

Town of Richmond
Massachusetts

ZONING BY-LAW

Voted May 22, 1978

Amended through October 30, 2018

DATES OF BY-LAW AND AMENDMENTS

THIS BY-LAW was prepared by the Richmond Planning Board:
Charles Kusik, chairman; Robert Kimball, vice-
chairman and clerk; David Cousineau, Edward
Hoffman, Paul Rocheleau.

THE OFFICIAL PUBLIC HEARING on the proposed By-Laws was
held on March 27, 1978.

FORMAL ADOPTION of this By-Law was voted at a Special
Town Meeting on May 22, 1978, which placed
the By-Law into immediate effect.

STATE APPROVAL came in a letter from Attorney General
Francis X. Bellotti dated Aug. 23, 1978.

THE APPROVED BY-LAW was posted, as required by law,
on August 30, 1978.

AMENDED at Special Town Meeting on June 30, 1981.
(Agriculture, Agricultural)

AMENDED at Special Town Meeting on October 7, 1981.
(Radioactive Wastes)

AMENDED at Annual Town Meeting on April 26, 1982.
(Windmills)

AMENDED at Annual Town Meeting on April 27, 1987.
(Country Inn, Renting of Rooms, Shore
Residence District,)

AMENDED at Annual Town Meeting on May 15, 1989
(Zoning Enforcement Officer)

AMENDED at Annual Town Meeting on April 22, 1991
(Storage of commercial vehicles,
driveways)

AMENDED at Annual Town Meeting on May 25, 1994
(Agriculture, accessory buildings,
temporary signs)

AMENDED at Annual Town Meeting on May 24, 1995
(Flood-prone areas, Golf Course definition)

AMENDED at Special Town Meeting on June 30, 1998
(Comprehensive update for consistency with
Town Plan and Massachusetts General Law,

also including new regulations covering
Wireless Telecommunications)

AMENDED at Special Town Meeting on March 7, 2001
Pertaining to temporary freestanding signs
used for agricultural purposes.

AMENDED at Special Town Meeting on May 23, 2001
Definitions of Adjoining and Adjacent lot,
Definitions of Accessory Use or Building, and
Intensity Regulations

AMENDED at Special Town Meeting on September 28, 2005

AMENDED at Annual Town Meeting on May 27, 2009
Added Section 5.6(c)
Added Section 5.6(d)

AMENDED at Annual Town Meeting on May 25, 2011
Added Large-scale ground-mounted Solar Photovoltaic
Installation Overlay Requirements to Sections 3.1,
3.5, and 4.8
Added Section 11: Large-Scale Ground-Mounted Solar
Photovoltaic Installations

AMENDED at Special Town Meeting on October 8, 2014
Revised zoning map and Section 5.6 Table of
Dimensional Requirements
Changed requirements for two-family dwellings
Deleted 6.1.2.a1
Added restaurant to Section 4.8.9
Revised requirements for driveways
Added Non-criminal Disposition

AMENDED at Annual Town Meeting on May 20, 2015
Added 6.7.1 b
Added 8.3.3

AMENDED at Special Town Meeting on February 13, 2018
Added new section 4.9
Temporary Moratorium on Medical Marijuana
Added new section 4.10
Temporary Moratorium on Marijuana Establishments

AMENDED at Annual Town Meeting on May 16, 2018
Added new definition for "short term room rental
business" and amend Table of Use Regulations to add
Sec 4.8A (13) "short term room rental business"

AMENDD at Special Town Meeting on October 30, 2018
Amend Zoning Map to include Commerical District
COMM1 and COMM2 two locations in town
Replace Section 3.1 with new districts and Section 3.2
Added New definition to Section 2.2 Farm Functions
Added paragraph 16 to section 4.8 B

AMENDED at Special Town Meeting on October 30, 2018
Added New section 4.8 A by adding new section 4.8 B (16)
And a new section 12 and revised section 3.1
- Marijuana Zoning Bylaw

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SECTION 1: TITLE, AUTHORITY AND PURPOSE

1.1 Title

This By-Law shall be known as the "Zoning By-Law of the Town of RICHMOND, Massachusetts", hereinafter referred to as "this By-Law".

1.2 Authority

This By-Law is adopted in accordance with the provisions of Chapter 40A of the General Laws, as amended, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts to regulate the use of land, buildings and structures to the full extent of the powers of cities and towns.

1.3 Purpose

The purpose of this By-Law is to achieve greater implementation of the powers granted to the municipalities under Article 89 of the Amendments to the Constitution of the Commonwealth in the general interests of public health, safety and welfare, including but not limited to objectives set forth in Section 2A of the 1975 Massachusetts Acts, Chapter 808, and the following objectives:

- a) To prevent overcrowding of land; to secure safety from fire, flood, panic and other dangers, to conserve health; to lessen congestion in the streets;
- b) To facilitate the adequate provision of transportation, water supply, drainage, sewage, schools, parks, open space and other public requirements;
- c) To conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment;
- d) To preserve and increase amenities by the promulgation of regulations designed to:
 - Protect the Town's areas of scenic beauty, its brooks, ponds, wetlands and water resources, and other significant environmental features;
 - Minimize the adverse effects of development on natural resources and municipal facilities;
 - Preserve and enhance agriculture and the use of land for agricultural purposes.
 - Employ cooperatively the various measures taken by the Town's agencies, under diverse legislative authority, including the State Sanitary Code, Wetlands Protection Act,

Subdivision Control Law and the State Building Code, for the preservation of the Town's existing rural character, open spaces, low density of population, and in the interests of the Town's orderly growth at a deliberate pace.

SECTION 2: DEFINITIONS

- 2.1 For the purpose of this By-Law and unless the context of usage clearly indicates another meaning, the following rules of construction apply to the text of this By-Law:

Words used in the present tense include the future; the singular number includes the plural, and the plural number includes the singular.

The words "used" or "occupied" include the words "designed", "intended" or "arranged to be used or occupied".

The words "buildings", "structure", "lot", "land" or "premises" shall be construed as though followed by words "or any portion thereof".

The word "shall" is mandatory; the word "may" is permissive.

The words "including" or "such as" shall not limit a term to specified examples, but are intended to extend its meaning to all other instances or circumstances of like kind or character.

Terms and words not defined herein but defined in the Building Code shall have the meaning given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary.

- 2.2 For the purpose of this By-Law, the following words and terms as used herein shall have the meanings or limitations of meaning hereunder defined, explained or assigned:

Adjacent Lot: A lot in common ownership separated from the principal lot only by a traveled way, street, or road.

Adjoining Lot: A separate lot in common ownership having a common border with the principal lot.

Accessory Use or Building: A use or building on the same lot or adjoining lot in common ownership with the principal use, or building, and of a nature customarily incidental and clearly subordinate to such use or building. With a special permit from the Planning Board, issued in accordance with the requirements of Section 6.3, a use or building on an adjacent lot in common

ownership with the principal use or building, and of a nature customarily incidental and clearly subordinate to such use or building.

Assisted Living: A for-profit or non-profit entity which provides room and board (a minimum of two meals a day) and assistance with activities of daily living for three or more elderly residents, as defined and licensed, or as may be defined and licensed in the future, by Massachusetts General Laws.

Bed and Breakfast: The rental of rooms and the serving of meals as regulated in Section 4.8 B.3.

Building, Height: The vertical distance from mean grade to the top of the highest roof beams of a flat roof or the mean level of the highest gable or slope of a hip roof.

Building Setback Line: A line parallel to the street line at a distance as set forth for minimum front yards in Section 5.6 of this By-Law.

Commercial Vehicle: Any truck or van used in connection with operating a business.

Country Inn: An owner or operator occupied building, or a group of buildings on a single lot, intended to be used for the temporary occupancy of patrons who are lodged, with or without meals, and in which provisions for preparing and cooking meals to be served only to patrons lodged at the country inn may be made in a central kitchen but may not be in the individual rooms or suites.

Driveway/Access Road: An area on a lot, built and maintained for access to a garage or off-street parking or loading space(s), providing for the passage of motor vehicles to and from a street or way.

Dwelling, One-Family: A detached residential building containing one (1) dwelling unit and occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

Dwelling, two-family: A detached residential building containing two (2) dwelling units. designed for occupancy by not more than two (2) families.

Dwelling, Multi-Family: A residential building designed or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units

provided.

Dwelling Unit: One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one family.

Family: One or more individuals related by blood, marriage, adoption or foster children, or not more than five (5) individuals who are not so related, living in a single dwelling unit.

Farm Function: Any event or concert held on a farm (see definition of a farm, in the Right to Farm By-Law, Chapter XIII, Section 2 of the Richmond Town Bylaws), including but not limited to, weddings and family celebrations for which a fee is paid, concerts, promotional events, and other activities held for a fee on farms of sufficient size. Farm functions supplement farm income in order to promote the sustainability of farming, enhance our community and preserve open space.

Golf Course: A lot, of not less than fifty (50) acres, intended to be used to play golf, and having not less than nine (9) holes, and a building or group of buildings to be used for a clubhouse, pro-shop and storage of maintenance equipment and materials.

Home Occupation: A business or profession pursued within a dwelling or accessory structure by a resident thereof as a use accessory thereto, including the sale of articles made or services rendered by a resident thereof, involving no undue traffic or noise, and employing no more than one person from outside of the household.

Indoor Home-Based Business: A business or profession pursued within a dwelling or accessory structure by a resident thereof as a use accessory thereto, including the sale of articles made or services rendered, involving no undue traffic or noise, employing at least two but no more than five persons outside of the household, and meeting the requirements of this By-Law.

Light Industrial: Light industrial shall mean assembly, processing, electrical component manufacture, research laboratory, packaging, or other light industrial operations.

Lot: A clearly defined parcel of land in one ownership of sufficient area and dimensions to meet this By-Law's minimum requirements for area, frontage, width, yards and other open spaces.

Lot, Frontage: The continuous distance in feet along the street line of a single street which provides direct access to the lot, to be measured only where the lot has a depth of at least 20 feet from the street line. A private street approved by the Planning

Board under the Subdivision Control Law may provide frontage only for lots which are contained within the approved subdivision.

Lot, Width: The distance between lot side lines at the building setback line measured parallel to or concentric with the street line, provided that no part of the lot that provides access to a proposed building site or to an existing building shall be less than 40 feet in width.

Mobile Home: A completely enclosed structure built on a chassis, designed as a dwelling unit to be transported after fabrication on its own wheels or detachable wheels or on a flatbed or trailer. For the purpose of this By-Law, the term "mobile home" includes also trailers incorporating the characteristics of mobile homes as herein defined.

Municipal Use: Any use of land in accordance with the General Laws governing municipal powers and functions including participation in regional uses.

Personal Wireless Services: Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services.

Personal Wireless Service Facility: All equipment (including any Repeaters) with which a Personal Wireless Service Provider broadcasts and receives the radio-frequency waves which carry its services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

Public Utility: Services provided by a public service corporation through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead. Facilities necessary for the provision of a public utility include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

Recreational Facility: A facility for leisure time sport activities that usually require equipment including golf, outdoor skating rinks, tennis, and other court games, baseball and other field sports, track, swimming, and playground activities.

Restaurant: An establishment in which food is prepared and served and customers' orders are taken and served at dining tables. A maximum of one inside takeout station may be considered accessory to a conventional restaurant.

Short-Term Room Rental Business: The rental of a dwelling, or rooms within a dwelling, or the rental of an accessory structure, or rooms within an accessory structure, by an absentee owner or investor-owner where the rental period is 1 to 30 nights and while the owner is also not dwelling on site. **This definition shall not apply to an owner-occupied single-family dwelling temporarily vacated, for a total of 30 days or less, during a calendar year.**

Site Plan: A plan indicating, but not limited to, the following: lot size and frontage, the location of all existing buildings, the exact location of proposed buildings and their distance from all lot lines, the location of the septic system and well, all streams, ponds and other wetland areas, the access roads, driveways, parking areas, and all proposed site improvements.

Street: A public way or a way which is maintained and used as a public way, or a way approved by the Planning Board under the Subdivision Control Law.

Street Line: The dividing line between a street and a lot which is the right-of-way line where a plan of a street is on file with the Registry of Deeds, or in the absence of such plan to be measured from a parallel line 35 feet from the centerline of the traveled way.

Yard, Required: The open areas of the lot extending inward, from a lot line for the distance specified in the zoning regulations, within which no structure may be located except as otherwise provided in this By-Law.

Yard, Front: A required yard extending along the full length of the front lot line between the side lot lines.

Yard, Rear: A required yard extending the full length of the rear lot line between the side lot lines.

Yard, Side: A required yard extending along a side lot line from the required front yard to the required rear yard.

SECTION 3: ZONING DISTRICTS

3.1 Number and Type of Districts

For the purpose of this By-Law, the Town of Richmond is divided into the following districts:

RA-A Residential-Agricultural District A

RA-C Residential-Agricultural District C

SR Shore-Residence Districts

COMM1 Commercial District

COMM2 Commercial District

FWL Flood-Prone Areas and Wetlands

WTOD Wireless Telecommunications Overlay District

LSPOD Large-scale ground-mounted Solar Photovoltaic Installation
Overlay District

- 3.2 The basic zoning districts (not including overlay districts) are hereby established as shown, located, defined and bounded on a map entitled "Zoning Map of Richmond, Massachusetts, dated October 3, 2018 which is available for public view on the Town website and a paper copy of which is on file with the Town Clerk. The Zoning Map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this By-law.

3.3 Flood-Prone Areas and Wetlands

Flood-Prone Areas and Wetlands shall be considered as overlying other districts and are shown on the following maps which are hereby made a part of this By-Law and are on file in the Town Clerk's office:

1. Flood-Prone Areas are shown on the map prepared by the Department of Housing and Development, Federal Insurance Administration, entitled Flood Insurance Rate Map, dated December 4, 1985.
2. Wetlands are shown on the map prepared by Cooperative Extension Service, Berkshire County, Warren E. Archey, Regional Community Resource Development Specialist, entitled Wetlands, Town of Richmond Ma. Prepared for the Planning Board, December, 1973.

3.4 Wireless Telecommunications Overlay District

3.4.1 Purpose

The Wireless Telecommunications Overlay District (WTOD) is intended to protect the scenic, historic, natural and other resources of the Town of Richmond, while allowing adequate personal wireless services to be developed.

3.4.2 Description

The location and boundaries of the Wireless Telecommunications Overlay District (WTOD) are hereby established to include only the area of the properties listed below:

Location/ Address	Assessors' Map & Parcel #	
Cone Hill Road	M 411	L 12
Corner of Dublin Road and Sleepy Hollow Road	M 405	L 94
Only located on existing tower off View Drive	Part of M 404	L 59

The location and boundaries of this Overlay District is also shown on a Map entitled Wireless Telecommunications Overlay District Map, dated June 30, 1998, on file at the Town Clerk's office.

These properties are included by reason of their potential to provide technically feasible and accessible locations for the siting of facilities which can provide adequate personal wireless services to the Town of Richmond.

3.4.3 Relation to Other Districts

The WTOD is an overlay district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect. Reference Section 4.8 Table of Use Regulations.

3.4.4 Applicability

Any use of lands within the WTOD for purposes of placement, construction, modification or removal of Personal Wireless Service Facilities and/or Towers shall be subject to this By-Law. Such uses must meet the requirements of Section 6.3 of this By-Law covering Special Permits and be in conformance with this section and Section 10 detailing provisions for Personal Wireless Service Facilities and Towers.

3.5 Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District

3.5.1 Purpose

The Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District (LSPOD) is intended to protect the scenic, historic, natural and other resources of the Town of Richmond, while allowing Solar Photovoltaic Installations to be developed.

3.5.2 Description

The location and boundaries of the Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District (LSPOD) are hereby established to include only the area of the property listed below:

Location/ Address	Assessors' Map & Parcel #	
State Road	M 408	L 44
Cone Hill Road	M 411	L 12

The location and boundaries of the Overlay Districts are also shown on a Map entitled Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District Map, dated (TBD), on file at the Town Clerk's office.

3.5.3 Relation to Other Districts

The LSPOD is an overlay district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect. Reference Section 4.8 Table of Use Regulations

3.5.4 Applicability

Any use of lands within the LSPOD for purposes of placement, construction, modification or removal of Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be subject to this By-Law. Such uses must be in conformance with this section and Section 11 detailing provisions for Large-Scale Ground-Mounted Solar Photovoltaic Installations

SECTION 4: USE REGULATIONS

4.1 Except as provided by law or in this By-Law, no building or structure shall be erected and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than for one or more of the uses set forth in the accompanying Table of Use Regulations, Section 4.8, as permitted by right in the district in which such building, structure or land is located, or which may be permitted in said district and so authorized by Special Permit Granting Authority as designated in Section 4.2 herein.

4.2 Symbols used in the Table of Use Regulations, Section 4.8 herein, shall mean the following:

YES - Use permitted by right.

YES+ - Use permitted by right with the provision that for new principal uses involving new construction the requirements

of Section 6.10 covering review of a Site Plan by the Planning Board, must be met.

SPA - Use which may be authorized by special permit from the Zoning Board of Appeals in accordance with the provisions of Section 6.3 herein.

SPP - Use which may be authorized by special permit from the Planning Board in accordance with the provisions of Section 6.3 herein.

SPS - Use which may be authorized by special permit from the Board of Selectmen in accordance with the provisions of Section 6.3 herein.

NO - Specifically excluded or prohibited use.

4.3 Every use permitted by right or authorized by special permit under the provisions of this By-Law shall be subject to the State Building Code, State Sanitary Code, and the Town's Board of Health Regulations and all other applicable statutes, By-Laws, regulations and deed restrictions, if any.

4.4 Any use permitted and as regulated in the portion of any zoning district overlaid by a Flood-Prone Area or Wetland shall be permitted subject to the restrictions set forth in Section 6.4 herein.

4.5 Where a structure or use might be classified under more than one of the listed uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

4.6 DELETED (STM 6/30/98)

4.7 Any use of land, buildings or structures which creates excessive and objectionable noise, fumes, odor, dust, electrical interference, light or undue traffic shall be prohibited in all districts.

SECTION 4.8

TABLE OF USE REGULATIONS

Section 4.8	A. PERMITTED PRINCIPAL USES	DISTRICTS		
		RA-A RA-C	SR	COMM1 COMM2
1.	One-family dwelling	YES+	YES+	YES+
2.	Two-family dwelling, provided the minimum lot area shall be two and one half (2 1/2) acres.	YES+	NO	YES+
	a) Conversion of a One-Family Dwelling for use as a Two-Family Dwelling, provided the minimum lot area shall be 2.5 acres and all of the requirements of Section 5.6 <u>Table of Dimensional Requirements</u> are met	YES	NO	YES
	b) Conversion of a One-Family Dwelling for use as a Two-Family Dwelling, having minimum lot area of 2.5 acres but not meeting all of the requirements of Section 5.6 <u>Table of Dimensional Requirements.</u>	SPA	NO	SPA
3.	Municipal or governmental use including parks, playground or other recreational facilities owned or operated by Town agency.	YES+	YES+	YES+
4.	Religious or educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a non-profit educational corporation.	YES	YES	YES
5.	Private non-profit library, museum or philanthropic institution not exempt by M.G.L. c. 40A s. 3.	SPP	NO	SPP
6.	Public utilities	SPS	SPS	SPS
7.	The use of land and structures for the primary purpose of agriculture, horticulture or floriculture, provided that:	YES	YES	YES
	a) Any structures used as shelters for livestock or poultry are at least 75 feet from any lot boundary, and			
	b) All grounds used for pasturing or other purposes involving unrestrained animals are properly fenced, and			
	c) The sale or display of farm products, provided that during the months of June, July August and September of every year or during			

the harvest season of the primary crop raised on the land of the owner or lessee, the majority of such products for sale, based on either gross sales or volume, have been produced by the owner of the land on which the facility is located and

- d) Any buildings or structures with space used for selling or display are at least 35 feet back from the street line, and no exterior illumination other than security lighting is employed for them or their site, and
 - e) No truck or trailer or other vehicle while being used as a display stand or sales location is placed so as to be visible from a public way or any neighboring premises, and
 - f) All signs on the premises, including any signs applied to or affixed to a building or structure or which are visible from a public way or any neighboring premises, conform with the sign restrictions of Sub-Section 6.2.2 of this By-Law applicable to Residential-Agricultural Districts, except as otherwise specifically regulated in this Item 7, and
 - g) The Board of Selectmen may authorize by special permit a temporary, free standing sign to be displayed during the facility's hours of operation, or such other times as the Selectmen may permit, not exceeding sixteen (16) square feet per side nor being closer than ten (10) feet to the street line, with neither the top of the sign or its support being in height more than eight (8) feet above grade, and
 - h) Any sign identifying an individual building or structure, or indicating any entrance or exit, does not exceed one square foot in area if visible from a public way or any neighboring premises.
8. a) Golf, swimming, tennis or sportsmen's club, or other recreational facility of similar character; SPA NO SPA
- b) Riding stable, boarding stable, landscape gardening or commercial greenhouse on a parcel of less than five acres; SPA NO SPA
- c) Conversion of a dwelling existing on April 27, 1987, into a country inn, provided SPA NO SPA

the Board of Appeals finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.

Section 4.8	A. PERMITTED PRINCIPAL USES Continued:	DISTRICTS		
		RA-A RA-C	SR	COMM1 COMM2
9.	<p>a) Bank, office uses, neighborhood grocery store, automatic laundry, clothes cleaner, barber shop, beauty parlor, antique or gift shop, repair shop for appliances or similar equipment or devices, or place of business for tailor, dressmaker, cabinet maker, plumber, electrician or similar artisan.</p> <p>b) Restaurant provided the Selectmen find that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.</p>	NO	NO	SPS
10.	<p>Any light industrial, warehousing, distribution, or retail use in harmony with the purpose and intent of this By-Law not involving undue traffic, noise or other feature detrimental to the neighborhood or town, with the exception of the following uses which are specifically excluded in all districts:</p> <p>Used-car lot, junkyard, scrapyard, contractor's yard, automobile body shop, commercial blasting or quarrying, slaughterhouse, meat processing plant, selling or servicing or display of trailers or mobile homes, trailer or mobile-home park, hospital, nursing home, multifamily dwelling, commercial dog kennel, billboard: use of a mobile home or trailer permanently for residential or business purposes, whether or not placed on or affixed to a foundation; the handling or depositing of any radioactive wastes, including but not limited to materials classified as low-level radioactive wastes, whether invol-</p>	NO	NO	SPS

ving collection, treatment, processing, compacting, storage, burial, incineration or any other method of disposing of such wastes.

11. Mobile homes or trailers
 Except as otherwise permitted by state law, SPS SPS SPS
 Mobile homes or trailers may be used as temporary dwellings with a special permit from the Selectmen after approval by the Board of Health. The term of such permit shall not exceed 12 months.

12. Personal Wireless Service Facilities and Towers and any equipment, accessory structure, fencing, access roadways and/or landscaping, and any accessory screening or camouflage as regulated under Section 10 of this By-Law:

- a) Personal Wireless Service Facilities (except Repeaters) SPP only in WTOD Overlay District
- b) Wireless telecommunications Repeater SPP SPP SPP

Section 4.8	A. PERMITTED PRINCIPAL USES	<u>DISTRICTS</u>		
	Continued:	RA-A		COMM1
		RA-C	SR	COMM2

13. Short-Term Room Rental Business provided that: SPA SPA SPA

- a) The business passes an annual Safety inspection by the Inspector of Buildings.
- b) The business shall comply with all Town regulations and bylaws and Commonwealth of Massachusetts law, including all health and safety regulations.
- c) The Board of Appeals finds that the lot size, buildings, structures, off-street parking, **number of occupants**, and other facilities and equipment are adequate for the proposed use and that the operation of the business will not be detrimental to the neighborhood.

14. **Assisted Living Residence, as regulated by Massachusetts Law.** SPA NO SPA

15. Large-Scale Ground-Mounted Solar YES* NO NO

Photovoltaic Installations and any equipment, accessory structure, fencing, access roadways and/or landscaping, and any accessory screening or camouflage as regulated under Section 11 of this By-Law:

- a)* Large-Scale Ground-Mounted Solar Photovoltaic Installation, YES only in LSPOD Overlay District

16. Medical Marijuana Treatment Center and Marijuana Establishments.

		<u>DISTRICTS</u>		
Section 4.8	A.	PERMITTED PRINCIPAL USES		
		RA-A		COMM1
<u>Continued:</u>		RA-C	SR	COMM2
a) One (1) Medical Marijuana Treatment Center				
		No	No	SPS*

provided that:

1. The Board of Selectmen finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.

2. The requirements of Section 12 of this By-Law are met.

- b) One (1) Marijuana Establishment, Marijuana Retailer, No No SPS*

provided that:

1. The Board of Selectmen finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.

2. The requirements of Section 12 of this By-Law are met.

- c) Marijuana Establishment, Marijuana Cultivator using Indoor Cultivation, or Craft Cultivator Cooperative using Indoor Cultivation

DISTRICTS

Section 4.8	A.	PERMITTED PRINCIPAL USES		
		RA-A		COMM1
Continued:		RA-C	SR	COMM2
provided that:		No	No	SPS*

1.The total cumulative area of enclosed building or buildings, greenhouses or other structures for cultivation shall not exceed 10,000 square feet.

2.The total number of permits issued for all types of cultivation shall not exceed five (5) and shall only be issued to separate owners.

3. The Board of selectmen finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.

4. The requirements of Section 12 of this By-Law are met.

d) Marijuana Establishment, Marijuana Cultivator using Outdoor Cultivation, or Craft Marijuana Cultivator Cooperative using Outdoor Cultivation.

No No No

e) Marijuana Establishment, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Product Manufacturer, Marijuana Transporter, or Marijuana Microbusiness, as defined in 935 CMR 500.02.

No No No

*** Only permitted in the COMM1 district.**

Section 4.8	B. PERMITTED ACCESSORY USES	DISTRICTS		
		RA-A RA-C	SR	COMM1 COMM2
1.	Any minor use which is customarily incidental and clearly subordinate to any permitted principal use on the same lot, or adjoining lot in common ownership, provided that it neither alters the character of the premises nor is detrimental to the neighborhood.	YES	YES	YES
2.	Home Business			
a)	Home occupation, provided there is no external evidence of the conduct of such occupation except a permitted sign as regulated in Section 6.2 herein.	YES	YES	YES
b)	Indoor Home-Based Business: provided there is minimal external evidence of any business or profession other than a permitted sign as regulated in Section 6.2 herein; and as regulated by Section 6.3.	SPS	NO	SPS
3.	Rental of rooms:			
a)	In a dwelling by a resident family, provided no separate kitchen facilities are maintained.	YES	YES	YES
b)	The use of a dwelling by a resident family for the purpose of renting rooms and serving meals (including continental breakfast) to two (2) or more guests on a nightly or weekly basis provided no separate kitchen facilities are maintained.	SPA	SPA	SPA
4.	Outdoor storage of an unoccupied mobile home or trailer, provided that such is owned by the occupants of the premises and is stored behind the front setback line and at least 25 feet from the rear and side lot lines.	YES	YES	YES
5.	The use of a portion of a dwelling or accessory building by a resident of the premises who is a carpenter, painter, plumber, electrician, mason, tree surgeon, landscape gardener or similar artisan, for incidental work in connection with his off-premises occupation, provided that:	YES	YES	YES

- a) No manufacturing or business requiring substantially continuous employment may be carried on, and
- b) storage of materials, more than two commercial vehicles, or other equipment, shall be within the principal or an accessory building or on the rear portion of the lot and properly screened from view from the street and adjoining properties.
- c) storage of any commercial vehicle in excess of one and a half (1 1/2) tons capacity or 24 feet in length shall be in an enclosed structure.

Section 4.8	B. PERMITTED ACCESSORY USES	DISTRICTS		
		RA-A	SR	COMM1
Continued:		RA-C		COMM2

6. OUTDOOR LIGHTING:

- a) 1. Incandescent Lighting: YES YES YES
 Private outdoor lighting fixtures, newly installed or replaced, shielded at the source so as not to produce a direct light beyond the property boundaries using an incandescent lamp of 150 watts or less or in combination, lamps of 300 watts or less. The light level at the lot line shall not exceed 0.2 foot-candles, measured at ground level. Private outdoor lights shall be located at a height not greater than twenty-five (25) feet.
- 2. Non-Incandescent Lighting:
 Private outdoor lighting fixtures, newly installed or replaced, shielded at the source so as not to produce a direct light beyond the property boundaries using a non-incandescent lamp of 50 watts or less or in combination, lamps or 100 watts or less. The light level at the lot line shall not exceed 0.2 foot-candles, measured at ground level. Private outdoor lights shall be located at a height not greater than twenty-five (25) feet.
- b) The requirements of this section shall not apply to the following:
 - 1. Municipal Lights. Municipal street lighting, lights that control traffic or other lighting for

Public safety on Town streets and ways.

2. Fossil Fuel Light. All outdoor light fixtures Producing light directly by the combustion of Natural gas or other fossil fuels.
3. Temporary decorative lighting which may Include colored lamps, such as holiday lighting.
4. Pre-existing non-conforming structures or uses, Provided however, that the non-conformity relates Solely to the side, front or rear yard setbacks.
5. Lots or structures served by common driveways Or driveways located on deeded rights of way, Provided however, that the exemption described Herein relates only to the outdoor fixture lighting The portion of the driveway or right of way beyond The property boundary.

c) Prohibited Light Sources. The following light sources Are prohibited.

1. Neon light
2. Mercury Vapor and Quartz Lights
3. Searchlight. The operation of searchlights is prohibited.

d) Definitions

DIRECT LIGHT: Light emitted from the lamp, off the reflector or Reflector diffuser, or through the refractor or diffuser lens of An illuminating device.

LAMP: The component of an illuminating device that produces the Actual light.

SHIELDED: When referring to an outdoor light fixture it means That the fixture allows no up-light.

UP-LIGHT: Means direct light emitted by an outdoor light fixtures Above a horizontal plane through the fixture's lowest light Emitting part.

e) Special Permits

In accordance with Section 6.3 of this bylaw, the Board of Selectman, Acting as the Special Permit Granting Authority, may grant a special Permit modifying the requirements of this Section in the following Cases:

1. where an applicant can demonstrate by means of a history of vandalism or other objective means that an extraordinary need for security exists;
2. where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;

3. where a minor change is proposed to an existing non-conforming lighting installation, such that it would be unreasonable to require replacement of the entire installation;
4. where it can be demonstrated that for reasons of the shape of a lot, building, or structure, complete shielding of direct light is technically unfeasible.

7. ROADSIDE STAND:

The display and sale by residents of the premises at a roadside stand of natural products of which the major portion is produced on the premises, provided that:

YES YES YES

- a) Any such display or stand be set back at least 10 feet from the street line, and,
- b) There be no illumination of any kind at or for such display or stand after dark, and
- c) Any such display and any operation of such stand be confined to the growing and harvesting seasons applicable to the products produced on the premises.

Section 4.8	B. PERMITTED ACCESSORY USES Continued:	DISTRICTS		
		RA-A RA-C	SR	COMM1 COMM2
8.	The extraction of earth materials including stripping topsoil, only when incidental to, or required in connection with, any of the following operations, provided that no loam or topsoil shall be removed from the town unless a special permit is issued by the Zoning Board of Appeals:	YES	YES	YES
	a) The erection of a building or structure on the lot for which a building permit has been issued; or the construction of a private access road or driveway for which a permit has been issued;			
	b) Any accessory use incidental to a permitted use, including cultivation, planting, drainage of land, landscaping;			
	c) The construction of a private road and grading in a subdivision approved under the Subdivision Control Law;			
	d) Municipal or governmental construction or operation.			
9.	An accessory use to a by-right use, whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production, provided the Board of Selectmen finds that the proposed accessory use does not substantially derogate from the public good.	SPS	SPS	SPS
10.	Use of land for agriculture, horticulture or floriculture, provided that any structures used as shelters for livestock or poultry are at least 75 feet from any boundary, and that all grounds used for pasturing or other purposes involving unrestrained animals are properly fenced.	YES	YES	YES

Section 4.8	B. PERMITTED ACCESSORY USES Continued:	DISTRICTS		
		RA-A RA-C	SR	COMM1 COMM2
11.	Accessory Buildings			
	a) Accessory building or buildings not exceeding 20 feet in height, provided that the total floor area of said building or buildings shall not exceed one half the total area of the dwelling on the premises, up to a total of 1,000 square feet.	YES	YES	YES
	b) Accessory buildings or buildings exceeding 20 feet in height or buildings that exceed one half the total area of the dwelling on the premises or having a total aggregate floor area of more than 1,000 square feet.	SPS	SPS	SPS
12.	One or more wind-energy conversion systems, or windmills, per lot, if authorized by the Zoning Board of Appeals in a special permit incorporating:	SPA	SPA	SPA
	a) Limitations on height, noise, and			
	b) Minimum setbacks from the street line and other boundary lines, which setbacks may exceed but not be less than those specified in Section 5.6 of this By-Law, Table of Dimensional Requirements, and			
	c) Any safety provisions deemed by the Board of Appeals to be necessary, and			
	d) A requirement for removal of the system or structure after a specified period of non-use.			
13.	Driveway with a maximum grade of ten (10) percent or less for any portion of its length as regulated by Section 6.7.1 of this By-Law.	YES	YES	YES
14.	Driveway with a maximum grade of more than (10) percent for any portion of its length as regulated by Section 6.7.2 of this By-Law.	SPP	SPP	SPP
15.	Common driveway serving up to a maximum of three (3) lots as regulated by Section 6.7.3 of this By-Law.	SPP	SPP	SPP
		SPS	NO	NO

16. The use of a farm, as defined in the Right to Farm By-Law, Chapter XIII, Section 2 of the Richmond Town Bylaws, including, but not limited to, land, buildings, or other Structures, for the purpose of holding Farm Functions, provided that:

- a) The farm shall have 15 acres of land at the site. The land total shall include all adjoining and adjacent lots and the lot used for a dwelling, if any.
- b) The side, front and rear setbacks for the function shall be a minimum of 100 feet.
- c) There shall be no electronically amplified sound except between the hours of 10:00 a.m. and 11:00 p.m.
- d) The Board of Selectmen shall issue a special permit under this section with a consideration as to the duration of the permit. The permit issued may include conditions relating to hours of operation, attendance, public safety, traffic control, parking, noise, exterior amplified sound, odor, lighting, impact on the neighborhood and on municipal facilities, and a requirement that the applicant post a bond and have a certificate of insurance. Any person or organization granted a permit under this section shall comply with all other local, state, federal licensing or permitting requirements for said farm function.
- e) There shall be no events having motorized vehicles racing or competing in active competitions. Passive events such classic car shows shall be permitted.

4.9 Temporary Moratorium on Medical Marijuana Treatment Centers

4.9.1 Purpose

On November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes, Chapter 369 of the Acts of 2012, entitled "An Act for the Humanitarian Medical Use of Marijuana." The law became effective on January 1, 2013. The State Department of Public Health issued regulations to provide guidance in regulating medical marijuana on May 24, 2013.

However, on July 28, 2017, Governor Baker signed "An Act to Ensure Safe Access to Marijuana," adopted as Chapter 55 of the Acts of 2017 (the "Act"), which establishes the statutory framework for the regulation of recreational marijuana. The Act also makes a number of significant changes to the regulation of medical-use marijuana. These changes include, but are not limited to, the repeal of Chapter 369 of the Acts of 2012, the transfer of the oversight and regulation of medical-use marijuana to the newly created Cannabis Control Commission, and the adoption of new statutory requirements for the limited cultivation, distribution, possession and use of marijuana for medical purposes.

In addition, the Act also permits municipalities, by bylaw or ordinance, "to limit the number of any type of marijuana establishment to

fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity," and allows for the imposition of a local sales tax on marijuana sales.

Currently, under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town.

The regulation of Medical Marijuana Treatment Centers raises complex legal, planning and public safety issues. The Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers to address such complex issues, and to address the potential impact of State regulations on local zoning, and to undertake a planning process to consider amending the Zoning Bylaw regarding the regulation of Medical Marijuana Treatment Centers. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt Zoning bylaws in a manner consistent with sound land use planning goals and objectives.

Definitions:

"Medical Marijuana Treatment Center" Premises approved under a medical use marijuana license, issued by the Cannabis Control Commission, as defined under G.L. c. 94I §1.

4.9.2 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning By-laws to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Medical Marijuana Treatment Centers. The moratorium shall be in effect through December 31, 2018 or until the Town adopts Zoning By-law amendments that regulate Medical Marijuana Treatment Centers, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Cannabis Control regulations concerning Marijuana Establishments overall, and shall consider adopting new provisions of the Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

4.9.3 Severability

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this by-law or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

4.10 Temporary Moratorium on Marijuana Establishments

4.10.1 Purpose

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes, G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed." The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and was amended on December 30, 2016 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017, "An Act to Ensure Safe Access to Marijuana (the "Act"). The Act requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018.

Currently under the Zoning Bylaw, a Marijuana Establishment, as defined in G.L. c. 94G, §1, is not specifically addressed in the Zoning By-laws.

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

4.10.2 Definition

"Marijuana Establishment" shall mean a "marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business" as defined in G.L. c. 94G, §1.

4.10.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Marijuana Establishments. The moratorium shall be in effect through December 31, 2018 or until such time as the Town adopts

Zoning Bylaw amendments that regulate Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Marijuana Establishments, and shall consider adopting new Zoning Bylaws to address the impact and operation of Marijuana Establishments and related uses.

4.10.4 Severability

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

SECTION 5: INTENSITY REGULATIONS

- 5.1 Any building used for dwelling purposes, and any building or structure housing a permitted principal use, including any use authorized by a special permit, shall be so constructed and located on a lot as to meet the minimum requirements of lot area, frontage, width, front- side- and rear yards, and the maximum height of buildings and structures as set forth in the Table of Dimensional Requirements, Section 5.6 herein, except as specifically otherwise provided in this By-Law.
- 5.2 The land and yard spaces required for any new building or structure, or use, shall not include any land or yard area required by any other building, structure or use to meet the minimum requirements of this By-Law.
- 5.3 No lot, nor any building or structure thereon shall be changed in size so as to violate lot area, frontage, width or yard requirements of this By-Law.
- 5.4 In any district more than one building or structure housing a principal permitted use may be erected on the same parcel of land provided that lot area, width, frontage, yard and other requirements of this By-Law shall be met for each such building or structure as though it were on an individual lot.
- 5.5 The height regulations of buildings and structures shall not apply to agricultural buildings and structures, wind-energy conversion systems, churches, spires, chimneys, antennae, Personal Wireless Service Facilities and Towers as defined and as referenced in Section 10, or other appurtenances usually required to be placed above roof level and not intended for human occupancy.
- 5.6 In any district the permitted accessory uses in Section 4.8B apply to an adjacent lot, provided that the Planning Board has issued a

special permit allowing the proposed use or building and the proposed use or building complies with other requirements of this Bylaw.

5.6 Table of Dimensional Requirements

District	Minimum Lot		Minimum Yards and Setbacks (b) (d)			Maximum Height (Feet)
	Area (Acres)	Frontage and Width (Feet)	Dimensions (a)		(Feet)	Building or Structure
			Front	Side	Rear	
RA-A	1/4	100	20	20	20	35
RA-C	2 1/2	250	35	35	35	35
SR	1/4	50	15	15	15	25
COMM	1/4	100	20	20	20	35

- (a) To be measured from the right-of-way line where a plan of a street is on file with the Registry of Deeds, or in the absence of such plan, from a parallel line 35 feet from the centerline of the traveled way. (See also Page 4)
- (b) See Section 6.5 for minimum setback requirements along bodies of water.
- (c) Minimum lot width may be measured at the minimum front setback line, the proposed building setback line or the actual building setback line, whichever provides the greater lot width (see page 4)
- (d) In the SR District, side and rear setbacks for permitted accessory structures may be reduced to 10 feet with a Special Permit from the Zoning Board of Appeals provided that; the structure is a minimum of 25 feet from any dwelling on a neighboring lot, and has a projected footprint of less than 90 square feet, and a maximum height of 7 feet at the eaves and 10 feet at the roof peak. All structures shall not substantially block the view of the pond from a neighboring lot.

SECTION 6: SPECIAL PROVISIONS

6.1 Non-conforming Structures, Uses and Lots

6.1.1 Exemptions

Except as herein provided this By-Law shall not apply to:

- a) Structures and uses lawfully in existence prior to the effective date of this By-Law.
- b) A structure lawfully begun under a building permit or special permit issued before the first publication of notice of the required public hearing by the Planning Board on the applicable zoning By-Law or amendment.
- c) The alteration, reconstruction, extension or structural change to a one-family or two-family dwelling provided this does not increase the non-conforming nature of such structure.
- d) The construction, reconstruction or expansion of structures for the primary purpose of agriculture, horticulture or floriculture, provided that all of the requirements of Section 4.8 A7 are met.
- e) Non-conforming lots of record and lots shown on a plan endorsed by the Planning Board under the Subdivision Control Law are exempt from the provisions of this By-Law to the extent and as provided in Section 6, Chapter 40A of the General Laws.

6.1.2 Requirements for Extension, Reconstruction or Change in Use

- a) The Zoning Enforcement Officer may authorize a building permit as a matter of right for any extension, alteration, or reconstruction of an existing non-conforming one-family **or two-family** dwelling or of an existing one-family **or two-family** dwelling on a non-conforming lot provided:
 1. **This paragraph deleted October 8, 2014**
 2. Such change would not increase the height of the existing structure with reference to the existing structure's highest point; and
 3. Such change shall not involve the reconstruction, alteration, or extension of the existing nonconforming one-family dwelling in such a manner as to violate any applicable side, rear or front setback requirement; and
 4. **Such permit application does not involve a lot containing a multi-family dwelling.**

- b) Any pre-existing non-conforming structure or use may be rebuilt or re-established within two (2) years if damaged or destroyed by fire or other catastrophe.
- c) Except as provided for in sub-paragraph (a) above, pre-existing non-conforming structures or uses may be extended, altered or changed to another non-conforming use by special permit from the Zoning Board of Appeals provided that the board finds that such change, extension or alteration shall not be substantially more detrimental to the neighborhood than the existing non-conforming use.
- d) A non-conforming use of land or structure which has been abandoned or not used for a period of two (2) years or more shall not be re-established, except by special permit from the Zoning Board of Appeals, and any future use of such premises shall conform with this By-Law.
- e) The Zoning Board of Appeals may impose reasonable conditions on applications for special permits designed to lessen a detrimental impact of any non-conforming use on adjacent properties and the general neighborhood whenever such use is authorized to enlarge, expand or convert to another non-conforming use under the provisions of this section.
- f) **Except as provided for in sub-paragraph (d) above, pre-existing, non-conforming uses and structures can be demolished and expanded and/or altered provided all permits required by this By-Law shall be granted prior to demolition, renovation or reconstruction**

6.2 Sign Regulations

6.2.1 Permitted Signs

- a) Signs not exceeding two (2) square feet in total area and bearing only names of residents or other identification of premises not having commercial connotations.
- b) One sign, not exceeding six (6) square feet in area, for a permitted accessory use on the premises, with a special permit from the Board of Selectmen.
- c) Signs for principal commercial or other nonresidential uses not exceeding sixteen (16) square feet in total area with a special permit from the Board of Selectmen.
- d) One temporary, unlighted sign, not exceeding sixteen (16) square feet in total area, for use by municipal, educational, religious or non-profit organizations. No temporary sign may be placed for more than twenty-one (21)

days.

- e) A temporary, unlighted sign not over six (6) square feet in area pertaining to construction, repair, lease or sale of the property on which it is displayed.
- f) One sign, not exceeding two (2) square feet in area, for identification of a permitted Home Occupation or Indoor Home-Based Business accessory use on the premises.

6.2.2 Sign Restrictions

- a) No sign shall use moving parts, noise-making devices or blinking, rotating or flashing or red or neon lights, or lights changing in intensity, and no sign shall be placed on the roof of any building or structure, or extend above the parapet or eave line.
- b) No illuminated sign or lighting device shall be so placed or directed upon a public way or adjacent premises as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- c) No sign shall be located off the premises to which it applies, except that directional, informational or identification signs may be allowed by special permit issued by the Board of Selectmen where such signs will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design.
- d) A free-standing sign may not be closer to the front property line than one-half the depth of the required front yard, and in Residential-Agricultural Districts may not exceed four (4) feet in height above grade, and in Commercial Districts twenty-five (25) feet above grade.

SECTION 6.3: SPECIAL PERMITS

6.3.1 Special Permit Granting Authority

Any Board designated as Special Permit Granting Authority in this By-Law may hear and decide upon applications for special permits upon which such board is specifically authorized to act under this By-Law in accordance with the provisions of Section 9, Chapter 40A of the General Laws.

6.3.2 Required Hearing and Notice

Special permits may be issued only following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority. Notice of public hearing shall be given by publication in a newspaper of general

circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to "Parties in Interest" as provided in Section 11, Ch. 40A (G.L.) which include the Planning Board, and the Planning Board of every abutting municipality, the petitioner, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred feet of the property lines, all as they appear on the most recent applicable tax list.

6.3.3 Review by Other Boards and Agencies

The Special Permit Granting Authority within ten (10) days after receipt of an application for a special permit shall transmit, for review, copies thereof to the Board of Health, the Planning Board, the Board of Selectmen, the Conservation Commission and any other Town board or agency at the discretion of the Special Permit Granting Authority. All boards or agencies to which such application is referred for review shall make, in writing, to the Special Permit Granting Authority such recommendations as they deem appropriate. Failure of a board or agency to make such recommendations within thirty-five (35) days of receipt of the copy of the application shall be deemed lack of opposition thereto.

6.3.4 Findings Required

Before granting a special permit for any use requiring such permit under the provisions of this By-Law, the Special Permit Granting Authority shall find that the proposed use:

- a) Is in compliance with all provisions and requirements of this By-Law, and in harmony with its general intent and purpose.
- b) Is not undesirable or does not substantially derogate From the public good or convenience at the proposed location;
- c) Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;
- d) Will not create undue traffic congestion, or unduly impair pedestrian safety;
- e) Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting public health, safety or general welfare.

6.3.5 Conditions, Safeguards and Limitations

Special permits may be issued subject to such conditions, safeguards or limitations as the Special Permit Granting Authority may impose for the protection of neighboring uses or otherwise serving the purposes of this By-Law. Such conditions, safeguards or limitations may include, but are not limited to, the following:

- a) Front, side and rear yards greater than the minimum required by this By-Law: screening buffers or planting strips, fences or walls as specified by the Authority;
- b) Limitations upon the size, number of occupants, method and time of operation, time duration of the permit, or extent of facilities;
- c) Regulation of number or location of driveways, or other traffic features; and off-street parking or loading, or other special features beyond the minimum required by this By-Law.

Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the special permit and of the building permit, if any.

6.3.6 Site Plan Required

As a standard procedure, any application for a special permit shall be accompanied by a Site Plan. Site Plan requirements should be related to the location and nature of the proposed use. Technical requirements for a Site Plan may be waived by the Special Permit Granting Authority for Special Permits involving Accessory Uses when the nature of the permit would not warrant preparation of a Site Plan.

The Special Permit Granting Authority may also require a construction drawing showing the size and height of proposed buildings, and other information that is reasonably necessary in order for an informed decision to be made by the approving Authority.

6.3.7 Decisions and Vote Requirements

Special Permit Granting Authority shall act within ninety (90) days following the date of public hearing. Failure to take final action upon an application for special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.

Special permit issued by a Special Permit Granting Authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five-member board and a unanimous vote of three-member board.

6.3.8 Expiration of Special Permit

A special permit shall lapse in two (2) years if a substantial use or construction has not begun under the permit by such date, except for a good cause.

6.4 Flood Prone Area and Wetland Regulations

6.4.1 Purpose of Regulations

- a) To provide that lands in the Town subject to seasonal or periodic flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof or of the public generally.
- b) To protect, preserve and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety of the residents of the Town.
- c) To assure the continuation of the natural flow pattern of the water courses within the Town in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundations.

6.4.2 Required Application

Any person desiring to establish any permitted use in a Flood-Prone or Wetland Area involving or requiring the erection of new or alteration or moving of existing structures; or dumping, filling, transfer, relocation or excavation of earth materials, or storage of materials or equipment, shall submit an application to the Board of Appeals for a special permit, describing in detail the proposed use of the property and the work to be performed, accompanied by plans showing:

- a) The location, boundaries and dimensions of the lot and existing and proposed structures, watercourses and drainage easements, fill, means of access, and sewage disposal facilities;
- b) Mean sea level elevation, with two (2) foot or less contour separation, of the existing and proposed developed areas, access ways, outdoor storage areas, and proposed surface of cellar and first floor of structures.
- c) Engineering and hydrological data which may be required by the Board for determination that the proposed use will not endanger health or safety of occupants or the general public.

6.4.3 Restrictions and Conditions

The Board may issue a special permit with such conditions as it deems necessary in the interests of the public health, safety and welfare. Without limiting the generality of the foregoing, the Board shall insure:

- a) That the proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural storage, or increase storm water runoff so that water levels on other land are substantially raised, or danger from flooding increased;
- b) That safe vehicular and pedestrian movement to, over and from the premises is provided in the event of flooding;
- c) That the proposed methods of drainage and sewage disposal are approved by the Board of Health, and will not cause pollution or otherwise endanger health in the event of flooding;
- d) Granting of a special permit by the Board of Appeals under this Section does not indicate in any way compliance with the provisions of the Wetlands Protection Act, Chapter 131, Section 40, of the General Laws.

6.5 Stream and Pond Protection

The following minimum-distance setback requirements shall apply to any new construction, installation or development as described herein:

- a) New construction activities within 200 feet of perennial rivers and streams, as identified on the most recent USGS topographic map, must comply with applicable sections of the State Wetlands Protections Act, Section 40 of Chapter 131 of the General Laws, and the Massachusetts Wetlands Regulations, specifically 310 CMR Section 10.58. These activities are also subject to applicable sections of the Richmond Wetland Bylaw, Chapter 10 of the Town Bylaws, and regulations promulgated for the lawful administration of those sections.
- b) No on-lot subsurface sewage-disposal system as septic tank or cesspool or leaching field, or a drainage system for wastewater from showers, sinks, etc., shall be installed or constructed within 150 feet of the high-water shoreline of Richmond Pond, the brooks and streams shown on the Zoning Map, or any other body of water, man-made or otherwise, which is two acres or more in area. In the case of a lot duly recorded prior to the effective date of this By-Law, the Board of Health may authorize construction or installation of such disposal system at a reduced distance but not below the

minimum set in the State Environmental Code, Title 5, if the Board determines that, because of the size or shape of the lot, compliance with requirements of this section would cause practical difficulty and that the proposed disposal system would provide adequate protection to water quality in the aforementioned water bodies.

c) Unless otherwise provided for above:

no dwelling, parking area for more than five cars, or impervious-surfaced recreational area greater than 300 square(r) feet shall be constructed within 75 feet of the high-water shoreline of natural or man-made water bodies described herein under item "b" above, except under a special permit from the Board of Selectmen, if the Board finds that compliance with requirements of this section would cause practical difficulty or, where due to length of undeveloped shoreline on the lot or topographic features, a smaller setback would provide adequate protection to the water quality in such water bodies.

Other requirements may also apply per the State Wetlands Protections Act and Regulations, other State or Federal laws, or the Richmond Wetland Bylaw, Chapter 10 of the Town Bylaws, and regulations promulgated for the administration of that Bylaw.

6.6 Off-Street Parking and Loading

An off-street parking area in accordance with a Site Plan approved by the Board of Selectmen shall be provided for any public use hereafter established or expanded. The parking area shall be adequate in size for the maximum use of the proposed facility; shall be suitably surfaced, and shall be attractively screened from any abutting residential use or district. The term public in this section shall include any use by a business, professional or private organization.

6.7 Driveways/Access Roads

6.7.1 Driveways With a Maximum Grade of Ten (10) Percent or Less

a) A driveway permit shall be issued by the Road Superintendent, as required by Town By-Law, before construction of a driveway can begin.

b) Entrances on state highways are not regulated by this By-Law. See Massachusetts Highway Division of the Department of Transportation (Ref. M.G.L. c. 81, s. 21. General Laws Chapter 81, Section 21, entitled, "Excavations or driveway openings on state highways; conditions; enforcement") for standards and regulations.

c) No driveway shall be approved at an intersection because of potential safety hazards.

6.7.2 Any Driveway With a Maximum Grade of More Than Ten Percent.

- a) All the requirements of Section 6.7.1, if applicable, shall be satisfied.
- b) The design of any driveway shall, in the opinion of the Planning Board, assure adequate safety for emergency vehicles including fire and police vehicles.
- c) All driveways with a maximum grade of more than ten percent shall meet the following design requirements:
 1. Driveways shall be located to the best advantage with regard to alignments with the way, profile, sight distance conditions and the like. In no instance shall the driveway intersect the way at less than a sixty (60) degree angle.
 2. Culverts taking the place of roadside ditches shall have a diameter of not less than fifteen (15) inches. A larger diameter may be required. All culverts installed under any driveway shall become the property owner's responsibility for cleaning, maintenance, and replacement when needed.
 3. The elevation of driveways at the point of entry into the public right of way should be not more than the elevation of the shoulder of the road.
 4. Driveways should be so constructed that water from the driveway shall not drain onto the crown of the road.
 5. In no instance shall the edge of the driveway entering onto the road conflict with the flow of surface water runoff.
 6. Individual driveways should not be less than eight (8) feet nor more than sixteen (16) feet in width within the town right of way. Any curb at the entrance shall be rounded off with a radius of three (3) feet.
 7. Wherever possible, driveways should be pitched downward from the roadway. However, where topography prevents the driveway from being pitched downward in its entirety, the driveway must be constructed on a down-grade from the road surface to the sideline of the town right of way with a pitch of at least one quarter (1/4) inch per foot. From the sideline the driveway may be pitched toward the roadway; however, in no instance shall a driveway have a pitch toward the roadway of greater than one (1) inch per foot, unless adequate provisions have been made and approved by the Road

Superintendent for the diversion of driveway surface runoff away from the roadway. The Road Superintendent may require methods of diversions for driveways having a pitch of less than one (1) inch per foot if the proposed driveway construction will result in an excess accumulation of surface water in the way.

8. All work shall be inspected during and after construction by the Road Superintendent. The Planning Board may halt any work not done in accordance with this By-Law and the approved plan.

d) The Planning Board may consult the Road Superintendent for advice on any part of Section 6.7.2.

6.7.3 Common Driveways Serving Up To a Maximum of Three Lots

a) All the requirements of Section 6.7.1, if applicable, shall be satisfied.

b) Common driveways can never be used to satisfy zoning frontage requirements. Each lot served shall have frontage on ways which serve to satisfy frontage requirements under this By-Law.

c) Common driveways must observe a 25 foot setback from the sideline which the lot of origin shares with a lot not served by the common driveway.

d) No common driveway shall be located within 100 feet of an intersection of public ways.

e) The design of any driveway shall, in the opinion of the Planning Board, assure adequate safety for emergency vehicles including fire and police vehicles.

f) All common driveways shall meet the following design requirements:

1. Driveways shall be located to the best advantage with regard to alignments with the way, profile, sight distance conditions and the like. In no instance shall the driveway intersect the way at less than a sixty (60) degree angle.

2. Culverts taking the place of roadside ditches shall have a diameter of not less than fifteen (15) inches. A larger diameter may be required. All culverts installed under any driveway shall become the property owner's responsibility for cleaning, maintenance, and replacement when needed.

3. The elevation of driveways at the point of entry into the public right of way should be not more than the elevation of the shoulder of the road.

4. Driveways should be so constructed that water from the driveway shall not drain onto the crown of the road.

5. In no instance shall the edge of the driveway entering onto the road conflict with the flow of surface water runoff.

6. Individual driveways should not be less than eight (8) feet nor

more than sixteen (16) feet in width within the town right of way. Any curb at the entrance shall be rounded off with a radius of three (3) feet.

7. Wherever possible, driveways should be pitched downward from the roadway. However, where topography prevents the driveway from being pitched downward in its entirety, the driveway must be constructed on a down grade from the road surface to the sideline of the town right of way with a pitch of at least one quarter (1/4) inch per foot. From the sideline the driveway may be pitched toward the roadway; however, in no instance shall a driveway have a pitch toward the roadway of greater than one (1) inch per foot, unless adequate provisions have been made and approved by the Road Superintendent for the diversion of driveway surface runoff away from the roadway. The Road Superintendent may require methods of diversions for driveways having a pitch of less than one (1) inch per foot if the proposed driveway construction will result in an excess accumulation of surface water in the way.

8. All work shall be inspected during and after construction by the Road Superintendent. The Planning Board may halt any work not done in accordance with this By-Law and the approved plan.

g) In addition to the granting of a special permit, the Planning Board shall endorse its approval on a plan of land showing the location of the common driveway, which plan shall be recorded in the Registry of Deeds.

h) A covenant shall be entered into between the owner or developer and the Town in a form acceptable to the Planning Board of the Town of Richmond prohibiting the sale of lots and erection of buildings except for lots approved and/or buildings erected prior to the adoption of this By-Law, until such time as the common driveway has been constructed in accordance with the approved plan.

i) The application for a common driveway must be accompanied by a plan for maintenance of said driveway.

j) The Planning Board may consult the Road Superintendent for advice on any part of Section 6.7.3.

Section 6.8 deleted

6.9 Conversion of One Family Dwellings for Use as Two Family Dwellings.

This section deleted October 8, 2014

6.10 Review of a Site Plan for Applicable By-Right Uses

6.10.1 Procedures.

An application for a building permit for new construction for a new use permitted by right but set forth in the **SECTION 4.8 TABLE OF USE REGULATIONS** with the symbol "YES+" shall be accompanied by a Site Plan approved by the Planning Board. Applicants for Site Plan approval shall submit six (6) copies of the Site Plan to the Planning Board for review. The Planning Board shall, as soon as feasible but within ten (10) days thereafter, distribute copies of the Site Plan to the Board of Health, Road Superintendent, Board of Selectmen, Building Inspector, Zoning Enforcement Officer, and the Conservation Commission for their advisory review and comments.

The Planning Board shall review and act upon the Site Plan with all deliberate speed, with such conditions as may be deemed appropriate, within thirty (30) days of its receipt, and notify the applicant of approval at the earliest date possible. The decision of the Planning Board shall be made by a majority of those present and shall be in writing. For uses covered under this section, no building permit shall be issued by the Building Inspector without the written approval of the Site Plan by the Planning Board, or unless 30 days lapse from the date of the submittal of the Site Plan without action by the Planning Board.

6.10.2 Waiver of Technical Compliance.

The Planning Board may, upon written request of the applicant, waive any of the technical requirements of this Section when the project involves relatively simple development plans.

6.10.4 Approval Criteria.

Site Plan approval shall be granted upon determination by the Planning Board that the following conditions have been satisfied:

1. Any new building construction shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage.
2. New building construction shall be designed after considering the qualities of the specific location, the proposed land use, the building placement, grading, egress points, and other aspects of the development, so as to:
 - a) Minimize the volume of cut and fill, the number of removed large trees, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
 - b) Minimize obstruction of scenic views from publicly accessible

- locations;
- c) Ensure healthful provision of water and septic systems, and adequate and safe methods for access and egress.
- d) Ensure compliance with all provisions of this Zoning By- Law.

6.10.5 Lapse.

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

SECTION 7: ZONING BOARD OF APPEALS

7.1 Membership and Authority

There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) associate members to be appointed by the Board of Selectmen as provided in Section 12, Chapter 40A of the General Laws. The Board shall act within its statutory powers as provided in Section 14, Ch. 40A (G.L.) and on matters within its jurisdiction under this By-Law in a manner prescribed in Section 15, Ch 40A (G.L.). The Zoning Board of Appeals, hereinafter referred to as "the Board" or "the Board of Appeals", shall serve also as the Board of Appeals under the Subdivision Control Law as provided in Chapter 41, Section 81-Z of the General Laws.

7.2 Statutory Powers of the Zoning Board of Appeals

7.2.1 Appeals

The Board is authorized to hear and decide an appeal, as provided in Sec. 8, Ch. 40A (G.L.), taken by any person aggrieved by reason of his (her) inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A (G.L.), by the Berkshire Regional Planning Commission, or by any person including an officer or board of the Town or of an abutting town, aggrieved by an order or decision of the Building Inspector, or another administrative official, in violation of any provision of Chapter 40A (G.L.) or of this By-Law. Any such appeal must be taken within thirty (30) days from the date of the order or decision which is being appealed, by filing a notice of appeal with the Town Clerk, as provided in Section 15, Ch. 40A (G.L.).

7.2.2 Variances

The Board may authorize upon appeal or upon petition with respect to a particular land or structure a variance from the terms of this By-Law where the Board specifically finds that:

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

7.2.3 Use Variance

The Board may authorize a use or activity not otherwise permitted in the district in which the land or structure is located subject to the provisions of Section 7.2.2 herein.

7.2.4 Expiration of Variance

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance they shall lapse unless a prior extension not exceeding six months has been granted; otherwise, said rights may be re-established only after notice and a new hearing as provided in Section 7.6 of this By-Law.

7.3 Special Permits

The Board of Appeals may hear and decide on applications for special permits upon which the Board of Appeals is specifically authorized to act under this By-Law in accordance with all the applicable provisions of Section 6.3 herein.

7.4 Conditions, Safeguards and Limitations

The Board of Appeals may impose conditions, safeguards or limitations both of time and use, including the continued existence of any particular structures by excluding any condition, safeguards or limitations based upon the continued ownership of the land or structure in question by the same person.

7.5 Appeals, Applications and Petitions to the Board of Appeals

Any appeal, application or petition to the Board of Appeals must be filed with the Town Clerk who shall forthwith transmit a copy thereof to the Board of Appeals.

7.6 Required Public Hearing

The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it by the Town Clerk within sixty-five (65) days from the date of transmittal after having published, posted and sent a notice of such hearing to parties in interest as provided in Sec. 11, Ch. 40A (G.L.), and after having notified the town's Planning Board and the planning boards of adjacent cities and towns which may forward recommendations with respect to said matter for consideration of the Board of Appeals as provided in Section 15, Chapter 40A (G.L.).

7.7 Review by Other Boards and Agencies

Within ten (10) days after receipt of an appeal, application or petition the Board shall transmit, for review, copies thereof to the Board of Health, the Planning Board, the Board of Selectmen, the Conservation Commission and any other Town agency at the discretion of the Zoning Board of Appeals. All boards or agencies to which such matters are referred for review shall make, in writing, to the Zoning Board of Appeals such recommendations as they deem appropriate. Failure of a board or agency to make such recommendations within thirty-five (35) days of receipt of the matter for review shall be deemed lack of opposition thereof.

7.8 Decisions by the Board of Appeals

The decision of the Board of Appeals shall be made pursuant to the schedule set forth in G.L. c. 40A. Except in regards to special permits, failure by the Board to act within 100 days, or extended time, if applicable, after the date of the filing of an appeal, application or petition with the Town Clerk, shall be deemed to be the grant of the relief, application or petition sought.

SECTION 8: ADMINISTRATION AND ENFORCEMENT

8.1 This By-Law shall be administered by the Board of Selectmen. A Zoning Enforcement Officer (ZEO) (who may also be the Building Inspector) shall be appointed by the Board of Selectmen and shall serve at their pleasure and under their authority and supervision. Enforcement of this By-Law is vested in the ZEO.

8.1.1 No permit shall be issued by the Inspector of Buildings until the Zoning Enforcement Officer has issued a Zoning Permit certifying the application for a building permit is in compliance with this By-Law and any other applicable Town By-Laws and regulations. If the Zoning Officer does not respond within 14 days from the date of the application for a Zoning Permit, it shall be deemed approved. The application for a Building Permit must also be in compliance with the State Sanitary Code and the Board of Health

Regulations, the Planning Board's Subdivision Control Regulations and the Wetlands Protection Act, if applicable.

8.1.2 No permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this By-Law.

8.1.3 Any home occupation or other permitted accessory use established hereafter under this By-Law, involving on-premises sale of articles or services, shall require a Certificate of Occupancy from the Inspector of Buildings. Such certificate shall be issued to any applicant provided the proposed home occupation or accessory use is in compliance with the provisions of this By-Law and with all applicable statutes and regulations.

8.2 Construction and Use to be as Provided in Permits

8.2.1 Special permits or building permits issued on the basis of plans and applications approved by the Board of Selectmen, Board of Health, Planning Board, Inspector of Buildings or the Zoning Board of Appeals authorize only the use, arrangement and construction as set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this By-Law and punishable as provided herein.

8.2.2 Construction or operation under a building or special permit shall conform to any subsequent amendment of this By-Law unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

8.3 Violation The purpose of this section is to define the process for enforcing the zoning By-Law as well as the process for the disposition of any violation which may occur.

8.3.1 Scope: No action, suit or proceeding shall be maintained in any court, nor any administrative or other action taken to recover a fine or damages or to compel the removal, alteration, or relocation of any structure or part of a structure or alteration of a structure by reason of any violation of any zoning by-law or ordinance except in accordance with the provisions of this section and General Laws of Massachusetts - Chapter 40A Zoning, and section 21D, non-criminal disposition

8.3.2 Enforcement: The Zoning Enforcement Officer (ZEO) or Inspector of Buildings is responsible for the enforcement, administration and interpretation of the Zoning Ordinances. If the ZEO or Inspector of

Buildings is informed or has reason to believe that any provision of this By-Law is being violated, he/she shall make or cause to be made, an investigation of the facts and inspect the property where such violation may exist. If upon such investigation and inspection he/she finds evidence of such violation, he/she 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 ZEO or Inspector of Buildings deems reasonable. Such notice and demand shall be given by certified mail and return receipt, 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. If after such notice and demand the violation has not been abated within the time specified therein, the ZEO or Inspector of Buildings shall institute appropriate action or proceedings, as defined in Section 8.3.3 below, to prevent, correct, restrain, abate or penalize such violation of this By-Law

8.3.3 Disposition

8.3.3.1 Criminal Complaint

Whoever violates any provision of these by-laws may be penalized by indictment or on complaint brought in the district court. Except as otherwise provided by law and as the district court may see fit to impose, each violation, or offense, brought in this manner shall be fined not more than fifty dollars. Each day such violation continues shall constitute a separate offense.

8.3.3.2 Non-criminal Disposition

In addition to the procedures for enforcement as described above in section 8.3.3.1 provisions of this by-law may also be enforced, by the ZEO or Inspector of Buildings, by non-criminal disposition pursuant to the provisions of MGL chapter 40, section 21D and this By-Law.

Whoever violates any provision of these by-laws or fails to comply with any of its requirements shall be fined fifty dollars for each offense. Each day such violation continues shall constitute a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action, as it deems necessary to prevent or remedy any violations.

8.3.4 Response to Request for Enforcement:

If the Zoning Enforcement Officer and/or the Inspector of Buildings is requested in writing to enforce this By-Law against any person allegedly in violation of it and the Zoning Enforcement Officer and/or Inspector of Buildings declines to act, he shall notify, in writing, the party requesting such enforcement, of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

SECTION 9: AMENDMENT AND VALIDITY

9.1 Amendment

9.1.1 This By-Law may be amended from time to time in an annual or special town meeting in accordance with Chapter 40A, Section 5, of the General Laws.

9.1.2 No zoning By-Law or amendment thereto shall be adopted until after the Planning Board has held a public hearing thereon, for which a notice has been published, posted and mailed as provided in Sec, 5, Ch. 40A (G.L.), and has made a report with recommendations to the town meeting or after 21 days shall have elapsed after such hearing without submission of such report.

9.2 Validity

9.2.1 In their interpretation and application, the provisions of this By-Law shall be held to be minimum requirements. Wherever the requirements of this By-Law are at variance with the requirements of any other lawfully adopted regulations or By-Laws, or with deed restrictions or covenants, the most restrictive or the one imposing the higher standards shall govern.

9.2.2 This By-Law, or any amendment thereto, shall take effect on the date on which such adoption or amendment is voted by the town meeting.

9.2.3 Upon the effective date of this By-Law, it shall supersede the Protective By-Law, Chapter IX of the By-Laws of the Town of Richmond, and all amendments to it previously in effect.

9.2.4 The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

SECTION 10: PROVISIONS FOR PERSONAL WIRELESS SERVICE FACILITIES AND TOWERS

10.1 Purposes

The purposes of this Personal Wireless Service Facilities and Towers By-Law section are to:

- A. Preserve the character and appearance of the Town while simultaneously allowing Adequate Personal Wireless Services to be developed.
- B. Protect the scenic, historic, environmental, and natural or man-made resources of the community.
- C. Provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of Personal Wireless Service Facilities and Towers.

- D. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify Personal Wireless Service Facilities and Towers.
- E. Preserve property values.
- F. Locate Towers so that they do not have negative impacts, such as, but not limited to, visual blight, attractive nuisance, noise and falling objects, on the general safety, welfare and quality of life of the community.
- G. Require owners of Personal Wireless Service Facilities and Towers to configure them so as to minimize and mitigate the adverse visual impact of the Facilities and Towers.
- H. Require the clustering, sharing and camouflaging of Personal Wireless Service Facilities and Towers.

10.2 Consistency with Federal Law

These regulations are intended to be consistent with The Telecommunications Act of 1996 in that:

- a) They do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services;
- b) They are not intended to be used to discriminate unreasonably among providers of functionally equivalent Services;
- c) They do not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions.

10.3 Definitions

ACT - The Telecommunications Act of 1996.

ADEQUATE COVERAGE - Coverage is considered to be "adequate" within that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal for at least 75% of the covered area is greater than -95 dbm. It is acceptable to have holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

ADEQUATE CAPACITY - Capacity is considered to be "adequate" if the Grade of Service is p.05 or better for a worst case day in a preceding month, based on the Erlang B Tables, prior to the date of Application; or as measured using direct traffic measurement of the Personal Wireless Service Facility in question for

existing Facilities requesting Major Modification, and where the call blocking is due to frequency contention at the antenna(s).

ANTENNA - A device which is attached to a Tower, or other structure, for transmitting and receiving electromagnetic waves.

BASE STATION - The primary sending and receiving site in a wireless telecommunications network.

CHANNEL - The segment of the radiation spectrum from an Antenna which carries one signal. An Antenna may radiate on many Channels simultaneously.

COMMUNICATION EQUIPMENT SHELTER - A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service transmissions.

DBM - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

EMF - Electromagnetic Frequency Radiation

FACILITY SITE - The location or potential site within a Wireless Telecommunications Overlay District leased by one or more Personal Wireless Service Providers and upon which one or more Personal Wireless Service Facility(s) and required landscaping are located.

FCC - Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

FCC 96-326 - A Report and Order which sets new national standards for emissions of Radio-Frequency emissions from FCC-regulated transmitters. This Report And Order is now contained within Title 47 Regulations, Section 1, §1.1307.

GRADE OF SERVICE - A measure of the percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05 - which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

HERTZ - One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

MAJOR MODIFICATION OF AN EXISTING FACILITY - Any change, or proposed change in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing Special Permit. Also any increase, or proposed increase in dimensions of an existing and

permitted Tower or other structure designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment.

MAJOR MODIFICATION OF AN EXISTING REPEATER - Any removal of or change in location of any Repeater(s) from the Repeater Site(s) for which a Special Permit has been received.

MONITORING - The measurement, by the use of instruments in the field, of the radiation from a Site as a whole, or from individual Personal Wireless Service Facilities, Towers, Antennas or Repeaters.

MONITORING PROTOCOL - The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new Personal Wireless Service Facilities and Repeaters upon adoption of this By-Law. The SPGA may, as the technology changes, require, by written regulation, the use of other testing protocols. A copy of the Monitoring Protocol shall be on file with the Board of Selectmen and the Town Clerk.

MONOPOLE - A single self-supporting vertical pole with below grade foundations.

PERSONAL WIRELESS SERVICES - (see Section 2 of this By-Law)

PERSONAL WIRELESS SERVICE FACILITY - (see Section 2 of this By-Law)

PERSONAL WIRELESS SERVICE FACILITY/TOWER SPECIAL PERMIT (PWSF/TSP)
- The Special Permit required to be obtained in order to install any Tower or Personal Wireless Service Facility or for any Major Modification Of An Existing Facility within the Wireless Telecommunications Overlay District, or Major Modification of an Existing Repeater elsewhere within the Town of Richmond.

PERSONAL WIRELESS SERVICE PROVIDER - An entity, licensed by the FCC to provide Personal Wireless Services to individuals or institutions.

RADIATION PROPAGATION STUDIES OR RADIAL PLOTS - Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or structure. The height above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the Personal Wireless Service Facility proposed for that Site.

REPEATER - A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) - The Planning Board shall be the SPGA for Personal Wireless Service Facilities and Towers.

TELEPORT - A multi-user commercial facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmission of data.

TOWER - A lattice structure or framework, or Monopole that is designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment.

WIRELESS TELECOMMUNICATIONS OVERLAY DISTRICT (WTOD) - Specific area(s), determined by engineering analysis to contain sites where Adequate Service may be provided to the Town of Richmond, which, at the same time, have the potential of reducing or mitigating negative impacts in accordance with Section 10.1 of this By-Law. The Overlay District is defined in Section 3.4 of the Zoning By-Law.

10.4 Exempted Wireless Telecommunications Uses

This By-Law specifically exempts the following wireless telecommunications facilities: police, fire, ambulance and other emergency dispatch; citizens band radio and personal wireless networking devices. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that (1) the tower is not used or licensed for any commercial purpose; and (2) the tower shall be removed upon loss or termination of said FCC license. No Personal Wireless Service Facility or Repeater shall be considered exempt from this By-Law for any reason whether or not said Facility or Repeater is proposed to share a Tower or other structure with such exempt uses.

10.5 Provision of Independent Consultants

- A. Upon submission of an Application for any Special Permit under this By-Law, the Applicant shall pay a review fee determined by the SPGA, in accordance with Chapter 593 of the Acts of 1989, consisting of reasonable costs to be incurred by the SPGA for the employment of independent consultants. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: a) telecommunications engineering, b) structural engineering, c) monitoring of electromagnetic fields, and, if determined necessary by the SPGA, d) other relevant fields of experience as determined by the SPGA.
- B. The SPGA shall select the Independent Consultant(s) after consultation with the Board of Selectmen, the Board of Health, and the Conservation Commission, each of which shall propose a list of qualified candidates.

10.6 Prohibition of Teleports

There shall be no Teleport(s) within the Town of Richmond.

10.7 Wireless Telecommunications Overlay Districts

A. Towers and Personal Wireless Service Facilities shall be located only within Wireless Telecommunications Overlay District(s) within the Town of Richmond. Repeaters may be located within these District(s), but are also allowed in the rest of the Town by Special Permit.

B. Access shall be provided to the Tower or Facility or Repeater Site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the SPGA and the Chiefs of all emergency services in the Town to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and on steep slopes.

10.8 Application Requirements:

No Personal Wireless Service Facility, Tower, or Repeater shall be erected, constructed, or installed or undergo Major Modification without first obtaining a Special Permit from the SPGA in accordance with the requirements set forth herein.

A. For Personal Wireless Service Facilities or Towers a Personal Wireless Service Facility Special Permit (henceforth PWSF/TSP) is required. Applicant must submit all information required in Section 10.8 (B) & (C): This Special Permit is required for any new Facility/Tower construction (or for Major Modification Of An Existing Facility); as well as for any Repeater(s) to be mounted on an existing, or newly permitted, Tower or structure (or for Major Modification Of An Existing Repeater).

B. Adequate Coverage, Adequate Capacity, and Justification of Need for PWSF/TSP:

1. Applicant shall provide written documentation of any Facility Site(s) in Richmond, and any sites in abutting towns located within eight miles of any boundary of the Town of Richmond, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and/or Adequate Capacity to the Town of Richmond. The documentation shall include, for each Facility Site listed;

a) the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),

- b) ground elevation above mean sea level at the Tower location,
- c) height of Tower or structure,
- d) type, manufacturer and model number of Antennas,
- e) Antenna gain,
- f) height of Antennas on Tower or structure,
- g) output frequency,
- h) number of channels,
- i) power input and
- j) maximum power output per channel.

Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain, height or power output shall be specified. Radial Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application.

2. Applicant shall demonstrate with written documentation that it has examined all existing Facility Sites located in Richmond and in any sites in abutting towns located within eight miles of any boundary of the Town of Richmond, in which Applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise to determine whether those existing Facility Sites can be used to provide Adequate Coverage and/or Adequate Capacity to the Town of Richmond. The documentation shall include, for each existing Facility Site examined,

- a) the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds),
- b) ground elevation above mean sea level at the Tower location,
- c) height of Tower or structure,
- d) type, manufacturer and model number of proposed Antennas,
- e) proposed Antenna gain,
- f) height of proposed Antennas on Tower or structure,
- g) proposed output frequency,
- h) proposed number of channels,
- i) proposed power input and
- j) proposed maximum power output per channel

Radial Plots from each of these existing Facility Sites, configured as documented above, shall be provided as part of the Application.

3. Applicant shall demonstrate with written documentation that it has analyzed the feasibility of Repeaters in conjunction with all existing Facility Sites listed in compliance with Section 10.8 (B) (1) & (2) (above) to provide Adequate Coverage and/or Adequate Capacity to the Town of Richmond. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.

C. Required Documentation for PWSF/TSP:

The Applicant shall include reports prepared by one or more professional engineers, which shall demonstrate that the Personal Wireless Service Facility and Tower comply with all applicable standards of the Federal and State governments. Specifically:

1. Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.
 - a) Locations of all Personal Wireless Service Facilities operated by the Applicant within the United States, to be used as a means for the SPGA to find and request references from other communities where the Applicant has located facilities.
2. Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health, 105 CMR 122.000: NON-IONIZING RADIATION LIMITS FOR: THE GENERAL PUBLIC FROM NON-OCCUPATIONAL EXPOSURE TO ELECTROMAGNETIC FIELDS, EMPLOYEES FROM OCCUPATIONAL EXPOSURE TO ELECTRO-MAGNETIC FIELDS, AND EXPOSURE FROM MICROWAVE OVENS or any revisions thereof as the Department of Public Health may, by written notice, create.
3. The exact legal name, address or principal place of business and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.
4. The name, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.
5. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Personal Wireless Service Facility and/or Tower shall be located, or of the owner(s) of the Tower or structure on which the proposed Personal Wireless Service Facility shall be located.
6. The documentation shall include, for each Facility Site listed, the exact Tower or Repeater location (in Longitude and Latitude, to degrees, minutes, seconds) and by street

address or Pole number (if applicable), ground elevation above mean sea level at the Tower or Repeater location and proposed height of Tower or structure.

7. Required Plans and engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. (Note: survey plans shall also be stamped and signed by a Professional Land Surveyor registered in Massachusetts.) Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below in 10.8 (C)(7)(a-d). Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the P.E. and other professionals who prepared the plan.
8. Applicant shall, as part of its application, provide the SPGA with the following plans and maps:
 - a. Proposed Site Plans:

Proposed Facility Site layout, grading and utilities at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing the entire vicinity within a 400' radius of the Tower site with topography drawn with a minimum of 2' (0.6 meter) contour interval. The Site Plan shall show existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, individual trees with diameters greater than 12" within a 200' radius from the base of the proposed Tower (labeled with their current heights). Show the boundary of any wetlands or floodplains or watercourses, and of any bodies of water within 200' from the Tower or any related facilities or access ways or appurtenances. The Site Plan must have been completed, on the ground, by a Professional Land Surveyor within two years prior to the application date.

 - i. Proposed Tower location and any appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of the Overlay District and setback distances to the base(s) of the Tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements.
 - ii. Indicate proposed spot elevations at the base of the proposed Tower and at the base of any guy wires, and the corners of all appurtenant structures.
 - iii. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.

- iv. Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
 - v. Any direct or indirect wetlands alteration proposed.
 - vi. Detailed plans for drainage of surface and/or sub-surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.
 - vii. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc; any exterior lighting or signs.
 - viii. Plans of proposed access driveway or roadway and parking area at the Facility Site. Include grading, drainage, traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.
- b. Proposed Tower and Appurtenances:
- i. Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
 - ii. Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing. Indicate proposed spot elevations at the base of the proposed Tower. Dimension the proposed height of tower above average grade at Tower Base. Indicate the maximum allowable structural height of the Tower after addition of any modular sections. Show all proposed antennas, including their location on the Tower.
 - iii. Details of typical Tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.
 - iv. Detail proposed exterior finish and camouflage of the Tower.
 - v. Indicate relative height of the Tower to the tops of surrounding trees as they presently exist.
 - vi. Illustration of the modular structure of the proposed Tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.
 - vii. A Structural Professional Engineer's written description of the proposed Tower structure and its capacity to support additional Antennas or other communications facilities at different heights and the ability of the Tower to be shortened if future communications facilities no longer require the original height.
 - viii. A description of Available Space on the tower, providing illustrations and examples of the type and number of Personal Wireless Service Facilities which could be mounted on the structure.

- c. Proposed Communications Equipment Shelter:
 - i. Floor Plans, elevations and cross sections at a scale of no smaller than 1/4" = 1' (1:48) of any proposed appurtenant structure.
 - ii. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
- d. Proposed Equipment Plan:
 - i. Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
 - ii. Number of Antennas and Repeaters (if any), as well as the exact locations of all Repeaters (if any) located on a map as well as by Degrees, minutes and seconds of Latitude and Longitude.
 - iii. Mounting locations on Tower or structure, including height above ground.
 - iv. Antenna type(s), manufacturer(s), model number(s).
 - v. For each Antenna, the Antenna gain and Antenna radiation pattern.
 - vi. Number of channels per Antenna, projected and maximum.
 - vii. Power input to the Antenna(s).
 - viii. Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.
 - ix. Output frequency of the Transmitter(s).
- e. Balloon Test:

Within 35 days of submitting an Application, Applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height and at the location of the proposed Tower. The dates, (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised, by the Applicant, at 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the Town of Richmond. The Applicant shall inform the SPGA and the Planning Board, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 9:00 am and 5:00 pm of the dates chosen.

10.9 General Requirements for PWSF/TSP(s):

- A. A Special Permit shall not be granted for a Tower to be built on speculation. If Applicant is not simultaneously installing a Personal Wireless Service Facility on the Tower, it shall provide a copy of its existing lease/contract with a Personal Wireless Service Provider. Said Provider shall provide all necessary data to comply with the terms of this By-Law, as a

part of Applicant's application for a F/TSP or the Special Permit shall not be granted.

- B. Applicant shall provide a written, irrevocable commitment valid for the duration of the existence of the Tower, to rent or lease Available Space for co-location on the Tower at fair-market prices and terms, without discrimination to other Personal Wireless Service Providers.
- C. Tower(s) shall minimize, to the extent feasible, adverse visual impacts on the environment. The SPGA may impose reasonable conditions to ensure this result, including, but not limited to, requiring the use of camouflage, painting, lighting standards and screening.
- D. There shall be no clearing at a distance in excess of 25 feet in radius from the base of the Tower except where the access drive is located.
- E. Fencing: The area around the Tower and Communication Equipment Shelter(s) shall be completely fenced for security within an area no greater than 25 feet in radius from the base of the tower, and to a height of six feet, and gated. Use of razor wire is not permitted.
- F. Signs: There shall be no signs, except the following. A sign no greater than two (2) square feet indicating the name of the Personal Wireless Service Facility's owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other warning signs may be posted on the fence. All signs shall conform to the sign requirements of this By-Law.
- G. Communication Equipment Shelters and Accessory Buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.
- H. New Towers shall be the lesser of (a) 105 feet (measured from ground level to the highest point on the Tower or attached equipment), (b) the minimum height determined by the independent consultant(s) to provide the applicant Adequate Coverage from the Personal Wireless Service Facility(s) proposed for use on the Tower.
- I. Towers shall be located at least one and one half times their maximum structural height away from and within the outer boundary of any Wireless Telecommunications Overlay District(s) and on Applicant's property.

- J. Tower Finish: The SPGA shall have the right to determine the type of construction of the Tower(s) (either monopole or lattice), as well as the type(s) of camouflage, painting, or finish. The SPGA may require Tower(s) to resemble or mimic a native coniferous species of tree to minimize their adverse visual impact.
- K. Tower(s) shall be placed to minimize visual impacts, as determined by the SPGA.
- L. All network interconnections to and from the telecommunications site and all power to the site shall, where feasible, be installed underground. At the initial construction of the access road to the site, if cable is to be laid underground, sufficient conduit shall be laid to accommodate the maximum possible number of Personal Wireless Service Providers licensed to provide services to the Town of Richmond and surrounding areas. The SPGA shall consult with the Applicant and the SPGA's independent consultant(s) to determine whether the installation of underground utilities is feasible.
- M. If primary coverage (greater than 50% of covered area) from proposed Personal Wireless Service Facility is outside Richmond, then the permit may be denied unless the Applicant demonstrates to the satisfaction of the SPGA that the Applicant is unable to locate legally within the Town which is primarily receiving service from the proposed Facility.
- N. Unless required by the Federal Aviation Administration, no night lighting of Towers, or the Personal Wireless Service Facility, is permitted, except for manually operated emergency lights for use only when operating personnel are on site.
- O. No Tower or Personal Wireless Service Facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR) is permitted.
- P. No Tower or Personal Wireless Service Facility with the exception of Repeaters shall be located within any of the following prohibited areas:
 - 1. Massachusetts or federally regulated wetland;
 - 2. A Massachusetts Certified Vernal Pool;
 - 3. The habitat of any State-listed Rare or Endangered Wildlife or Rare Plant;
 - 4. Within 100' horizontally from any Massachusetts regulated wetland;
 - 5. Within 200' horizontally of the Outer Riparian Zone of any river or perennial stream;

Tower construction shall also comply with Section 6.5 of this By-Law.

- Q. No Repeater shall be located closer than 50' to an existing Dwelling Unit, nor less than 25' above ground.
- R. The SPGA may require the use of screening, painting or camouflage to reduce the visual impacts of Repeaters.
- S. Repeaters shall be located so as to have the least possible impact on the views of the residents of the Town of Richmond.

10.10 Evaluation by Independent Consultants.

- A. Upon submission of a complete Application for any Special Permit(s) under this By-Law, the SPGA shall provide its Independent Consultant(s) with the full Application(s) for analysis and review.
- B. Applicants for any Special Permit(s) under this By-Law shall grant permission for the Town's Independent Consultant(s), to conduct any necessary site visit(s).

10.11 Approval Criteria:

- A. In acting on any Special Permit Application, the SPGA shall proceed in accordance with the procedures and timelines established for Special Permits in Section 6.3 of the By-Law.
- B. In addition to the findings required by the By-Law in Section 6.3.4, the SPGA shall, in consultation with the Independent Consultant(s), make all of the applicable findings before granting the Special Permit, as follows:
 - 1. That Applicant is proposing to locate its Personal Wireless Service Facility or Tower (other than Repeaters) within a Wireless Telecommunications Overlay District; and
 - 2. That Applicant is not able to use Existing Towers/Facility Sites in or around the Town of Richmond, either with or without the use of Repeaters, to provide Adequate Coverage and/or Adequate Capacity to the Town of Richmond; and
 - 3. That proposed Personal Wireless Service Facility/Tower or Repeater will not have an undue adverse impact on historic resources, scenic views, residential property values, natural or man-made resources; and
 - 4. That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Towers and Facilities; and
 - 5. That the proposal shall comply with FCC 96-326 and any and all other applicable FCC regulations, regarding emissions of

electromagnetic radiation and that the required Monitoring program is in place and shall be paid for by the Applicant.

- C. Any decision by the SPGA to grant or deny an Application for a Special Permit under this By-Law shall be in conformance with SEC. 332 [47 U.S.C. 332] (7) (B) (ii), (iii) of the Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

10.12 Monitoring and Evaluation of Compliance:

A. Pre-testing:

It shall be a condition of any Special Permit granted under this By-Law that:

After the granting of a Special Permit and before Applicant's Personal Wireless Service Facilities begin transmission, the applicant shall pay for an Independent Consultant, hired by the Town, to Monitor the background levels of EMF radiation, around the proposed Facility Site and/or any Repeater locations to be utilized for Applicant's Personal Wireless Service Facilities. The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Zoning Enforcement Officer, the Building Inspector and the Town Clerk, in order to determine the Tower and Facility's or Repeater's radio frequency emissions and their compliance with FCC regulations,

B: Initial Test:

The Applicant shall, after the granting of a Special Permit and within 30 days of the date that Applicant's Personal Wireless Service Facility(s) or Repeater(s) begin(s) transmission, pay for an Independent Consultant, chosen and hired by the Town, to Monitor the levels of EMF radiation, around the proposed Facility and/or Repeater Site(s). The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Zoning Enforcement Officer, the Building Inspector and the Town Clerk.

C. Ongoing Monitoring:

It shall be a condition of any Special Permit granted under this By-Law that, in order to determine ongoing compliance with FCC regulations, after transmission begins, the owner(s) of any Personal Wireless Service Facility(s) or Repeater(s) located on any Facility or Repeater Site shall pay for an Independent Consultant, chosen and hired by the Town, to conduct testing and Monitoring of EMF radiation emitted from said Site, and to report results of said Monitoring, as follows:

1. There shall be routine annual Monitoring of emissions by the Independent Consultant using actual field measurement of radiation, utilizing the Monitoring Protocol. This Monitoring shall measure levels of EMF radiation from the Facility Site's primary Antennas as well as from Repeater Site(s) (if any). A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Zoning Enforcement Officer, the Building Inspector and the Town Clerk.
2. Any Major Modification of Existing Facility, or the activation of any additional permitted channels, shall be cause for new Monitoring in accordance with Section 10.12 (D) & (E) (1) above.

D. Excessive Emissions:

Should the Monitoring of a Facility or Repeater Site reveal that the Site exceeds the FCC 96-326 standard, or any other applicable FCC standard, then the owner(s) of all Facilities utilizing that Site shall be so notified. The owner(s) shall submit to the SPGA and the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard and any and all other applicable FCC regulations within 10 business days of notification of non-compliance. That plan shall reduce emissions to the applicable FCC standard within 10 days of initial notification of non-compliance. Failure to accomplish this reduction of emissions within 15 business days of initial notification of non-compliance shall be a violation of the Special Permit and be subject to a cessation order and penalties and fines as specified in Section 8.3.2 of the By-Law. Such fines shall be payable by the owner(s) of the Personal Wireless Service Facilities with Antennas on the Facility Site, until compliance is achieved.

E. Structural Inspection:

It shall be a condition of the Special Permit that, Tower owner(s) shall pay for an Independent Consultant (a licensed professional structural engineer), chosen and hired by the Town, to conduct inspections of the Tower's structural integrity and safety. Towers shall be inspected every five years. A report of the inspection results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Zoning Enforcement Officer, the Building Inspector and the Town Clerk. Any Major Modification of Existing Facility which includes changes to Tower dimensions or antenna numbers or type shall require new structural inspection.

F. Unsafe Structure:

Should the inspection of any Tower reveal any structural defect(s) which, in the opinion of the Independent Consultant render(s) that Tower unsafe, the following actions must be

taken. Within 10 business days of notification of unsafe structure, the owner(s) of the Tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of structural defect(s) within 10 business days of initial notification shall be a violation of the Special Permit and subject to penalties and fines as specified in Section 8.3.2 of the By-Law. Such fines shall be payable by the owner(s) of the Tower, until compliance is achieved.

10.13 Removal Requirements:

Any Personal Wireless Service Facility or Repeater which ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the Personal Wireless Service Facility or Repeater and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the Facility or Repeater Site shall be remediated such that all Personal Wireless Service Facility or Repeater improvements which have ceased to operate are removed. If all Facilities on a Tower have ceased to operate, the Tower shall also be removed, and the Facility or Repeater Site, including any access road(s) built by the Applicant which lead to that Facility or Repeater Site from the main access road, shall be revegetated. If all Facility or Repeater Sites have ceased to operate, the owner of the last Personal Wireless Service Facility or Repeater to leave the site shall revegetated the access road in its entirety. Existing trees shall only be removed with the written permission of the SPGA, and only if the SPGA determines such removal of trees to be necessary to complete the required removal of Personal Wireless Service Facility(s) or Repeater(s).

10.14 Performance Guarantees:

A. Applicant shall, as a condition of the Special Permit:

1. Post an initial cash bond in a reasonable amount determined and approved by the SPGA. This bond shall be in force to cover the costs of the remediation of any damage to the landscape which occurs during the clearing of the Site; and to cover the cost of the removal of the Tower or Facility or Repeater from the Site, and remediation of the landscape, should the Facility or Repeater cease to operate.
2. Post a maintenance bond for the access road(s), site(s) and tower(s) in amounts approved by the SPGA.

10.15 Fees and Insurance:

A. Towers, Personal Wireless Service Facilities and Repeaters shall be insured by the owner(s) against damage to persons or property. The owner(s) shall provide a Certificate of Insurance

to the Selectmen's Office on an annual basis. The Town of Richmond shall be an additional named insured.

- B. A schedule of fees for Personal Wireless Service Facility, Tower and Repeater permitting and renewal, any Monitoring of emissions and inspection of structures, and any other fees shall be established by the SPGA pursuant to M.G.L. c. 40A, §9. This schedule may be amended from time to time.

10.16 Permit Expiration and Renewal:

- A. In accordance with Section 6.3.8 of the By-Law, any Special Permit granted under this section shall lapse if the Applicant fails to begin construction in a substantial fashion on the Facility or Tower or Repeater within a two year period of said grant.
- B. All Special Permits granted under this section shall be granted for five years with the SPGA retaining the option, at their discretion, to renew said Special Permit for additional five year period(s), if the SPGA determines that the Tower and/or Facility and/or Repeater so permitted shall have been and shall remain in compliance with all terms and conditions of this By-Law and of any conditions placed upon the original Special Permit at the time of granting.

10.17 Severability Clause:

In accordance with Section 9.2.4 of the By-Law, the invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

Section 11: Large-Scale Ground-Mounted Solar Photovoltaic Installations

11.1 Purpose

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair and removal of large-scale ground-mounted solar photovoltaic installations.

11.2 Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed for construction after the effective date of this section. This section also pertains to

physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

11.3 Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to a public hearing and site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings or other boards designated by local ordinance or bylaw.

Building Inspector: The inspector of buildings, building commissioner, or local building inspector.

Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as zoning bylaws, including those governing large-scale ground-mounted solar photovoltaic installations.

Designated Locations: The locations designated by the Planning Board, in accordance with Massachusetts General Laws Chapter 40A, section 5, where large-scale ground - mounted solar photovoltaic installations may be sited as-of right. Said locations are designated in Section 4.3.5 of this bylaw and shown on a Zoning Map of the Town of Richmond, pursuant to Massachusetts General Laws Chapter 40A Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Richmond Town Clerk.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Site Plan Review: review by the Planning Board to determine conformance with local zoning ordinances or bylaws.

Site Plan Review Authority: For purposes of this bylaw, Site Plan Review Authority is the Planning Board.

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

Zoning Enforcement Authority: The Zoning Enforcement Officer is charged with enforcing the zoning bylaws.

11.4 General Requirements for all Large Scale Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

11.4.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

11.4.2 Building Permit and Building Inspection

No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

11.4.3 Fees

The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the applicable building permit fee in force at the time of the application.

11.5 Site Plan Review

Large-scale ground-mounted solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.

11.5.1 Procedures

An application for a building permit for construction of a large-scale ground-mounted solar photovoltaic installation shall be accompanied by a Site Plan approved by the Planning Board.

Applicants for Site Plan approval shall submit six (6) copies of the Site Plan to the Planning Board for review. The Planning Board shall, as soon as feasible, but within ten (10) days thereafter, distribute copies of the Site Plan to the Board of Health, Road Superintendent, Board of Selectmen, Building Inspector, Zoning Enforcement Officer, and the Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the Site Plan with all deliberate speed, with such conditions as may be deemed appropriate, within thirty (30) days of its receipt, and notify the applicant of approval at the earliest date possible. The decision of the Planning Board shall be made by a majority of those present and shall be in

writing. For uses covered under this section, no building permit shall be issued by the Building Inspector without the written approval of the Site Plan by the Planning Board, or unless 30 days lapse from the date of the submittal of the Site Plan without action by the Planning Board.

11.5.2 Required Hearing and Notice

Site plan approval may be issued only following a public hearing held within sixty-five (65) days after filing of an application with the Planning Board. Notice of public hearing shall be given by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to "Parties in Interest" which include the Planning Board, and the petitioner, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred feet of the property lines, all as they appear on the most recent applicable tax list.

11.5.3 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

11.5.4 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- (a) A site plan showing:
 - i. Property lines and physical features, including roads, for the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
 - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - vi. Name, address, and contact information for proposed system installer;

- vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- viii. The name, contact information and signature of any agents representing the project proponent; and
- (b) Documentation of actual or prospective access and control of the project site (see also Section 3.5);
- (c) An operation and maintenance plan (see also Section 3.6);
- (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (e) Proof of liability insurance; and
- (f) Description of financial surety that satisfies Section 3.12.3.

The Planning Board may waive documentary requirements as it deems appropriate.

11.6 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

11.7 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

11.8 Utility Notification

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

11.9 Dimension and Density Requirements

11.9.1 Setbacks

For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- (a) Front yard: The front yard depth shall be at least 50 feet.
- (b) Side yard. Each side yard shall have a depth at least 50 feet.
- (c) Rear yard. The rear yard depth shall be at least 50 feet.

11.9.2 Appurtenant Structures

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impact.

11.10 Design Standards

11.10.1 Lighting

Lighting of large-scale ground-mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

11.10.2 Signage

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section 6.2 of this bylaw. A sign consistent with Section 6.2 shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Large-scale ground-mounted solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

11.10.3 Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the large-scale ground-mounted solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

11.11 Safety and Environmental Standards

11.11.1 Emergency Services

The large-scale ground-mounted solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Richmond Fire Chief. Upon request the owner or operator shall cooperate with local

emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

11.11.2 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

11.12 Monitoring and Maintenance

11.12.1 Solar Photovoltaic Installation Conditions

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Richmond Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

11.12.2 Modifications

All material modifications to a large-scale ground-mounted solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

11.13 Abandonment or Decommissioning

11.13.1 Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with Section 11.13 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning board may allow the owner or operator to leave landscaping or designated below-grade

foundations in order to minimize erosion and disruption to vegetation.

11.13.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

11.14 Financial Surety

Proponents of large-scale ground-mounted solar photovoltaic projects shall 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 installation and remediation of the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Section 12: MEDICAL MARIJUANA TREATMENT CENTERS AND MARIJUANA ESTABLISHMENTS

12.1 Purpose

To provide for the placement and regulation of Medical Marijuana Treatment Centers in suitable locations in Richmond in accordance with Chapter 369 of the Acts of 2012 (Humanitarian Medical Use of Marijuana Act), G.L. c.94I (Medical Use Of Marijuana), and in compliance with regulations 105 CMR 725.000, et seq. This bylaw also provides for the placement and regulation of other Marijuana Establishments under G.L. c.94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed) and in compliance with the regulations promulgated by the Massachusetts Cannabis Control Commission (CCC) found at 935 CMR 500.00 et seq.

12.2 Definitions

MEDICAL MARIJUANA TREATMENT CENTER: An not-for-profit entity registered under 105 CMR 725.100, also known as a registered marijuana dispensary (RMD), that meets the definition set forth in 935 CMR 500 (Medical Marijuana Treatment Center).

MARIJUANA ESTABLISHMENT: A marijuana cultivator, craft marijuana cultivator cooperative, independent testing laboratory, marijuana transporter, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business registered, approved, and regulated in accordance with the regulations of the CCC.

MARIJUANA CULTIVATOR: An entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.

MARIJUANA RETAILER: An entity licensed to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

CRAFT MARIJUANA CULTIVATOR COOPERATIVE: A Marijuana Cultivator comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments but not to consumers.

FULLY ENCLOSED AND SECURE STRUCTURE: A space within a building, greenhouse or other legal structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors.

INDOOR CULTIVATION: Any cultivation of marijuana within the Town of Richmond that is within a Fully Enclosed and Secure Structure as defined in this section.

OUTDOOR CULTIVATION: Any cultivation of marijuana within the Town of Richmond that is not within a Fully Enclosed and Secure Structure.

All additional terms used, but not defined in this Bylaw, shall have the same meaning as defined in the applicable governing statutes and regulations, including said chapters 94I and 94G of the General Laws and the regulations of the CCC.

12.3 Site Plan Review Required

All proposed Medical Marijuana Treatment Centers, and Marijuana Establishments shall be subject to Planning Board Site Plan Review.

12.4 Location Requirements

Medical Marijuana Treatment Centers and Marijuana Establishments may be located in accordance with Section 4.8 A Permitted Principal Uses, Table of Use Regulations, except as follows:

1. A Medical Marijuana Treatment Centers or Marijuana Establishment shall not be sited within a radius of five hundred (500) feet of a school, daycare center, or any facility in which children commonly congregate.
2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed Medical Marijuana Treatment Center or Marijuana Establishment to the nearest point of the property line of the protected school, public library or playground.

12.5 Physical Requirements

In addition to meeting the requirements of the CCC, both Medical Marijuana Treatment Centers and other Marijuana Establishments in Richmond shall comply with the following:

1. Cultivation of marijuana shall take place at a fixed secure location within a Fully Enclosed and Secure Structure.
2. Acquisition, processing, sales, distribution, dispensing, or administration of marijuana shall take place at a fixed location within a Fully Enclosed and Secure Structure and shall not be visible from the exterior of the business. This provision applies also to the sale and distribution of products containing marijuana, marijuana accessories and related supplies, and marijuana educational materials.
3. All finished marijuana or marijuana products shall be stored in a secure, locked safe or vault and in such a manner as to prevent diversion, theft and loss.

4. Any marijuana cultivation area regulated under this section shall not result in a nuisance or adversely affect the health, welfare, or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

12.6 Use Regulations

In addition to pertinent requirements of implementing regulations of the CCC, Medical Marijuana Treatment Centers, and Marijuana Establishments shall comply with the following:

1. Uses under this Section may only consist of the uses and activities permitted by their definition as limited by state law.
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.
3. Retail sales of marijuana products and opening of the premises to the public shall not occur earlier than 10:00 AM or later than 8:00 PM.
4. Additional regulations may be imposed as Site Plan Review or Special Permit conditions.

12.7 Submittal Requirements

In addition to a standard application for Site Plan Review and Special Permit, an application under this section shall include the following:

1. Copies of all required Marijuana Establishment or Medical Marijuana Treatment Center licenses or registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
2. Evidence that the applicant has site control and the right to use the site for a facility in the form of a deed, valid lease, or purchase and sale agreement, and a signed statement from the property owner;
3. A plan showing all signage, exterior proposed security measures for the premises, including cameras, lighting, fencing, gates, alarms, and other devices intended to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity.

12.8 Approval Process

Applicants should plan to obtain licenses, approvals and permits in the following sequence unless the Planning Board and Board of Selectmen approve an alternate sequence:

1. Host community agreement.
2. Licenses or registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
3. Site plan approval.

4. Special permit.

12.9 Discontinuance of Use

Any Marijuana Establishment or Medical Marijuana Treatment Center permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with implementing regulations of the CCC prior to expiration of its operating license or permit issued by the Commonwealth of Massachusetts or immediately following revocation or voiding of such license or permit. The host community agreement shall include provisions for recovery of any cost incurred by the Town of Richmond resulting from the discontinuance of use.