitted on the premises of a RMD.

7. A RMD may not have a drive-through service.

F. **Signage**

1. Signage for the RMD shall include the following language: "Registration card issued by the MA Department of Public Health required."

2. The required text shall be a minimum of two inches in height.

3. No permitted RMD shall use any advertising material or graphics that are misleading, deceptive, or false, or designed to appeal to minors.

4. A RMD shall not display on the exterior of the facility any advertisement for medical marijuana or any brand name.

5. Off-site signage or advertising in any form, including billboards shall not be allowed.

G. The RMD shall provide the Medway Police Department, Building Inspector and the Planning and Economic Development Board with the names, telephone numbers and email addresses of all management staff and key holders to whom the Town can provide notice if there are operating problems associated with the establishment.

H. **Prohibition against Nuisances**. No RMD shall create a nuisance to abutters or to the surrounding area, or create any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

I. **Openness of Premises**

1. Any and all cultivation, distribution, possession, storage, display, sales or other distribution of medical marijuana shall occur only within the restricted interior area of the RMD.

2. The RMD shall be designed and constructed such that no area or portion where marijuana is processed or stored is visible from the exterior of the building.

3. The front of the building which shall include the public entrance to the RMD shall be fully visible from the public street or building frontage.

4. Marijuana, marijuana infused products, and products that facilitate the use of medical marijuana shall not be displayed or clearly visible to a person from the exterior of the RMD.

J. No marijuana or marijuana based products shall be sold, grown or cultivated, interior or exterior to a residential dwelling unit except if a Hardship Cultivation Registration is granted by the Department of Public Health according to 105 CMR 725.035.

K. **Special Permit Requirements**

1. A RMD shall only be allowed by special permit from the Planning and Economic Development Board in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.

2. A RMD is subject to site plan review by the Planning and Economic Development Board pursuant to Section 3.5, which shall be coordinated with the special permit process.

3. A special permit for a RMD shall be limited to one or more of the following uses that shall be prescribed by the Planning and Economic Development Board:

   a. Cultivation of Marijuana for Medical Use (horticulture) except that sites protected under G.L. c. 40A, § 3 shall not require a special permit;

   b. Processing and packaging of Marijuana for Medical Use, including marijuana that is in the form of smoking materials, food products, tinctures, oils, aerosols, ointments, and other marijuana infused products;

   c. Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;

   d. Retail sale of products that facilitate the use of marijuana for medical purposes and of patient educational materials.

4. The RMD special permit application shall include the following:

   a. The name and address of each owner of the facility;

   b. Copies of all required licenses and permits issued for the RMD to the applicant by the Commonwealth of Massachusetts and any of its agencies;

c. Evidence of the Applicant's right to use the site of the RMD for the RMD, such as a deed or lease;

d. A statement under oath disclosing all of the applicant's owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

e. A certified list of all parties in interest entitled to receive notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;

f. A detailed site plan that includes the following information:

   i. A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the facility including but not limited to sales, storage, cultivation, processing, food preparation, etc.

   ii. Proposed security measures for the RMD, including lighting, fencing, gates and alarms, etc., to ensure the safety of qualifying patients, their caregivers, and facility employees and to protect the premises from theft.

g. A copy of the policies/procedures for the transfer, acquisition, or sale of medical marijuana between approved RMD's in compliance with 105 CMR 725.105(B)(2).

h. A copy of the policies/procedures for patient or personal caregiver home-delivery.

5. Procedures

   a. The special permit application and public hearing procedure for a RMD shall be in accordance with Section 3.4 and G.L. c. 40A, § 9.

   b. Mandatory Findings. The Planning and Economic Development Board shall not grant a special permit for a RMD unless it finds that:

      i. The RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;

      ii. The RMD demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and

      iii. The applicant has satisfied all of the conditions and requirements of this Section and Section 3.4 of this Zoning Bylaw.

6. Conditions. In granting a special permit under this Section 8.9, the Planning and Economic Development Board shall impose conditions, limitations, and safeguards that are reasonably appropriate to:

a. Improve site design, traffic flow, and public safety;

b. Protect water quality, air quality and significant environmental resources;

c. Preserve the character of the surrounding area.

These conditions, limitations, and safeguards may address but are not limited to:

d. Hours of operation

e. Landscaping and site amenities

L. **Annual Reporting**. Each RMD permitted under this Zoning Bylaw shall as a condition of its special permit file an annual report with the Planning and Economic Development Board, the Building Inspector, the Health Agent, and the Police Chief no later than January 31st of each year, providing a copy of all current applicable state licenses for the RMD and/or its owners and demonstrate continued compliance with the conditions of the special permit.

M. **Duration of Special Permit**. A special permit granted under this Section 8.9 shall remain exclusively with the applicant which shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

N. **Abandonment or Discontinuance of Use**. A RMD shall be required to remove all material, plants, equipment and other paraphernalia:

1. Prior to surrendering its state issued licenses or permits; or

2. Within six months of ceasing operations; whichever comes first.

O. **Other Permits and Approvals**. Receipt of a special permit from the Planning and Economic Development Board for a RMD does not preclude an applicant from having to secure other required local permits from other Town boards or departments, including but not limited to the Board of Health, Conservation Commission, or the Department of Public Services.

P. Each RMD permitted under this Zoning Bylaw shall enter into a Host Community Agreement (HCA) with the Town of Medway. *(Added 11/16/15)*

###

MEDWAY TOWN CLERK

155 VILLAGE STREET
MEDWAY, MASSACHUSETTS 02053
(508) 533-3204 • FAX: (508) 533-3287
mwhite@townofmedway.org

MARYJANE WHITE, CMMC

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

Notary Public

December 5, 2016

I certify that this document, dated December 5, 2016, constitutes the complete *Medway Zoning Bylaw* with all amendments approved through the November 14, 2016 Medway Town Meeting.

Maryjane White

Maryjane White
Town Clerk

TOWN OF MEDWAY

Planning & Economic Development Board

155 Village Street

Medway, Massachusetts 02053

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Matthew J. Hayes, P.E.
Richard Di Iulio

December 5, 2016

History of Medway Zoning Bylaw and Amendments

In 1951, the Town of Medway adopted its first *Zoning Bylaw*. In 1966 and 1968, Town Meeting approved major changes to it. The *Medway Zoning Bylaw* was recodified in 1975 and most recently on May 11, 2015. This publication of the *Medway Zoning Bylaw* is that recodified version and includes all other amendments adopted since recodification. The most recent amendments from the November 14, 2016 Town Meeting are listed first. We hope this will serve as a useful history of the *Medway Zoning Bylaw* and its changes over time.

Date of Enactment/Approval by Town Meeting	Description of Amendment	Date Approved by Attorney General
November 14, 2016 (Article 10)	Established a new Village Residential Zone and revised Zoning Map	Pending
November 14, 2016 (Article 11)	Renamed Commercial I to Central Business and revised Zoning Map	Pending
November 14, 2016 (Article 12)	Renamed Commercial III and IV to Village Commercial and revised Zoning Map	Pending
November 14, 2016 (Article 13)	Added definitions in Section 2.	Pending
November 14, 2016 (Article 14)	Substantial revision to Table 2 – Dimensional and Density Regulations in Section 6.1	Pending
November 14, 2016 (Article 15)	Substantial revision to Table 1 – Schedule of Uses in Section 5.4	Pending
November 14, 2016 (Article 16)	Adjusted hours of operation for Registered Marijuana Facilities in Section 8.9	Pending

Date of Enactment/Approval by Town Meeting	Description of Amendment	Date Approved by Attorney General
May 9, 2016 (Article 28)	Replaced Section 8.2 Accessory Family Dwelling Unit in its entirety	August 22, 2016
May 9, 2016 (Article 29)	Replaced Section 3.5 Site Plan Review in its entirety	August 22, 2016
May 9, 2016 (Article 30)	Added a new Section 1.7 Format to allow for style editing of the Zoning Bylaw. Expires May 9, 2018	August 22, 2016
May 9, 2016 (Article 31)	Added a new Section 4.4 Zoning District Boundaries	August 22, 2016
May 9, 2016 (Article 32)	Revised and added definitions in Section 2.	August 22, 2016
May 9, 2016 (Article 33)	Added Self-Storage Facilities to list of prohibited uses	August 22, 2016

November 16, 2015 (Article 17)	Added a series of definitions to *Section 2 Definitions*	March 8, 2016
November 16, 2015 (Article 18)	Revised text in *Section 5.5.F*. re: abandonment and non-use of nonconforming uses	March 8, 2016
November 16, 2015 (Article 19)	Amended Zoning Map by adding 7 Kelley Street to Multifamily Overlay District	March 8, 2016
November 16, 2015 (Article 20)	Revised text in *Section 7.2.6.A.* Sign Permit 3. Design Review re: sign design review process with the Design Review Committee	March 8, 2016
November 16, 2015 (Article 21)	Revised *Section 7.2 Signs* by adding definitions for externally and internally illuminated signs, specifying when LEDs are allowed, revising Tables 4, 6, & 7, replacing Table 5, adding Tables 8, 9, and 10, and other minor edits	March 8, 2016
November 16, 2015 (Article 22)	Revised *Table 1 - Schedule of Uses in Section 5.4* re: poultry, aviation, multifamily dwellings and multifamily developments, retail bakery and wholesale bakery.	March 8, 2016
November 16, 2015 (Article 23)	Revised *Section 8.9 Registered Marijuana Dispensary* by adding a definition for a host community agreement, deleting limitations on the size of a growing facility, processing facility, and combined facility, and by requiring that any permitted registered marijuana dispensary enter into a host community agreement with the Town of Medway	March 8, 2016

Date of Enactment/Approval by Town Meeting	Description of Amendment	Date Approved by Attorney General
November 16, 2015 (Article 24)	Revised *Section 8.3 Home Based Business* by adding a new item 6. in C. Basic Requirements to limit the outside parking of Class 3 commercial motor vehicles to two and to prohibit the parking of any Class 4 and above motor vehicles; to renumber the items in C. Basic Requirements; and to add a new item 11. requiring the owner or operator of the home-based business to reside on the premises.	March 8, 2016
November 16, 2015 (Article 25)	Revised *Section 5.6.2 Adaptive Use Overlay District*, D. Used Regulations, 2. Uses Allowed by Special Permit to include a series of additional allowed uses – gifts, clothing, accessories, decorative home furnishings, specialty food items, and individual consumer services.	May 3, 2016

May 11, 2015 (Article 25)	Added a new *Section 5.64 Multifamily Housing* which established special permit provisions for multifamily housing and amended the Zoning Map to create a Multifamily Housing Overlay District	November 30, 2015

###