

Article I – General Provisions

- Section 1. The following provisions shall constitute the Revised General By-Laws of the Town of Templeton, which shall be in lieu of all by-laws heretofore in force. Starting in the year 1951, the By-Laws shall be published every five years in booklet form, together with amendments, additions and deletions thereto.
- Section 2. The repeal of a by-law shall not thereby have the effect of reviving any by-law theretofore repealed.
- Section 3. Words and phrases specifying or naming any officer, board or committee of the town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officers, board or committee.
- Section 4. Whoever violates any of the provisions of these by-laws whereby any act or thing is enjoyed or prohibited, shall, unless other provisions are expressly made, forfeit and pay a fine not exceeding twenty dollars for each offense.
Sections 1-4 Passed 3-5-51

Article II – Town Meetings

- Section 1. The Annual Town Meeting for the election of town officers shall be held on the first Monday of May of each year.
Passed 3-5-51, Amended 3-10-73, Approved by A/G 7-27-73
- Section 2. All business of the Annual Town Meeting, except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot, shall be considered at an adjournment of such meeting to be held on the second Tuesday, thereafter at a time and place designated by the Board of Selectmen.
Passed 11-14-85
- Section 3. The polls shall be opened at eleven (11:00) o'clock in the morning and shall remain open until seven (7:00) o'clock in the evening. The place of voting in each precinct shall be designated by the Selectmen in the town warrant.
- Section 4. Notice of every Town Meeting shall be given by posting attested copies of the warrant therefore in a public place in each Precinct as directed by the Selectmen not less than seven (7) days before the day fixed for the Annual Town Meeting, and not less than fourteen (14) days before the day fixed for a Special Town Meeting, and notice of said Town Meeting shall be published in a local newspaper.
Passed 8-31-78
- Section 5. Warrants for Annual Town Meeting and Special Town Meetings shall be open for a minimum of 14 days before closing and posting the warrants.
Passed 5-12-04

- Section 6. All articles in any warrant for a town meeting shall be referred to the Advisory Committee for its consideration. The Selectmen after drawing any such warrant shall transmit immediately a copy thereof to the chairman of said committee. A public hearing shall be held, upon all such articles, unless a public hearing by some other tribunal is required by law, and a notice of such hearing shall be given by inserting in the local newspaper. Said committee shall, after due consideration of the subject matter of such articles, report thereon to the town meeting, in writing, such recommendations as it deems best for the interests of the town and its citizens. Copies of the report of the Advisory Committee shall be made available to the voters at least two days before town meetings and at all town meetings.
- Section 7. The Selectmen shall appoint checkers, who shall permit only registered voters to enter upon the floor of the Annual or any town meeting; the balcony shall be opened to the public.
- Section 8. Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by the vote of the meeting.
- Section 9. All motions having to do with the expenditure of money shall be presented in writing; other motions shall be in writing if so directed by the Moderator.
- Section 10. Any person who is employed as an attorney by another interested in any matter under discussion at a town meeting shall disclose the fact of his employment before speaking thereon.
- Section 11. When a question is put, the sense of the meeting shall be determined by the voices of the voters and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the sound of the voices, or if his decision is immediately questioned by seven or more voters rising in their places for that purpose, he shall determine the vote by ordering a show of hands, and he may appoint tellers to make and return the count. Passed 3-5-51 On Matters requiring a Two-Thirds Vote by statue a count need not be taken unless the vote so declared is immediately questioned by the Moderator or seven or more voters as provided in MGL, Chapter 39, Section 15.
Passed 5-13-97, Approved by A/G 11-24-97
- Section 12. The meeting may order that the vote on any motion shall be taken by a “Yes” and “No” ballot.
- Section 13. No vote of the meeting shall be reconsidered unless notice of intention to ask for reconsideration shall have been given within one hour after the vote to which such notice relates has been passed. When a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be reconsidered more than once; nor shall any vote be reconsidered on a motion to adjourn, to lay on the table, or for the previous question.
- Section 14. All committees shall report as directed by the Town. If no report is made within a year after its appointment, a committee shall be discharged unless, in the meantime, the town shall have granted an extension of time.

Section 15. No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.

Section 16. A motion to “pass over” an article in the warrant shall not be entertained until a motion incorporating the substance of said article is before the meeting and at least one voter has spoken in favor thereof, unless, after a reasonable opportunity so to do, no voter makes such motion or speaks in favor thereof. A motion to “pass over” shall be debatable as to its merits but not as to the merits of the article.

Section 17. The most current issue of TOWN MEETING TIME is to be considered the general guideline for all procedures of town meetings, except those procedures already provided for by the by-laws.

Amended 10-15-82

Section 18. The Templeton Board of Selectmen shall post all By-Laws and Town Meeting Warrants on the official Town website, within 1 business day of posting warrants or within 3 business days following notification of acceptance by the Attorney General of Massachusetts for By-Laws. By-Laws existing prior to the passage of this By-Law shall be posted on the official Town Website by the end of the fiscal year following passage of this article.

Passed 05-12-04

Section 19. The Templeton Board of Selectmen shall designate an official Town website, for the posting town business, and provide for its maintenance, security, and improvement through a specific budget line item in the fiscal year following passage of this article.

Passed 5-12-04

Sections 3, 6-10, 12-16 Passed 3-5-51

Article III – Town Officers

Section 1. The Selectmen shall have the general direction and management of the property and affairs of the town in all matters not otherwise provided for by laws or these By-Laws.

Section 2. It shall be the duty of the Town Clerk immediately after every town meeting to notify in writing all members of committees who may be elected or appointed at such meeting, stating the business upon which they are to act and the names of the persons composing the committees.

Section 3. The Selectmen shall annually in June, choose and appoint all necessary town officers, Trustees for Boynton Public Library, and the Gilman Waite Memorial Field, and Trustees for the Jehu Richardson Fund, the Masonic Fund, and the Waldo N. Haskell Fund, to serve from July 1, to the following June 30.

Section 1 & 2 Passed 3-5-51, Section 3 Passed 8-31-78

Article IV – Advisory Committee

- Section 1. There shall be an Advisory Committee consisting of nine legal voters of the town who shall be appointed by the Moderator as hereinafter provided. No elective or appointive town officer or town employee shall be eligible to serve on said committee, except that a representative from the Advisory Committee shall be entitled to serve as a member of the Capital Planning Committee and the Insurance Committee. Section I amended 5-13-03
- Section 2. The Moderator of the town meeting when this By-Law is adopted shall, within thirty days after such by-law becomes effective, appoint 3 members of said committee for terms of one year, 3 members for terms of two years, and 3 members for terms of three years. At each Annual Town Meeting thereafter the Moderator thereof shall appoint 3 members of said committee for terms of three years. The terms of office of said members shall commence immediately upon qualification and shall expire at the close of final adjournment of the Annual Town Meeting at which their successors are appointed. Said committee shall choose its own officers and shall serve without pay, except the chairman who shall receive such amount as voted upon at the Annual Town Meeting, and it shall cause to be kept a true record of its proceedings.
- Section 3. The said committee shall fill any vacancy which may occur in its membership, by vote, attested copy of which shall be sent by the secretary to the Town Clerk. If any member is absent from five consecutive meetings of said committee, except in case of illness, his position shall be deemed to be vacant and shall be filled as herein provided. The term of office of any person so chosen to fill a vacancy shall expire at the final adjournment of the next succeeding Annual Town Meeting, and the Moderator thereof shall appoint his successor to complete the unexpired term of the member in whose office such vacancy originally occurred.
- Section 4. It shall be the duty of the Advisory Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the several boards, officers and committees of the town, as prepared by them in such form and detail as may be prescribed by said committee. The said committee shall add to such statement of expenditures and estimates another column, giving the amounts which in its opinion should be appropriated for the ensuing year, and shall further add thereto such explanations and suggestions relating to the proposed appropriations as it may deem expedient, and report thereon as provided in section five of Article II.
- Section 4a. All articles, other than those deemed by the Board of Selectmen to constitute an emergency, sought to be inserted in the Town Warrant for the Annual Town Meeting shall be filed with the Board of Selectmen, and referred by them to the Advisory Committee on or before March 20 and all articles sought to be inserted in the Warrant for a Special Town Meeting shall be referred by the Board of Selectmen to the Advisory Committee at least 15 days before the date set for such meeting.

Section 5. In the discharge of its duty, said committee shall have free access to all books of record and accounts, bills and vouchers on which money has been or may be paid from the town treasury. Officers, boards, and committees of the town shall, upon request, furnish said committee with facts, figures, and any other information pertaining to their several activities.

Section 6. It shall be the duty of the Advisory Committee to make an annual report of its doings, with recommendations relative to financial matters and the conduct of town business, to be contained in the annual town report.

Sections 1-4, 5, 6 Passed 3-5-51,

Section 4a Passed 3-9-57, Amended 3-10-73, Approved by A/G 7-27-73

Article V- Financial Affairs

Section 1. The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the town except interest on investments of trust funds.

Section 2. Except as otherwise provided by law, the Treasurer shall have custody of deeds, bonds, contracts, insurance policies, and other similar documents owned by the Town, except that the bonds given by the Treasurer and the Collector of Taxes to the Town shall be in the custody of the Selectmen.

Section 3. Every officer shall pay into the treasury of the town all amounts received by him on behalf of the town, except as otherwise provided by law, and shall make a true return thereof to the Town Accountant, stating the accounts upon which such amounts were received.

Section 4. The Selectmen are authorized to sell any parcels of land acquired by the Town for non-payment of taxes by public auction only; notification of auction to be published in a local newspaper of general circulation at least ten (10) days prior to date set for said auction.

Section 5. The Selectmen are authorized to sell obsolete town equipment to the highest bidder, or bidders, only; bid invitation to be published in a local newspaper of general circulation at least ten (10) days prior to date set for opening bids.

Section 6. The town shall, on July 1 of each year, turn over the Boynton Public Library fines collected from the previous fiscal year, and the "Dog Tax" money refunded from the previous fiscal year, for the unlimited use of the Boynton Public Library.

Sections 1-3 Passed 3-5-51, Sections 4-6 Passed 8-31-78

Article VI – Contracts by Town Officers

Section 1. Unless otherwise provided by the General Laws or a vote of Town Meeting, the Board of Selectmen is authorized to enter into any contract for the exercise of the Town's corporate powers on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, no Board, Committee, Commission or Town officer shall contract for any purpose, on any terms or under any conditions inconsistent with any

applicable provision of any general or special law. (G.L. c. 40, section 4, Town Meeting designation of contracting authority).

Section 2. Every contract for the purchase of supplies or services, for the disposition of surplus tangible property, or for the acquisition or disposition of interests in real property shall be subject to the procurement procedures of General Laws, Chapter 30B. No contract shall be split or divided for the purpose of evading the provisions of this section.

Section 3. Every contract for the construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any material therefore, or for the design or construction, reconstruction, installation, demolition, maintenance or repair of any building by the Town, shall be procured in compliance with all applicable provisions of the General Laws, including but not limited to, G.L. c. 30, section 39M, G.L. c. 7, section 38A1/2-38O, G.L. c. 149, section 44A-44J. No contract shall be split or divided for the purpose of evading the provisions of this section.

Sections 1-3, Passed 3-5-51, amended 5-11-05, Approved by A/G 9-14-05

Article VII – Legal Affairs

Section 1. The Selectmen shall be agents of the town to institute, prosecute and defend any and all claims, actions and proceedings to which the town is a party or in which the interests of the town are or may be involved.

Section 2. The Selectmen may at their discretion compromise or settle any claim or suit to which the town is a party, which does not require the payment by the town of an amount in excess of one thousand dollars. No settlement of a claim or suit obligating the town in an amount in excess of one thousand dollars shall be made, except as authorized by law, without the consent of the town meeting.

Section 3. The Selectmen in their annual report shall state what actions have been brought against and on behalf of the town, what cases have been compromised or settled, and the current standing of all suits at law involving the town or any of its interests.

Section 4. The Selectmen shall annually in June appoint a Town Counsel, who is a member of the bar in good standing, to serve for the term of one year from the first day of July following and until his successor is appointed and enters upon the performance of his duties. They shall likewise fill any vacancies in said office for the unexpired term, and may employ special counsel to assist the said Town Counsel whenever, in their judgement, necessity therefore arises.

Amended 8-31-78

Section 5. It shall be the duty of the Town Counsel to conduct the prosecution, defense or compromise of claims, actions and proceedings to which the town is a party, and the prosecution of actions or proceedings by or on behalf of any town officer, board or committee as such; to conduct the defense of any action or proceedings brought against any town officer, board or committee as such when the Selectmen, having determined that any right or interests of the town are or may be involved therein, shall so request, to conduct proceedings brought by or against the Assessors before the Board of Tax Appeals; to assist in the prosecution of complaints for violation of any by-law of the town, when requested so to do by the board of officer enforcing the same, to examine and report upon titles to all land to be acquired by the town; to prepare or approve contracts, bonds, deeds, and other legal instruments in which the town is a party or in which any right or interest of the town is involved; to appear at any and all hearings on behalf of the town whenever his services may be required; and generally to advise and act for the town officers, boards and committees upon and in legal matters touching the duties of their respective officers.

Sections 1-5 Originally Passed 3-5-51

Article VIII – Records and Reports

Section 1. All officers, boards, and committees of the town, shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the town offices, and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the officer, board, or committee having custody thereof.

Section 2. All officers, boards, standing committees, and special committees of the town having charge of the expenditure of town money shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Town Accountant for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Selectmen for inclusion in the Annual Town Report on or before the thirty-first (31) day of January of each year.

Section 3. It shall be the duty of the Selectmen to publish the Annual Report, to be made available in the Office of the Town Clerk on the Monday proceeding the first Monday in May. All remaining copies will be made available for distribution at the polling places.

Amended 8-31-78

Section 4. The Annual Town Report shall contain, in addition to the reports of officers, boards, and committees as hereinbefore provided, a detailed report of all moneys received into and paid out of the town treasury in the financial year next preceding, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements; the report of the collector of taxes, of receipts, payments and abatements; statements of all funds belonging to the town or held for the benefit of its inhabitants; a statement of the liabilities of the town on bonds, notes, certificates of indebtedness, or otherwise, and of indebtedness authorized but not incurred, and the purpose thereof: a statement of transfers made to or from any appropriation: abstracts of the records of the meetings of the town held since publication of the last annual report; a complete list of town officers and appointees for the municipal year: and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen under the discretion granted them by law.

Section 5. The Selectmen, or the Town may direct that the Assessors' valuation list, standing votes of the town, and the rules or regulations adopted by any officer, board or committee, be printed either separately or as part of the Annual Town Report.

Sections 1-5 Originally Passed 3-5-51

**Article IX – Originally Parking & Traffic Control
(Repealed in its entirety on 11-4-87)**

Article IX – Abandoned Wells

Section 1. "The owner of land whereon is located an abandoned well or well in use shall provide a covering capable of sustaining a weight of three hundred pounds, or fill the same with fill to the level of the ground. The penalty for violation of this by-law shall be a fine of not less than one hundred dollars or more than five hundred dollars."

Passed 10-30-61, Approved by A/G 12-6-61

Article X – Licensing of Junk Collectors

Section 1. The Selectmen may after public hearing license suitable persons to be collectors of or dealers in junk, old metal, used cars, and make any such additional rules, regulations, and restrictions as they may deem necessary, not inconsistent with the law or of these by-laws.

Section 2. Such collector or dealer shall put up and maintain in a suitable and conspicuous place in his junkyard or place of business a sign having his name and occupation legibly inscribed thereon in large letters.

Section 3. Every junk yard or other place of business, for the sale, purchase, or barter of junk, old metals, or used cars shall be closed between the hours of 11:00 P.M. and 7:00 A. M. and no keeper thereof and no junk collector shall purchase any of such articles between said hours.

Section 4. Every keeper of junk yards or other place of business of and for the sale, purchase or barter of junk, old metals, or used cars, shall keep a book in which shall be written at the time of each purchase, a description thereof, the name, age and residence of the person from whom, and the day and hour when purchase was made, and such book shall at all times be open for inspection of the Selectmen or of any person designated by them or by law authorized to make such inspection.

Section 5. No keeper of such a junk yard and no collector of junk shall directly or indirectly purchase or receive by way of barter or exchange from a minor any of the articles mentioned in Section 1 of the Article.

Sections 1-5 Passed 3-10-62, Approved by A/G 5-16-62

Article XI – Storing of Unused Motor Vehicles

Section 1. No person, except the holder of a license granted under Section 58 of Chapter 140 of the General Laws, or a junk dealer duly licensed under the Town By-Laws, said licenses issued by the Board of Selectmen, shall keep or permit to keep exposed on his premises, unused or unregistered motor vehicles within 150 feet of a public way or within 50 feet of a property line, unless authorized to do so by a permit issued by the Board of Selectmen.

Passed 5-8-62, Amended 3-12-66, Approved by A/G 6-30-66

Article XII – Removal of Sand and Gravel

Section 1. The removal of soil, loam, sand or gravel from any parcel of land not in public use in the Town of Templeton except as hereinafter provided, shall be allowed only after a written permit therefor is obtained from the Board of Selectmen after a public hearing of which due notice is given.

Section 2. No permit shall be required for the continuous operation of any parcel of sand or gravel pit in operation at the time this by-law is adopted, provided such operation is not thereafter discontinued for more than one year; and no permit shall be required for the removal of soil, loam, sand or gravel from any parcel of land when incidental to and in connection with the construction of a building on the parcel.

Section 3. In issuing a permit under this by-law, the Board of Selectmen may impose such conditions not specifically provided for herein as it may deem necessary for the adequate protection of the neighborhood and the Town. Any conditions imposed by the Board shall be attached to and made a part of the permit. The Board may, in its discretion, require a bond, certified check or other security for compliance with said conditions or as evidence of good faith as to the completion of any proposed construction. The Board may, after a public hearing on proof of violation of any condition, revoke any permits so issued. No permit shall be issued under the provisions of this by-law for a period of more than three years.

- Section 4. Sand and gravel may be removed from any parcel of land, except within 300 feet of a street or way, and the Board shall issue a permit thereof, provided, however, that the Board shall impose such reasonable conditions as to the disposition of top soil and re-establishment of ground levels and grades as it may deem necessary.
- Section 5. Soil or loam may be removed from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such removal; provided, however, that the Board shall in making such decision, obtain the recommendations of the appropriate Soil Conservation District Supervisors or the County Extension Director or Agent, or their successors, and their recommendations shall be made a part of the records of the Board. In issuing a permit, the Board may impose reasonable conditions as to the re-establishment of ground levels and grades.
- Section 6. Notwithstanding the provisions of the above, the Board may issue a permit for the removal of soil or loam from any parcel of land in the Town where such removal is necessarily incidental to and in connection with the construction of a road or other facility involving a permanent change in the use of the land. The Board shall issue no such permit unless it is reasonably satisfied that the construction will be completed and evidence thereof shall be made a part of the records of the Board.
- Section 7. Soil, loam, sand, or gravel may be removed from any parcel of land within such parcel lying within 300 feet of any street or way, provided a permit thereof has been issued by the Board after satisfactory evidence that such removal will not be seriously detrimental or injurious to the neighborhood, provided further that the Board shall impose reasonable conditions as to the method of removal, the re-establishment of ground levels and grades and the planting of the area to suitable cover, as it may deem necessary. Removal of soil or loam under authority of this section shall be further subject to the provisions of Section III.
- Section 8. No gravel shall be removed closer to spring high water table that would preclude its subsequent re-use according to existing public health standards. This elevation shall be established from a test pit and the level related to a permanent monument on the property. This information shall show on the topographic plan.
- Section 9. No area shall be excavated so as to cause accumulation of free standing water. Permanent drainage shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds. All topsoil and subsoil shall be stripped from the operation area and stock piled for use in restoring the area after the removal operation has ceased. Any temporary shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view as much as possible. These structures shall be removed from the premises within thirty (30) days after they are no longer needed.

Section 10. Upon completion of the operation and the final grading has been accomplished the applicant shall supply the Selectmen with a plan of the area showing contours at two (2) foot intervals of the finished site drawn by a registered engineer or surveyor.

Section 11. No excavation not intended for approved building purposes will be closer than fifty (50) feet from a wetland, stream, or pond.

Section 12. The penalty for violation of this by-law shall be as follows:

For the first offense----- \$50.00

For the second offense----- \$100.00

For each subsequent offense- \$200.00

Sections 1-7, & 12 Passed 3-9-63, Approved by A/G 5-23-63

Sections 8-11 Passed 5-8-82

Article XIII – Appointment of Gas Inspector

“The Selectmen shall annually appoint an inspector of gas piping and appliances for a term of one year, immediately following final adjournment of the Annual Town Meeting, whose duties shall be as described in Chapter 737 of the Acts of 1960”

Passed 5-18-64, Approved by A/G 6-24-64

Article XIV – Trailer Permits

Section 1. No person shall establish a trailer as a residence or mobile home without first obtaining a permit for the same from the Board of Selectmen. The Board of Selectmen may grant a permit under the rules and regulations set forth by town by-laws, Article XXI – Zoning for parking of a trailer used as a residence or a mobile home. Amended 5-8-82

Section 2. This By-Law shall not apply to properly organized and regulated trailer parks nor to any trailers used as residences or mobile homes at the time of the approval of this By-Law or to any improvement or replacement of trailers already in existence and used as residences or mobile homes in substantially the same condition as they now exist.

Passed 3-7-66, Approved by A/G 6-30-66

Article XV – Building Permits

Deleted 4-20-78, see Article XXI – Zoning, Section 5, Paragraph A

Deleted 5-14-02 from Article XXI-Zoning

Article XVI – Regulation of Driveways

Section 1. No person shall build or rebuild a driveway at a point where such driveway enters onto any Town Way without first obtaining permission from the Highway Superintendent who shall grant such permission and may specify the requirements for said building or rebuilding of such driveway at the point where it enters a Town Way.

Passed 3-11-67, Approved by A/G 4-3-67

Article XVII –Sick Leave For Full-time Town Employees

Section 1. “All fulltime town employees shall be entitled to ten days sick leave in any one year which may be accumulated to a total of sixty days.”

Passed 3-9-68, Approved by A/G 4-18-68, Amended 10-28-82

Article XVIII – Restraining of Dogs

Section 1. “All dogs owned or kept within the Town of Templeton shall be placed under restraint and controlled from going at large by the owner or keeper thereof.”

Passed 9-30-69, Approved by A/G 10-7-69, Amended 5-11-74

Section 2. The use of a ticket system is hereby authorized for violation of Section 1 of Article XVIII of the town by-laws, and of the MGL, Chapter 140 as amended, as it relates to the licensing and vaccinating of dogs. Whoever violates the provisions of this by-law shall be subject to a fine of \$25.00 for each offense.”

Section 3. The annual dog license fees required under the MGL, Chapter 140, Section 139, will be increased by one (1) dollar as authorized by Section 173 of said Chapter.

**Sections 2 & 3 Passed 6-20-81, Approved by A/G 9-28-81
Section 2 amended 6-24-92**

Section 4. (a) “Dog” shall mean all animals of canine species, regardless of sex.
(b) “Owner” shall mean any person or persons, firm, association or corporation owning, or harboring a dog, as herein defined.
(c) “Public Nuisance” any dog shall be deemed a public nuisance when attacking persons or domestic animals while said dog is on property other than that of the dog owner, when destroying property; or on a public ground, when not under restraint; or it is persistently, and prolonged barking or howling for more than 15-20 minutes at a time or two consecutive days in a row. Each twenty-four period thereafter shall constitute a separate violation.

Further, any unspayed female dog, while in season, shall be deemed a public nuisance when not confined in a limited access structure by an owner thereof, or housed in a veterinary hospital or registered kennel.

Impounding

Section 5. It shall be the duty of the Animal Control Officer to apprehend any dog determined to be a public nuisance and to impound such dog in a suitable place or to order the owner thereof to restrain said dog.

Notice to owner and redemption

Section 6. If such dog is impounded and has upon it the name and address of the owner thereof, or if the name of said owner is otherwise known, then the dog officer shall immediately notify the owner of such impounding.

The owner of any dog so impounded may reclaim such dog upon payment of the sum of \$15.00 for the first twenty-four hour period herein known as a pick up fee, and \$10.00 per day care or any part thereof that the dog is held. If the dog is not licensed, then before release of the dog to any person, a license, as required by law, shall be secured. This shall apply to all animals that are held at the kennels for quarantine purposes and shall be the responsibility of the owner to pay fees before release of said animal, as well as vaccinating and licensing such animal.

Adoption of Animals: An Adoption fee of \$30.00 minimum plus any additional fees up to the amount the Town has invested in the animal shall be paid to the Town for care and handling of animals. This covers the \$10.00 a day care and handling fee.

Public Safety

Section 7. If any dog is deemed a constant problem in regards to injury to domestic animals, wildlife and livestock, or is a threat to public safety, the owner/keeper may surrender said dog to the dog officer for disposal. All penalties and fees to be paid by the owner.

License Renewals

Section 8. All dog license renewals are subject to payment of outstanding fines. All fines are to be paid to the Town Clerk and turned in to the Treasurer. Failure to comply with the above may result in license revocation and possible impounding of said dog.

Non-Criminal Disposition

Section 9. (A) Criminal Complaint – Whoever violates any provision of these rules and regulations may be penalized by indictment or on complaint brought in District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$300.00 for each offense.

(B) Non-Criminal Complaint – Whoever violates any provision of these rules and regulations may, at the discretion of the Dog Officer and/or the Board of Selectmen, be penalized by non-criminal complaint pursuant to the provisions of MGL Chapter 40, Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows: \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and any subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.

Disposition of Unclaimed Dogs

Section 10. Any dog, which has been impounded and has not been deemed by the owner within ten days, shall be disposed of as provided by Section 152, Chapter 14C of the MGL and any amendments thereto, or sold to anyone as long as that person pays a license and impounding fees as provided in Section 8 above.

All animals before being disposed of shall have a description placed in the paper, listing the breed of the animal and brief description of said animal.

Disposal of Animal Waste

Section 11. The purpose of this bylaw is to promote a sanitary environment, free of unintended contamination through contact with animal waste for all Templeton residents and non-residents. The owner, keeper, or any person in control of a dog, or other animal, shall be responsible for the prompt removal and proper disposal of any feces deposited by such dog, or other animal, upon any public ways, such as streets, roads, avenues, lanes, circles, highways, paths, sidewalks, trails, etc. or upon any public land within ten (10) feet of such public ways or upon any public land designated as parks, playgrounds, cemeteries, school yards, golf courses, recreation areas, or any other municipal or government building and/or grounds, all within the Town of Templeton, as well as on property public or private and neither owned or occupied by said person. Further more no persons who owns, possesses, or controls such dog, or other animal, shall appear with such dog, or other animal, on any of the aforementioned areas without the means of removal of any animal feces left by such dog, or other animal. Additionally, disposal of said animal feces in Town trash receptacles, or in storm drains prohibited. For the purposes of this bylaw, the means of removal shall be any tool, implement, or device carried for the purpose of removal or containment of such feces. This bylaw shall not apply to a physically challenged person in sole custody of a dog, or other animal, or to any individual using a guide/service dog. Enforcement shall be by the Animal Control Officer, Board of Health or any other duly appointed law enforcement officer. Penalty for violation of this bylaw will be by non-criminal disposition pursuant to MGL, Chapter 240, Section 21D. For the purpose of this bylaw, the penalty to apply in the event of a violation shall be as follows:

FIRST OFFENSE	\$25.00
SECOND OFFENSE	\$50.00
THIRD OFFENSE	\$100.00
FOURTH AND ANY SUBSEQUENT OFFENSE	\$200.00

Each occurrence of a violation on any day shall be deemed to be a separate offense.

Sections 4-10 Passed 5-12-98, Approved by A/G 6-24-98

Section 6 amended 5-14-08, Approved by A/G 6-18-08

Section 11 Passed 6-24-03, Approved by A/G 10-6-03

Article XIX – Fencing of Swimming Pools

Section 1. All outdoor swimming pools having a capacity of 4000 gallons or more shall be completely surrounded at all times by a fence or wall not less than 4 feet in height above grade. The pool wall itself may serve as a fence. All gates or doors opening through such enclosure shall be of not less than four feet in height and shall be equipped with a self-closing and self-latching device located at least four (4) feet above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept locked at all times when the swimming pool is not in use, and any ladders shall be removed.

Passed 3-7-71, Approved by A/G 3-19-71

Article XX – Power Boats

“Power boats with motors exceeding ten (10) horsepower are prohibited for usage on Partridgeville Pond, also known as Templeton Fish and Game Club Pond.”

Passed 5-10-72, Approved by A/G 9-13-72

Article XXIII – Use of Sanitary Landfill

“For the benefit of the community and in the best interest of the health and welfare of the people of Templeton, the Sanitary Landfill on Route 202, Templeton, shall be used only by residents, commercial business and industries located within the geographical limits of the Town of Templeton. **Passed 5-10-1975, Approved by A/G 9-2-75.** Notwithstanding said limitations, individuals, and/or businesses, upon application and issuance of a waiver by the Templeton Board of Health, may use the Sanitary Landfill for garbage and/or refuse of residents, commercial businesses and industries located within the geographical limits of the Town of Templeton. Excluded shall be the transportation of garbage and refuse from out of town areas to the Templeton Landfill and/or any other properties in the Town of Templeton”.

Amended 9/28/82, Amended 6/18/02, Amended 02/19/04

Article XXIV – Sewers

Section 1. “The Selectmen, or Sewer Commissioners if duly qualified, may declare any sewer or drain laid in any land or way, public or private, open or proposed to be open for public travel, to be a common sewer, and that connections shall not be made with any common sewer, except by authorization from Selectmen or Sewer Commissioners, whichever the case may be, shall have the power to regulate the use of common sewers and connections which may be made with them, by regulations duly enacted.”

Passed 5-10-75, Approved by A/G 9-2-75

Section 2. To amend the present common sewer by-law, Article XXIV, by adopting as town by-law the rules and regulations regarding the use of common sewers as outlined and stated in Publication No: 5541 of the Massachusetts Water Resources Commission 1969, revised 1974, entitled “Suggested Rules and Regulations Regarding the use of Common Sewers for the Cities and Towns of the Commonwealth of Massachusetts.”
Amended 10/28/76

Article XXV – Intoxicating Beverages

No person shall drink any alcoholic beverages as defined in Chapter 138, Section 1, of the MGL, nor shall have in his possession any open containers, or containers whose seal has been broken and recapped of such beverages, while on, in, or upon any public way or sidewalk, or upon any way to which the public has a right of access or any place to which the members of the public have access as invitees or licensees, park or playground, or private land or place, without the consent of the owner or person in control thereof. The burden of proving such consent shall be on the defendant. All alcoholic beverages being used in violation of this by-law shall be seized and safely held until final adjudication of the charge against the person(s) so arrested or summonsed before the court, at which time they shall be disposed of as directed by the court. The penalty for violation of the by-law shall not exceed fifty dollars (\$50.00) for each offense.

Passed 5-8-76, Approved by A/G 9-6-76, Amended 5-10-86

Article XXVI – Anti-Loitering and Curfew

Section 1. Town of Templeton real property may be posted by order of the Selectmen to ban loitering thereon or to provide for a curfew for its use.

Section 2. Any person who violates the provisions of Section 1 shall be subject to penalties as provided by Chapter 266, Section 120, of the MGL.

Passed 9-22-81, Approved by A/G 12-30-81

Article XXVII – Automatic Amusements

In each establishment within the geographical limits of the Town of Templeton automatic amusement devices will be limited to five (5) units of which a maximum of three (3) may be video games and/or pinball machines.

Passed 5-8-82, Approved by A/G 9-28-82

Article XXVIII – Snow and Ice and Water Drainage

Section 1. No person shall throw or put or cause to be thrown or put any snow or ice, rubbish, waste materials or leaves from any privately owned land into any public way, sidewalk, catch basin or Town owned land.

Section 2. The Highway Superintendent or any other person authorized by the Highway Superintendent, for the purpose of removing or plowing snow, or removing ice from any way, may remove or caused to be removed to some convenient place any vehicle which interferes with such work, and in the event of the removal of any vehicle in accordance with the terms hereof, the actual cost of removing said vehicle and any storage charges that may be incurred as a result thereof, may be enforced by the town in any manner provided by law for the collection of a debt based upon contract.

Passed 6-20-81, Approved by A/G 10-15-82

Section 3. No person shall drain water or cause water to be drained from any privately owned property into any public way, sidewalk, catch basin or Town owned land without the authorization of the Highway Superintendent. This section shall not be enforced to prohibit individuals from washing or cleaning their own vehicle or private property as long as said drain water does not create a safety hazard.

Section 4. No person shall hook up or cause any flow into the Town's storm water drainage system without the approval of the Highway Superintendent.

Section 5. Whoever violates Sections 1, 3, 4, or 5 of this by-law shall be punished by a fine of fifty dollars (\$50.00) for each offense.

Sections 1, 3-5 Passed 6-24-92

Article XXIX – Recreation Tracks

Purpose: To protect abutters from ill conceived construction of a recreation track or tracks in the absence of zoning for residential, commercial, agricultural, industrial or open land areas.

Regulations:

- A. A permit for the construction of a recreation track or tracks presently proposed or to be constructed, will be required; fee to be set by vote of licensing authority, being the Board of Selectmen.
- B. The applicant for a permit must follow the procedures set forth below:
 1. Apply for the permit from the licensing authority in writing.
 2. Submit a plot plan showing proposed location of track, listing setbacks from boundary lines.
 3. Obtain approval for track location from the Planning Board, Conservation Commission, Board of Health and Police Department.
 4. Obtain approval for the driveway entrance from the Highway Superintendent.
 5. Specify hours that the tracks will be in use for practice or races.
 6. Obtain a certified list of abutters from the Assessors.
 7. Notify all abutters by certified mail, return receipt, of hearing date set by the Board of Selectmen, at least seven (7) days before the hearing.

Administration and Enforcement:

The provisions of this by-law shall be enforced by the Board of Selectmen. Whoever shall construct a recreation track or tracks, without a permit shall be punished by a fine of twenty-five dollars (\$25.00) for each day of the offense.

Validity: This by-law shall take effect on date of approval by the Town of Templeton subject to approval by the Attorney General.

Definition: Recreation Track(s) - Recreation Track(s) as used in this by-law shall be land, all or part, used by vehicles as defined under Chapter 90, or as "Recreation Vehicles (s)" and/or "Snow Vehicles (s)" under Chapter 90B, Section 20, and used by persons or animals for sporting or recreational events.
Passed 5-7-82, Approved by A/G 7-20-82

Article XXX – Class III Licenses

The Selectmen are hereby authorized to limit the number of Class III Licenses in effect in the Town at any one time; said number not to exceed 4.

Passed 5-11-85

Article XXXI – Class II Licenses

The number of Class II used car dealer licenses in effect in the Town at any one time is not to exceed 21, with said number to be apportioned among the 4 precincts.

Passed 11-14-85

Article XXXII –Licenses and Permits of Delinquent Taxpayers

Section A. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

Section B. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers or any party whose name appears on said list furnished to the licensing authority from the tax collector, provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie for evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

Section C. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

Section D. The Board of Selectmen may waive such denial, suspension, or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholder, if any, or members of his immediate family, as defined in Section 1, Chapter 268 in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning, Section 13, Chapter 48; sales of articles for charitable purposes, Section 33, Chapter 101; children work permits, Section 69, Chapter 149; clubs, associations dispensing food or beverage licenses, Section 21E, Chapter 140; dog licenses, Section 137, Chapter 140; fishing, hunting trapping license, Section 12, Chapter 131; marriage licenses, Section 28, Chapter 207; theatrical events, public exhibition permits, Section 181, Chapter 140; bicycle permits, Section 11A, Chapter 85.

Passed 9-18-86

Article XXXIII –Quarry

Section 1. Definition of a Quarry: Any property which may primarily be used as a source of mined products from the earth when the removal of such products required the use of explosives to facilitate such removal.

Section 2. The Town of Templeton will not allow any Quarry to operate or open within the Town (Temporary not included).

Passed 5-12-92

Article XXXIV – Street Numbers

Street numbers shall be attached to each dwelling, business, industry and other buildings in the Town of Templeton.

- A. The number shall be made of permanent, weather-proof materials, in contrasting color, shall be at least three (3) inches in height, and shall be clearly visible from the street or roadway upon which the structure fronts.
- B. Any structure that is not visible from the street or roadway shall have the assigned number posted on a suitable support at the entrance to the driveway that services such structure.
- C. The numbers posted shall be those assigned to each structure by the Board of Assessors. The said Board shall advise the owners of the property of the assigned or reassigned number in writing at the property's tax address.
- D. It shall be the responsibility of each property owner in the Town to obtain, display, and maintain the assigned street number within ninety (90) days after the effective date of this By-Law.
- E. This By-Law shall be enforced by the Police Department. Failure to comply with this By-Law shall subject property owners to a fine of not more than twenty dollars (\$20.00) for each offense. Each day shall constitute a separate offense.

Passed 6-23-93, Approved by A/G 11-2-93

Article XXXV – Mandatory Recycling

Article 1. Purpose

This by-law will significantly reduce the amount of municipal solid waste that will need to be landfilled in Templeton, thus reusing natural resources and preserving landfill space for nonreusable goods, as well as meet the state's 25% recycling requirement set down at 310 CMR li.038 (2) (d).

Article 2. Definitions

- A. "Commercial Hauler" shall mean any person licensed by the Board of Health who, for a fee, collects and/or hauls solid waste that is generated within the Town of Templeton.
- B. "Solid Waste" shall mean any household, residential, or commercial solid waste.
- C. "Composting" shall mean a process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can be safely used.
- D. "Designated Material" shall mean those recyclable goods including but not limited to types and grades of metal, paper, glass or plastic and those compostable materials including but not limited to types and grades of leaves, yard waste and food waste designated by the Department of Environmental Protection pursuant to regulations to be source separated.

- E. "Disposal" shall mean the dumping, landfilling or placement of solid waste into or on any land or water or the incineration of solid waste for energy recovery or otherwise.
- F. "Person" shall mean any individual, partnership, association, firm, company, corporation, department, agency, group or public body generating solid waste.
- G. "Recycle" shall be construed to mean the diversion of material, product, or byproduct from disposal to: (a) reuse, or (b) employ as an ingredient or feedstock in an industrial or manufacturing process to make a marketable end product, or (c) employ in a particular function or application as an effective substitute for a commercial product or commodity. Recycle does not mean to recover energy from the combustion of designated materials.
- H. "Source Separate" shall be construed to mean to separation of designated recyclable or compostable materials from solid waste at the place where the materials or waste are generated through the use or consumption of goods.

Article 3. Use of Landfill/Recycling Center

Any person using the Landfill/Recycling Center must first obtain a permit issued by the Board of Health and sign an agreement stating that they have received a copy of the recycling regulations. A small fee will be charged to cover the printing of the permits and regulations. Any person wishing to use only the Recycling Center may do so at no cost.

Article 4. Use of Landfill/Recycling Center by Commercial Haulers

Any commercial hauler using the Landfill/Recycling Center must also obtain a sticker issued by the Board of Health and agree to provide source separated pick-up for their customers. The list of recyclables commercial haulers must pick up will be limited by regulation of the Board of Health to no more than six (6) types of material in order to prevent implementation from becoming an impossible task.

Article 5. Recycling of Designated Materials

- (a) After January 1, 1994, no person and no commercial hauler shall place solid waste in the Templeton Landfill unless the following designated materials have been source separated from the solid waste prior to placement or delivery of the waste for disposal: leaves, yard waste, newspaper, magazines, cardboard, recyclable paper, aluminum, metal, glass containers, scrap metal, batteries and white goods.
- (b) After July 1, 1994, no person and no commercial hauler shall place solid waste in the Templeton Landfill unless, in addition to the materials designated pursuant to Article V, Section (a), the following designated materials have been source separated from the solid waste prior to placement or delivery of the waste for disposal: single polymer plastics. The Board of Health may from time to time, by regulation, redesignate the types of materials required to be recycled.
All recyclable material must be separated from all other solid waste. It must be clean. Food and beverage containers must be rinsed out. Materials must be placed in their designated areas at the Recycling Center. The elderly and handicapped will be assisted by an attendant.

- (c) All separated recyclable materials deposited at the Recycling Center shall become the sole property of the Town of Templeton. All separated recyclable materials being brought to the Recycling Center shall be brought at hours designated by the Board of Health.

Article 6. Disposal

No person who collects, transports, disposes or otherwise manages solid waste or designated materials shall mix, co-mingle, or otherwise contaminate source separated designated materials with solid waste or other contaminants.

Article 7. Supervision

The Landfill/Recycling Center attendant shall inspect any and all solid waste presented for disposal. No person shall dispose of any designated materials other than as set forth in this by-law. Persons in violation of this by-law shall be notified of such violations in writing by the Board of Health, which writing shall include the date of such violation; the nature of such violation, the penalty imposed thereby, and shall inform the violator of the right to request a hearing as set forth below. Any violating this by-law shall be fined \$25.00 for the first violation and \$50.00 for the second violation. All such fines shall be paid within ten (10) days of receipt of said written notice. Failure to pay such fine or any subsequent violation may, in the discretion of the Board of Health, result in the revocation of the violator's permit to use the Landfill/Recycling Center.

Any person in receipt of a notice of violation may, with ten (10) days of receipt of such notice, request a hearing before the Board of Health (Board). Such request shall be made in writing and shall state any reasons why the penalty set forth in the notice of violation should not be imposed. Within fourteen (14) days of receipt of such request for hearing, the Board shall schedule such hearing and notify the person requesting the hearing of the date and time thereof. The Board shall have the authority to waive or reduce the penalty stated in the notice of violation if it finds good cause following such hearing. The Board of Health shall make its decision within fourteen (14) days of such hearing and shall notify the person requesting such hearing of its decision, in writing, within fourteen (14) days thereof. The Board's decision shall be final.

Passed 6-23-93, Approved by A/G 11-2-93

Article XXXVI – Street Acceptance

No Private Street shall be accepted by the Town Meeting as a Public Way unless all of the following conditions have been met:

1. The Way shall have a minimum pavement width of not less than twenty-four (24) feet for its entire length;
2. The Way shall be shown on a definitive plan endorsed by the Planning Board, and shall be actually constructed in accordance with the specifications of the definitive plan approval; and
3. The Way shall have been completed in accordance with said definitive plan for a period of at least twelve (12) months in order to ensure that the way may withstand severe winter weather.

Notwithstanding the above, the Town Meeting may accept as a Public Way a way that does not meet all of the conditions set forth above, upon a recommendation, by majority vote, from the Planning Board to waive such condition(s).

Passed 9-11-96, Approved by A/G 12-9-96

Article XXXVII – Non-Criminal Disposition of By-Law Violations

Section 1. Scope Authority – This By-Law provides for a non-criminal disposition of a violation of health related Town By-Laws or any rules or regulations adopted by the Board of Health of which is subject to a penalty not to exceed \$300.00. This By-Law is enacted in accordance with MGL, Chapter 40, Section 21-D, as it may be amended from time to time (herein called Section 21-D).

Section 2. Enforcing Person – “Enforcing Person” used in this By-Law shall mean the Board of Health, Board of Health Agent or other designee, each with respect to violation of By-Laws or rules and regulations within their respective jurisdiction over a given authority to adopt rules and regulations for the enforcement of this By-Law within respective areas of their jurisdiction.

Section 3: Violation – An Enforcing Person taking cognizance of a violation of said By-Law, rules or regulations may, as an alternative to instituting criminal proceedings, give the offender a written notice to appear before the clerk of the Gardner District Court for non-criminal disposition of the violation, accordance with Section 21-D. The provisions of Section 21-D are incorporated by reference herein.

Section 4: Proceedings – Proceedings pursuant to this By-Law and Section 21-D shall not be deemed to be criminal proceedings.

Passed 6-22-94, Approved by A/G 9-12-94

Article XXXVIII – Compensation to Incapacitated Call & Volunteer Firefighters and Rescue Squad Volunteers

“A Call Firefighter, a member of the Town’s Volunteer Fire Department, or a member of the Templeton Rescue Squad, who is disabled or incapacitated because of injuries sustained in the performance of his/her duties, without fault of his/her own, and is thereby unable to perform the usual duties of his/her regular occupation at the time such injury of incapacitation was incurred, shall receive during the period of his/her incapacity an amount equal to the compensation paid to a permanent member of the fire force for the first year of service therein, or if there are no regular or permanent members of the fire force, at a rate of Three Thousand Dollars (\$3,000.00) per annum, as provided under MGL Chapter 32, s 85H.”

Passed 6-22-94, Approved by A/G 9-12-94

Article XXXIX – Interest Charge for Water & Sewer Bills

The Town shall charge an interest rate of 1% per month for all Water & Sewer bills

unpaid after the due date, as authorized under MGL Chapter 40, Sec 21E.

Passed 5-11-99, Approved by A/G 6-9-99

Article XL – Wireless Communication Facilities & Towers

General Purpose

The purpose of this section shall be to regulate the placement, design, construction, removal, and modifications of wireless communication facilities and towers and to protect Templeton's historic, cultural, natural, and aesthetic resources.

Special Permit Granting Authority shall be the Planning Board

Special Permit Review Criteria

- (A) No wireless communications facility shall be erected, constructed, installed or operated without first obtaining a special permit from the Town of Templeton Planning Board. A special permit is required for new tower construction (or major modification of a preexisting tower) and for all new wireless communications facilities (or major modification of a preexisting facility) to be mounted on a tower or structure.
- (B) All applications will be reviewed by the Board of Health & Conservation Board who will submit their written recommendations within 45 days.
- (C) A building permit is required per CMR 780.
- (D) A public hearing shall be held within 90 days with all costs accrued paid by the applicant
- (E) Exemptions: The following types of wireless communications facilities and towers are exempt:
 - (1) Amateur radio tower – construction or use of an antenna structure by a federally licensed amateur radio operator as exempted by M.G.L. Chapter 40A, Section 3.
 - (2) A tower or antenna erected by the Town exclusively for municipal public safety communications purposes.
 - (3) Pre-existing towers and antennas

This by-law is exempt from Article XXI Section 3, lot size, frontage, and setback requirements of the town by-laws

Consistency with Federal Law

These regulations are intended to be consistent with Section 704 of the 1996 Telecommunications Act.

Definitions:

Abandoned Tower: A tower not being used for the purpose it was permitted for a period of twelve months.

Adequate Coverage: Coverage is adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be signal strength of at least -90 dBm. It is acceptable for there to be minor temporary loss of signal within the area of adequate coverage. The outer boundary of the area of adequate coverage is that location past which the signal does not regain uniformity.

Antenna: A device used to transmit and/or receive electromagnetic waves, which is attached to a tower or other structure.

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

Available Space: The space on a tower or structure to which antennas of a wireless communication provider is both structurally able and electro magnetically able to be attached.

Base Station: The primary sending and receiving site in a wireless communication facility network. More than one base station and/or more than one variety of wireless communication provider may be located on a single tower or structure.

Building-Mounted Antenna Support Structure: Any antenna support structure mounted on, erected on, or supported in whole or part by a building or structure occupied and/or used for purposes other than wireless telecommunications.

Building For Equipment Shelter: An enclosed structure used to contain batteries, electrical equipment, telephone lines, transmitters, etc. used by the carriers on the towers.

Channel: The segment of the radiation spectrum to or from an antenna, which carries one signal. An antenna may radiate on many channels simultaneously.

Co-location: Locating the wireless communications equipment of more than one provider on a single tower.

Communication Tower: A monopole or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving wireless communications. A Tower and its equipment are considered a main use of property.

Consultant: A registered professional engineer (electrical communication specialty) licensed by the Commonwealth of Massachusetts, hired at the expense of the applicant to review the application and verify that the new tower is necessary at the proposed site, or any other review required under this bylaw.

Carrier: A company that provides wireless service as defined by Section 704 of the 1996 Telecommunications Act.

dBm: Unit of measure of the power level of a signal expressed in decibels referenced to one milliwatt.

EA: See Environmental Assessment

Emergency Power: Electrical Generators usually powered by propane gas or diesel fuel so as to provide uninterrupted service in the case of electrical utility failure, provided that any generators used may not emit more than 50 decibels over the ambient noise level at the property line.

Environmental Assessment: An EA is the document required by the FCC and NEPA when personal wireless facility is placed in certain designated areas.

FAA: Federal Aviation Administration:

Facility Site: A property, or any part thereof, which is owned or leased by one or more wireless communications facility(s) and where required landscaping is located.

Fall Zone: The area on the ground within a prescribed radius from the base of a tower, typically the area within which there is a potential hazard from falling debris or collapsing material. The fall zone shall be equal to the tower height.

FCC: Federal Communications Commission

Frequency: The number of cycles completed each second by an electromagnetic wave, measured in hertz (Hz), megahertz (MHz), or one million hertz, or gigahertz (GHz, one billion hertz).

Hertz: One hertz (Hz) is the frequency of an electric or magnetic field, which reverses polarity once each second, or one cycle per second.

Lattice Towers: A type of mount that is self-supporting with multiple legs and cross bracing of structural steel. See Communication Tower.

Major Modifications: The changing or alteration of any portion of a wireless communication facility from its description in a previously approved permit, including any addition that increases the height of the tower size of the building for equipment shelter.

Monitoring: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure from wireless communications facilities, towers, antennas, or repeaters.

Monopole: A type of tower that is self-supporting with a single shaft of wood, steel, or concrete.

NEPA: National Environmental Policy Act

Preexisting Towers and Antennas: any tower or antenna that was lawfully erected before the effective date of these regulations.

Repeater: A small receiver/relay transmitter and antenna of relatively low power output designed to provide service to areas that are not able to receive adequate coverage directly from a base or primary station.

RFI: Radio Frequency Interference

RFR: Radio Frequency Radiation

Scenic View: A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities which may be seen from a stationary viewpoint or as one travels along a roadway, waterway, or path, and may be an object nearby or in the distance such as a mountain, or historic building or a pond.

Self-Supporting Tower: A communications tower that is constructed without guy wires.

Spectrum: Relating to any transmissions or reception of electromagnetic waves.

Stealth Tower: A structure designed to blend with or be hidden by surrounding terrain, architectural design, or buildings.

Structurally Able: The determination that a tower or structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonable predictable conditions as determined by professional structural engineering analysis.

Tower: A vertical structure for antenna(s) that provide wireless communications services.

Tower Height: The vertical distance measured from the base of the tower support structure to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the tower height.

Wireless Communications Facility: All equipment, buildings and locations of equipment (real estate) with which a wireless communications provider transmits and receives the waves that carry their services. This facility may be owned and permitted by the provider or another owner or entity.

Wireless Communications Provider: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

Wireless Services: Commercial mobile services, unlicensed wireless exchange access services, including cellular services, personal communications services, specialized mobile radio services, and paging services.

Permit Application Requirements:

(A) An applicant for a wireless communications tower or facility permit must be a wireless communications provider or must provide a copy of its executed contract to provide land or facilities to an existing wireless communications provider at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

(B) Applicants for wireless communications towers or facilities shall include the following supplemental information in their filings for special permit approval:

- (1) Location Map: The location of the proposed structure on the most recent United States Geological Survey Quadrangle map, showing the area within at least a three-mile radius of the proposed tower site.
- (2) A map or *sketch* of the property proposed to be developed, prepared by a registered land surveyor drawn to scale and with the area to be developed clearly indicated.
- (3) A report from qualified and licensed professional engineers (consultants) that:
 - a) Describes the facility height, design, and elevation not to exceed 190 feet.
 - b) Documents the height above grade for all proposed mounting positions for antennas to be colocated on a wireless communications tower or facility and the minimum separation distances between antennas.
 - c) Describes the tower's proposed capacity, including the number, height, and type(s) of antennas that the applicant expects the tower to accommodate.
 - d) Documents steps the applicant will take to avoid interference with any established public safety wireless communications, and includes both an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies.
 - e) Describes existing and proposed coverage. In the case of new tower proposals, the applicant shall demonstrate that existing wireless communications facility sites and other existing structures within Templeton, in abutting towns, and within a 10 mile radius of the proposed site cannot reasonably be modified to provide adequate coverage and/or adequate capacity to the Town of Templeton.
 - f) Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage, and proves a detailed computer generated Actual Received Level propagation model that describes coverage of the existing and proposed facilities.
 - g) Describes the output frequency, number of channels and power output per channel for each proposed antenna.
 - h) Includes a written five-year plan for use of the proposed wireless communications facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for

additional development and coverage within the Town of Templeton.

- i) Demonstrates the tower's compliance with the municipality's setbacks for towers and support structures.
 - j) Provides proof that at the proposed site the applicants will be in compliance with all FCC regulations, standards, and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards, and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The Town of Templeton may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards, and requirements on an annual basis at unannounced times. The Town may allocate to the applicant any reasonable expenses incurred or authorized by it in retaining independent engineers to perform these evaluations.
- (4) Commitment to Share Space: A letter of intent committing the tower owner and his or her successors to permit shared use of the tower if the additional user agrees to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards, and requirements and the provision of this by-law.
 - (5) Existing Structures: For wireless services to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure must be submitted.
 - (6) Environmental Assessment: To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft of final report describing the probable impacts of the proposed facility shall be submitted to the Planning Board prior to the issuance of a building permit.
 - (7) Vicinity Map: A topography map and a priority resource map showing the entire vicinity within a 1000 foot radius of the tower site, including the wireless communications facility or tower, public and private roads and buildings and structures, water bodies, wetlands, landscape features, and historic sites. The map shall show the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.
 - (8) Proposed site plans of the entire wireless communications facility, professionally drawn to scale, showing all improvements including landscaping, utility lines, screening, and roads.
 - (9) Elevations showing all facades and indicating all exterior materials and color of towers, buildings, and associated facilities.
 - (10) Where the proposed site is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.

- (11) Construction sequence and estimated time schedule for completion of each phase of the entire project.
- (12) Any additional information requested by the Planning Board.
- (C) Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet. The permit application shall be signed under the penalties of perjury.
- (D) All permit requests shall be submitted during a regular scheduled meeting.

Tower and Antenna Design:

- (A) **Protection of Scenic Character:** Proposed facilities shall not unreasonably interfere with any scenic views, paying particular attention to such views from the downtown business area, public parks, natural scenic vistas or historic buildings or districts. Towers shall, when possible, be sited off ridgelines and where their visual impact is least detrimental to scenic views and areas. In determining whether the proposed tower will have an undue adverse impact on the scenic beauty of a ridge of hillside, the Town shall consider, among other things, the following:
 - (1) The period of time during which the proposed tower will be viewed by the *traveling* public on a public highway, public trail, or public body of water;
 - (2) The frequency of the view of the proposed tower by the *traveling* public;
 - (3) The degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures;
 - (4) Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
 - (5) The distance of the tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
 - (6) The number of travelers or vehicles traveling on a public highway, public trail, or public body of water at or near the critical vantage point, and
 - (7) The sensitivity or unique value of the particular view affected by the proposed tower.

To assist the town in its review it may require the applicant to fly or raise a three-foot diameter balloon at the maximum height of the proposed facility at a location within fifty (50) horizontal feet of the center of the proposed facility. The applicant shall provide photographs of the balloon test taken from at least four vantage points previously designated by the planning board.

- (B) **Lighting, Bulk, Height, Glare:** All wireless communications facilities, including towers and antennas, shall be designed and constructed so as to minimize the visual impact of height and mass of said tower. Materials utilized for the exterior of any structure shall be of a type, color, and style so as to minimize glare and blend into the environment. Towers shall not be artificially illuminated.
- (C) **Transmitter Building:** Facilities buildings shall be built to accommodate all anticipated tenants on a tower.

- (D) **Landscaping and Screening:** Base of tower as well as the building accessory to the tower shall be screened from view by a suitable vegetation screen that is consistent with existing vegetation. A planted or existing vegetative screen shall be maintained. Existing on-site vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.
- (E) **Height Limitations:** In order to protect public safety and to preserve the scenic, rural character and appearance of Templeton, antennas and all related facilities shall not exceed 190 feet.
- (F) **Fencing and Signage:** The area around the tower shall be completely fenced for security to a height of 8 feet and gated. Use of multiple strands of barbed wire is required. A painted sign no greater than two square feet stating the name of the facility's owner and a 24 hours emergency number shall be posted on the entry gate. In addition, "No Trespassing" and any other mandated warning signs shall be posted and maintained at the site. No commercial signs or lettering shall be placed on a tower. The tower must be equipped with an anti-climbing device. The wireless communications facility owner shall maintain adequate insurance on all wireless communications facilities.
- (G) **Utilities:** All utilities must be routed underground via conduit from public road to site where feasible.
- (H) **Access Road:** Vehicle access to site shall be required and shall conform to all Conservation Commission guidelines and be at least 18 feet wide. A sturdy, posted swinging, lockable gate must be installed which is more than 15 feet and less than 30 feet off the public road upon which said access is situated, A KNOX box or keys shall be provided to a designated town official for municipal access. Finish grade must be approved by the Highway Superintendent. Easements shall be provided to the Town of Templeton for access and removal in the case of facility/tower abandonment.
- (I) **Removal of Abandoned Antennas and Towers:**
- (1) The owner of a facility/tower shall annually, by January 15, file a declaration with the Town of Templeton Planning Board certifying the continuing safe operation of said facility/tower installed subject to these regulations. Failure to file a declaration shall mean that the facility/tower is no longer in use and shall be considered abandoned.
 - (2) A facility/tower shall also be considered abandoned when it has not been used for the purpose for which it was permitted, for a period of twelve months.
 - (3) The applicant or subsequent owners shall provide and maintain a financial surety bond in the amount of \$50,000.00 (fifty thousand dollars) payable to the Town of Templeton to cover the costs of removal of each wireless communications facility applied for and the remediation of the landscape, should the facility be deemed abandoned. The bond shall not limit the

applicant's financial liability to the Town for said facility/tower removal. The bond amount shall be reviewed every year by the planning board and shall be adjusted if deemed necessary. If the bond is deemed to be adjusted the applicant shall have 90 days from notice to provide an adjusted bond.

- a) The owner of a facility/tower shall have 90 (ninety) days to removal said tower from the date it is deemed abandoned as stated above.
- b) The town may exercise its option to remove said facility/tower at its own discretion upon notification of owner, any time after the 90 (ninety) day waiting period.

(J) **Emergency Power:** Emergency power shall emit no more than 50 decibels over ambient noise level at all property lines.

(K) **Noise:** Noise at the site perimeter from the operation of any machinery or equipment shall be minimized.

(L) **Property Consideration:** An applicant shall demonstrate that all municipally-owned property in the geographic area was considered.

(M) This section deleted by A/G

(N) **Distance of Tower or Repeaters:**

(1) No repeater shall be located less than 25 feet, nor more than 70 feet above ground.

(2) No tower or personal wireless service facility with the exception of repeaters shall be located:

(a) Within any of the following prohibited areas:

- (i) Massachusetts or Federally regulated wetlands
- (ii) A Massachusetts Certified Vernal Pool

(b) Within 100 feet horizontally of any Massachusetts regulated wetland.

(c) Within 200 feet of any existing permanently occupied residential dwelling.

(d) Within 200 feet of an existing property line unless incorporated within an existing building, tower, or steeple.

(O) **Documentation:** Engineering and Environmental Assessment impact as well as FAA notice of determination of no hazard of flight zone shall be submitted with any application.

(P) **Colocation Requirements:** An application for a new (non co-located) wireless communications tower shall not be approved unless the Planning Board finds that the wireless communications facility planned for the proposed tower cannot be

accommodated on an existing or approved tower or structure due to one of the following reasons:

- (1) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
 - (2) The proposed antennas and equipment would cause interference materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts and such interference cannot be prevented at a reasonable cost.
 - (3) The proposed antennas and equipment, along or together with existing facilities, equipment, or antennas, would create RFI in violation of federal standards or requirements.
 - (4) The proposed antennas and equipment, alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.
 - (5) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function, or are too far from the area of needed coverage to function reasonably, as documented by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts.
 - (6) Aesthetic considerations make it unreasonable to locate the planned wireless communications equipment upon an existing or approved tower or building.
 - (7) There is no existing or approved tower in the area in which coverage is sought.
 - (8) Other unforeseen specific reasons make it unreasonable to locate the planned wireless communications equipment upon existing or approved tower or building.
- (Q) Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's and additional antennas when overall permitted height allows.
- (R) Wireless communication towers shall be a minimum distance of two and one half (2.5) miles from each other unless it is determined by a qualified engineer

(consultant) licensed to practice in the Commonwealth of Massachusetts that a closer proximity is need for “Adequate Coverage” as defined under definitions Under no circumstances shall any wireless communications tower be within a distance of one (1) mile of each other unless such tower is a stealth tower and the applicant’s technology cannot be used on an existing tower as determined by a qualified engineer (consultant) licensed to practice in the Commonwealth of Massachusetts.

Modifications to Existing Wireless Communications Facilities Special Permit:

An alternation or addition to a previously approved wireless communications facility shall require an additional special permit when any of the following are proposed:

- (A) A change in the number of buildings or facilities permitted on the site;
- (B) Changes in technology used by the wireless communications facility;
- (C) An addition or change of any external equipment or an increase in the height of the tower, including profile of additional antennas, not specified in the original application; or
- (D) Change in ownership.

Continuing Obligations:

- (A) Upon receiving a permit, the permittee shall annually, by January 15, document that the facility is in compliance with all FCC standards and at the same time the permittee shall provide a list of the most recent RFR readings at the site, their distances from the tower/transmitter, dates of the readings, and the name of the person or company who took the readings.
- (B) All payment and non-payment of taxes shall fall under the Templeton By-Law article XXXII

Fees:

The Town shall establish a schedule of fees to cover permitting and monitoring costs. Fees may include the reasonable costs of an independent technical assessment of the application by a consultant.

Severability:

If a court of competent jurisdiction holds any portion of this by-law unconstitutional or invalid, the remainder of this by-law shall not be affected.

Conflicts:

If any definition or term as used in this by-law is inconsistent with or would result in a conflict with an applicant’s compliance with any FCC regulation or licensing requirement, the FCC regulation or licensing requirement shall control.

Waivers:

Strict compliance with these requirements may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Templeton By-Laws.

Passed 5-1-00, amended 9-26-00, approved by A/G 12-12-00

Article XLI – Water Use Restriction By-Law

Section 1. Authority

This By-law is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and its powers pursuant to M.G.L. c.40, §§21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This by-law also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Section 2. Purpose

The purpose of this by-law is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Massachusetts Department of Environmental Protection.

Section 3. Definitions

Agriculture shall mean farming in all its branches and agriculture, as defined at G.L. c. 128, § 1A.

Board shall mean the Board of Light and Water Commissioners.

Department shall mean the Massachusetts Department of Environmental Protection.

Outdoor watering shall mean any residential, municipal, industrial, or commercial watering of decorative lawns, trees or shrubbery.

Person shall mean any individual, corporation trust, partnership, association, agency or authority, or other entity and any officer, employee, group or agent of such persons.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this by-law.

Water Users or Water Consumers shall mean all persons using water from the Town's public water source irrespective of that person's responsibility for billing purposes for use of the water.

Section 4. Declaration of a State of Water Supply Conservation

The Town, acting through its Board of Light and Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists of such a degree that conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under Section 6 of this by-law before it may be enforced.

Section 5. Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply except as provided in Section 11. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6.

- a) Odd/Even Day Outdoor Watering: Outdoor watering on property having an odd numbered address is restricted to odd numbered days. Outdoor watering on property having an even numbered address is restricted to even numbered days.
- b) Off-Peak Outdoor Watering: Outdoor watering is limited to between particular hours on particular days as specified in the notice.
- c) Outdoor Watering Method Restriction: Outdoor watering is restricted to bucket, can or hand held hose watering with automatic shutoff nozzle.
- d) Outdoor Watering Ban: Outdoor watering is prohibited.
- e) Outdoor Watering Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- f) Swimming Pool Filling Prohibition: Filling and topping off of swimming pools is prohibited.
- g) Automatic Sprinkler Use Prohibition: The use of automatic sprinkler systems is prohibited.
- h) Car Washing Prohibition: Car or vehicle washing is prohibited.

Section 6. Public Notification of a State of Water Supply Conservation and State of Water Supply Emergency; Notification of Department

Notification of any provision, including any restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Notification of a State of Water Supply Emergency declared by the Department shall be provided by furnishing a copy of the Notice to radio and television stations serving the area served by the public water system as soon as possible, but no later than 48 hours after the public water system receives notice of the Department's declaration. Any restriction imposed under Section 5 of this by-law or in the Department's declaration of emergency or Order

shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be provided to the Department at the same time that public notice is given.

Section 7. Termination of a State of Water Supply Conservation; Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Light and Water Commissioners upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner as is required for notice of the Town's declaration of its State of Water Supply Conservation.

Section 8. State of Water Supply Emergency; Compliance with Department Orders

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department for the purpose of bringing about an end to the State of Water Supply Emergency. The notice prescribed by this section shall be in writing and shall be published once in a newspaper of general circulation within the town where it is to be effective. Such notice shall summarize the provisions of the Declaration of Water Supply Emergency and the requirements and conditions thereof. Notice as prescribed by this section shall be sufficient for enforcement of the requirements of such Declaration on and after the date following newspaper publication.

Section 9. Penalties

The Town, through its Board of Light and Water Commissioners, the manager of the Municipal Light and Water Plant, or local police may enforce this by-law. Any person violating this by-law shall be liable to the Town in the amount of \$ 50.00 for the first violation and \$100.00 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws.

Section 10. Severability

The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

Section 11. Exemptions

The water use restrictions adopted under this by-law shall not apply to the specific uses outlined below provided the user meets applicable eligibility criteria as determined by the Board of Light and Water Commissioners.

- a. Commercial agriculture;
- b. Water to sustain animal life;
- c. Swimming pools used as a primary means of exercise, therapy or rehabilitation located at a medical or rehabilitation facility;
- d. Commercial car or vehicle washing facilities.

Passed 9-10-02, Approved by A/G 9-29-03

Article XLII – Capital Planning By-Law

Section 1: Capital Improvements Committee:

The Board of Selectmen is hereby authorized to establish and appoint a Capital Improvements Committee, to be composed of five members, for a term of one year.

The following Boards and Committees shall nominate one of their members to serve annually:

- The Advisory Board
- The Board of Selectmen
- The School Committee
- The Planning Board
- A Member from the community, (preferable with some relevant experience in purchasing or general business practices)
- The Town Coordinator (or Town Accountant) as ex-officio member

The Committee shall choose its own officers.

Section 2: Committee duties:

To facilitate the reasonable acquisition and replacement of capital items (defined as assets and projects with a useful life of five or more years, and a cost of more than \$10,000.00), the Committee shall have the following duties and responsibilities:

- Annually collect all proposed capital improvements for the coming six years from all departments, on forms designed for that purpose.
- Consider all requests and the relative need and impact of these requests on the Town's financial position.
- Establish and annually update a five year Capital Improvement Plan, based on this information.
- Annually, prepare a report prioritizing capital needs for the coming fiscal year, and recommend a Capital Improvement Budget for that fiscal year.
- Submit this annual report and their recommendations for purchases or improvements, in the form of a separate capital article, to the Board of Selectmen for its consideration and approval.

Upon endorsement by the Board of Selectmen, the Capital Budget shall be included on the Annual Town Meeting Warrant for consideration.

It is the intent of this bylaw that all capital improvements requested by a Town Department or Board should be considered in the Committee's report before presentation to the Town for appropriation. It is the responsibility of the Committee to submit an explanation of the omission of any request. This explanation is to be provided to the Board of Selectmen before any vote for appropriation takes place on the omitted request.

The Committee's report and the Selectmen's recommended Capital Budget shall be made available to the Advisory Board for review and inclusion in the annual recommendations of the Advisory Board.

Passed 9-26-00, Approved by A/G 11-28-00

Article XLIII – Time Limit for Submitting Warrant Articles

Warrants for Annual Town Meeting and Special Town Meetings shall be open for a minimum of 14 days before closing and posting the warrants.

Passed 5-12-04, Approved by A/G 6-9-04

Article XLIV – Official Town of Templeton Website

The Templeton Board of Selectmen shall designate an official Town website, for the posting town business, and provide for its maintenance, security, and improvement through a specific budget line item in the fiscal year following passage of this article.

Passed 5-12-04, Approved by A/G 6-9-04

Article XLV – Posting of Warrants and By-Laws

The Templeton Board of Selectmen shall post all By-Laws and Town Meeting Warrants on the official Town website, within 1 business day of posting warrants or within 3 business days following notification of acceptance by the Attorney General of Massachusetts for By-Laws. By-Laws existing prior to the passage of this By-Law shall be posted on the official Town Website by the end of the fiscal year following passage of this article.

Passed 5-12-04, Approved by A/G 6-9-04

Article XLVI – Right to Farm By-Law

Section 1. Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A and Chapter 128, Section 1A. We the citizens of Templeton restate and republish these rules pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Templeton by allowing agricultural uses and related activities to function with minimum conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town of Templeton.

Section 2. Definitions

The word “farm” shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The words “farming” or “agriculture” or their derivatives shall include, but not be limited to, the following:

farming in all its branches and the cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural, mycological, aquacultural, floricultural, viticultural, or horticultural commodities; growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations; raising of livestock including horses; keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches, and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and furbearing animals.

“Farming” shall encompass activities including, but not limited to, the following:

operation and transportation of slow-moving farm equipment over roads within the Town;
control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
responsible application of manure, fertilizers and pesticides; applications to take into consideration minimizing non-point source pollution created by excess application;
conducting agriculture-related educational, and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
conducting agriculture-related research to promote and enhance agricultural output and marketing;
processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and on-farm relocation of earth and the clearing of ground for farming operations.

Section 3. Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Templeton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protection of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law

shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4. Disclosure Notification

The Town will provide a copy of the following notice annually to Templeton property owners, and will include the notice and copy of the bylaw on the Town's official website.

"It is the policy of the Town of Templeton to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform property owners that their property lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Owners, buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances."

Section 5. Resolution of Disputes

Dispute resolution will be the responsibility of the Board of Selectmen, or its designee(s), until at which time an Agricultural Commission is formed by the Town and empowered to resolve disputes arising from this bylaw.

Section 6. Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Templeton hereby declares the provisions of this By-law to be severable.

Passed 5-10-05, Approved by A/G 6-7-05

Article XLVII – Personnel By-Law

Copies of the Personnel By-Law may be obtained at the Town Clerk's office.

Passed 5-10-05, Amended 5-9-06

**Article XLVIII – Protect & Preservation of Town-owned
Parks, Commons & Cemeteries**

"There shall be no unauthorized digging within the confines of any Town-owned cemetery, park, or ball field. Flowers and/or shrubbery may be planted at designated locations within the cemeteries according to the Cemetery Department Rules and Regulations on file in the Town Clerk's office. All other digging must be approved in writing by the Cemetery Department or performed by the Cemetery Department. This bylaw shall carry a fine of not less than \$100.00 and no more than \$300.00. This bylaw may also be enforced by any police officer of the Town of Templeton in the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws. Any person who violates any provision of this bylaw shall be subject to a penalty of \$100.00 for the first offense, \$200.00 for the second offense, and \$300.00 for the third and each subsequent offense. Each day that a violation exists shall be deemed a separate offense."

**Article XLIX - Governing Illicit Connections and Discharges to
The Storm Drain System:**

SECTION 1. PURPOSE:

The purpose of this bylaw is to regulate illicit connections and discharges to the storm drain system, which is necessary for the protection of Templeton water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. This bylaw is a requirement of the federal National Pollutant Discharge Elimination System Stormwater General Permit issued to the town of Templeton.

The objectives of this by-law are:

1. To prevent pollutants from entering the Templeton municipal separate storm sewer system (MS4);
2. To prohibit illicit connections and unauthorized discharges to the MS4;
3. To require the removal of all such illicit connections;
4. To comply with state and federal statutes and regulations relating to Stormwater discharges; and
5. To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.
6. To prevent contamination of drinking water supplies.
- 7.

SECTION 2. DEFINITIONS:

For the purposes of this bylaw, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The Templeton Board of Selectmen, (The Board) its employees or agents designated to enforce this bylaw.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of Stormwater runoff.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, pursuant to Section 8, subsection 15, of this by-law or resulting from emergency fire fighting activities.

ILLCIT CONNECTION: Any surface or subsurface drain or conveyance, which allows an illegal discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the town of Templeton.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of Stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any Stormwater or drain system or waters of the Commonwealth. Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;
- (10) construction wastes and residues;
- (11) and noxious or offensive matter of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER: Runoff from precipitation and snowmelt.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

SECTION 3. APPLICABILITY:

This by-law shall apply to flows entering the municipal storm drainage system in the town of Templeton.

SECTION 4. AUTHORITY:

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act and G.L. c. 83 Sec. 1 and 10, as amended by St. 2004, c. 149 Subsections 135-140, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION:

The Board of Selectmen (“The Board”) shall administer, implement and enforce this bylaw. Any powers granted to, or duties imposed upon, the Board may be delegated in writing by the Board to employees or agents of the Board.

SECTION 6. REGULATIONS:

The Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

SECTION 7. PROHIBITED ACTIVITIES:

Illegal Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of Stormwater into or out of the municipal storm drain system without prior written approval from the Board.

SECTION 8. EXEMPTIONS:

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system and that any discharges to the public storm drain shall conform to the standards set forth in the DEP administered regulations: 314 CMR 9.00 (401 Water Quality Certification), 314 CMR 3.00 (Surface Water Discharge Permit Program), 314 CMR 4.00 (Surface Water Quality Standards, and 314 CMR 5.00 (Groundwater Discharge Permit Program, as currently in effect.

- (1) Municipal waterline flushing
- (2) Discharge from landscape or agricultural irrigation or lawn watering
- (3) Water from individual residential car washing and temporary fund-raising car washes
- (4) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (5) non-emergency fire fighting activities
- (6) Discharge from street sweeping;
- (7) Non-Stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations

- (8) Rising groundwater
- (9) Natural flow from riparian habitats and wetlands
- (10) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation
- (11) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater
- (12) Flow from potable water sources
- (13) Springs

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system, and a written permit is approved by the Board of Selectmen or its agent:

- (1) Diverted stream flow
- (2) Dye testing, provided verbal notification is given to the Board prior to the time of the test;
- (3) Uncontaminated groundwater discharge from a sump pump
 - a. The connection of the building sump pump to the public storm drain shall conform to the requirements of the building and plumbing code and/or other applicable rules and regulations of the Town. The portion of a private drain connection that is located within the applicant's own property is privately owned, while the portion that is constructed within the public way becomes the property of the Town, with all costs of construction, connection, and repair borne by the applicant. A dual backflow preventer or other device that makes it possible for the Town to shut off the flows from the private drain connection into the storm drain if conditions of the permit are violated will be made a part of the drain system.
 - b. The applicant for the building drain permit shall notify the Board of Selectmen when the drain is ready for inspection and connection to the public storm drain. No connection shall be put to use and no backfilling is allowed until all appropriate inspections are made by the Board's representative inspector(s).
- (4) Discharge for which advanced written approval is received from the Board of Selectman or agents designated to enforce this bylaw, as necessary to protect public health, safety, welfare or the environment of Templeton.

SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS:

- 1. The Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board or its authorized agent may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- 2. Any person discharging to a municipal storm drain system in violation of this bylaw may have their storm drain system access terminated if such termination would abate or reduce an illicit discharge. The Board, or its agent, will notify a

violator of the proposed termination of storm drain system access. The violator may petition the Board for reconsideration and hearing. A person commits an offense if the person reinstates storm drain system access to premises terminated pursuant to this section, without prior approval from the Board.

SECTION 10. NOTIFICATION OF SPILLS:

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of an accidental release of oil or hazardous materials, the person shall immediately notify the Templeton Fire Department, Police Department, the Board of Selectmen and the Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Board no later than the next business day. The reporting person shall provide to the Board written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 11. ENFORCEMENT:

The Board or an authorized agent of the Board shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Orders. The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:

- (a) elimination of illicit connections or discharges to the MS4;
- (b) termination of access to the storm drainage system;
- (c) performance of monitoring, analyses, and reporting;
- (d) that unlawful discharges, practices, or operations shall cease and desist; and
- (e) remediation of contamination in connection therewith. If the Board or its authorized agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Selectman within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, s57 after the thirty-first day at which the costs first become due.

Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$ 500.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40 Sec. 21D, and this bylaw of the Town of Templeton, in which case the Board or its authorized agent shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Entry to Perform Duties Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board or its authorized agent deems reasonably necessary.

Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 12. SEVERABILITY:

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw 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 13. TRANSITIONAL PROVISIONS:

Residential property owners shall have 120 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

Passed 5-16-07, Approved by A/G 6-18-07

Section 8 amended 5-17-10, Approved by A/G 8-210

Article L - Templeton Community Preservation Committee Bylaw

Chapter 1: Establishment

There is hereby established a Community Preservation Committee (“CPC”), consisting of nine (9) voting members pursuant to MGL Chapter 44B (the “Act”). The composition of the CPC, the appointment authority and the term of office for the CPC members shall be as follows:

One member of the Templeton Conservation Commission as designated by that Commission.

One member of the Templeton Historical Commission as designated by that Commission.

One member of the Templeton Housing Authority as designated by that Authority.

One member of the Templeton Recreation Committee as designated by that Committee.

One member of the Templeton Planning Board as designated by that Board.

One member of the Templeton Board of Assessors as designated by that Board.

Three members to be elected at large from the registered voters of the Town.

Appointed members of the CPC shall serve for two-year terms or until they no longer serve on the appointing body, whichever comes first. A vacancy in an appointed position shall be filled for the remainder of the unexpired term by the appointing Commission, Committee, Board or Authority. Persons appointed to fill a vacancy in an appointed position shall be sworn into office no later than fourteen (14) days after appointment or such appointment will expire and the appointing Commission, Committee, Board of Authority shall make a new appointment.

Elected members of the CPC shall serve for three-year alternating terms; provided, however, that upon the effective date of this bylaw, the Board of Selectmen shall appoint three members to serve until their successors are elected and qualified at the next Annual Town Election, and such positions shall be placed upon the ballot at such election for initial terms of one, two and three-years. A vacancy in an elected position shall be filled in accordance with G.L. c.41, §11.

Vacancies in elected positions are filled in accordance with G.L. c.41, §11. General Laws c.41, §11 requires that the Committee at issue give notice to the Board of Selectmen of the vacancy within one month thereof, and that the Board of Selectmen and remaining members of the Committee make a joint appointment to the position, after one week's notice of the joint meeting. If the Committee fails to give notice, the Board of Selectmen may fill the vacancy on its own.

The terms of all appointed and elected members of the CPC shall commence on June 1; provided, however, that the terms of the initial appointments made hereunder shall commence after appointments have been made in accordance with Section 7 and the appointees have qualified in accordance with the requirements of G.L. c.41, §107.

Should any of the Commissions, Boards, Authorities, or Committees who have appointment authority under this Chapter cease to exist for what ever reason, the appointment authority for that Commission, Board, Authority, or Committee shall become the responsibility of the Board of Selectmen.

Any appointed member of the CPC may, after a public hearing, be removed for cause by majority vote of the appointing Commission, Committee, Board or Authority.

Chapter 2: Duties

(1). The Community Preservation Committee shall study the needs, possibilities, and resources of the town regarding community preservation. The CPC shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Committee, the Open Space Committee and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the CPC shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town. The CPC will provide an annual report on its activities for inclusion in the Templeton annual report.

(2). The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the CPC shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3). The Community Preservation Committee may include, in its recommendation to the Town Meeting, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to

accomplish that specific purpose or to set aside for later spending for general purposes that are consistent with community preservation.

(4). The Community Preservation Committee shall work within the provisions of the Community Preservation Act as it may be amended from time to time.

Chapter 3: Requirement for a quorum and cost estimates

The Community Preservation Committee shall not conduct business without the presence of a quorum. A majority of the members of the CPC shall constitute a quorum. The CPC shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the CPC's anticipated costs.

Chapter 4: Amendments

This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL, Chapter 44B.

Chapter 5: Exemptions

Applications for an exemption from the Community Preservation surcharge shall be filed with the Board of Assessors no later than 90 days following the issuance of the actual tax bill.

Chapter 6: Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

Chapter 7: Effective Date

Provided that the Community Preservation Act is accepted by the voters at the 2007 or 2008 Annual Town Election, this bylaw shall take effect upon approval by the Attorney General of the Commonwealth and after all the requirements of G.L. c.40, §32 have been met. Each appointing authority shall have 30 days after approval by the Attorney General to make its initial appointments.

Passed 5-16-07, Approve by A/G 6-18-07

Article LI - Recreation Commission

The Board of Selectmen shall appoint a Recreation Commission consisting of seven (7) members: three (3) members to be appointed from Precinct A, three (3) members to be appointed from Precinct B, and one (1) member to be appointed at-large. The term for each shall be one year. Any seat that becomes vacant during the one-year term shall be filled by the appointing authority for the remainder of the unexpired term.

Passed 11-29-07, Approved by A/G 3-4-08

Article LII - Emergency Radio Communications

1. Emergency Communications Ability Required:

The construction of a new building or structure; a) containing a floor area equal to or greater than 12,000 square feet, b) substantial renovation or alteration of an existing building containing 12,000 square feet or more, or which, after such renovation or alteration, will contain 12,000 square feet or more, shall provide for “public emergency radio communication” as required hereunder. For purposes of this bylaw “public emergency radio communications” shall provide the unimpeded ability for emergency responders to communicate with each other over public emergency radio frequencies from any point within the building to any other point within the building, and from any point within the building to any area exterior of the building within 200 feet of the building.

2. Building Permit Review:

As a part of and in addition to any existing Fire Department building permit application review, all building permit applications for structures that are or will be required to comply with obligation to provide “public emergency radio communication” in accordance with Section 1, above, shall undergo a review by the Fire Department to determine whether the design and construction materials, as proposed, are consistent with the obligation to provide unimpeded communications between and among emergency responders in accordance with Section 1, above. Should the Fire Department have cause to believe that there is likelihood that such design or construction materials may be inconsistent with the obligation to provide unimpeded communication between and among emergency responders; the applicant shall be required to engage an independent radio engineer, acceptable to the Fire Department, at the applicant’s sole and exclusive expense, to provide a written evaluation addressed to the Fire Department, based upon commonly accepted engineering standards, of the likelihood that the building design and construction materials, as proposed, will provide unimpeded communications between and among emergency responders, in accordance with Section 1, above. In addition, such report shall contain recommendations for changes or modifications to the building design or construction materials in order to ensure such unimpeded communications. prior to Fire Department approval of any such building permit application, the application shall incorporate any and all changes or modifications to the building design and/or construction materials as recommended by such independent radio engineer.

3. Existing Buildings:

Existing buildings shall only be required to comply if they undergo substantial renovations or alterations as defined in the Massachusetts State Building Code.

4. New Construction:

All new construction, regardless of use of occupancy, over 12,000 square feet shall meet the requirements.

5. Equipment:

Any “public emergency radio communication system” installed in accordance with this bylaw shall comply with all applicable rules and regulations, as amended from time to time, issued by the Federal Communication Commission, or of any other local, state, or federal agency having jurisdiction over such communication systems. The design of such system must be occupancy-based, and must be engineered and designed taking into account the machinery and equipment to be used by the occupant(s) of such building.

Any such communications system that requires a power source shall have a battery backup power source that provides power for no less than two (2) hours without an external power source. All “public emergency radio communication systems” must be powered from circuits that are separate and distinct and not subject to being tripped by other equipment. All power cords to devices in the system must be restrained in a manner acceptable to the Fire Department to prevent accidental or easy removal. All equipment must be installed by licensed vendors who have secured the necessary permits. All such installations shall meet applicable sections of the National Electrical Code, as amended from time to time. All power-sourced equipment shall be protected from access thereto and shall contain such safeguards as are acceptable to the Fire Department to prevent such equipment from being accidentally turned off. Any cabinet used for Emergency Radio equipment must be locked and such cabinets or equipment used for emergency radio communication shall be marked “Authorized Personnel Only.” The applicant shall supply a copy of the key to any such equipment cabinet and a key to any room where equipment is stored. Such keys shall be kept in the building’s lock box.

Any system installed in accordance with this bylaw shall provide an audible device and white strobe light, both of which shall be activated by the failure of the system. Any amplifier equipment powering the audible device shall have a monitoring system that monitors amplifier operation and primary power. The system may permit the audible signal to be silenced during a failure, but such system shall not permit the strobe light to be turned off during a failure and it shall remain illuminated at all times until the fault has been corrected. The strobe light shall be located in an accessible location authorized by the Fire Department. The applicant shall cause a sign to be located at the strobe light with the name and telephone number of the equipment maintenance contractor. The Fire Department must be notified of any failures that extend past the two (2) hour time limit. No secondary usage of any emergency radio equipment shall be permitted without written approval of the Fire Department. Such secondary usage shall not interfere with or degrade the operational ability of the system. To the extent that such secondary use interferes with or degrades the operation of the system for the public safety purposes set forth in this bylaw, such use shall cease immediately regardless of any approval that may have been granted by the Fire Department.

6. Compliance Testing:

Prior to the Fire Department approval of a request for an occupancy permit for any building requiring a “public emergency radio communication system” in accordance with Section 1, above, the Fire Department shall test the system for compliance with the requirements of this bylaw. Such compliance testing shall be done upon completion of construction and prior to occupancy using then existing equipment in use by the town. No occupancy certificate shall be issued until and unless the system is tested and determined to be in compliance with the requirements of this bylaw.

Adequate radio coverage is defined as meeting a minimum of 3 and 3 for signal strength and intelligibility as is defined below:

Signal Strength-

- 0 – No detectable signal
- 1 – Barely detectable
- 2 – Detectable with difficulty
- 3 – Detectable at all times

- 4 – Strong signal, detectable at all times
- 5 – Any increase in signal would overload the system

Intelligibility-

- 0 – Unintelligible
- 1 – Intelligible with extreme difficulty (many repetitions required)
- 2 – Intelligible with difficulty (repetition required)
- 3 – Intelligible (repetition seldom required)
- 4 – Intelligible at all times
- 5 – Hard to imagine how it could be better (super hi-fi)

7. Annual Testing:

The Fire Department shall conduct annual compliance testing of all “public emergency radio communication systems” installed in accordance with this bylaw. Any system requiring battery backup shall be tested on battery for no less than one (1) hour to verify that it will operate during an actual power outage. The Fire Department shall provide written notice to the building owner of any noncompliance of such system with the requirements of this bylaw, as amended from time to time. Any such non-compliance shall be fully remedied to the satisfaction of the Fire Department within thirty (30) days of such notice. Upon request of the Fire Department, the building owner shall provide a written report from an independent radio engineer, acceptable to the Fire Department, at the applicant’s sole and exclusive expense, to provide a written evaluation addressed to the Fire Department, based upon commonly accepted engineering standards, that the proposed remedy will bring the system into compliance with the requirements of this bylaw.

8. Modifications:

No modifications to the “public emergency radio communication system” shall be made without the prior written authorization of the Fire Department. Upon completion of any such approved modifications, a performance test shall be conducted by the Fire Department in addition to any yearly performance test.

9. Responsibilities:

The building owner shall be solely responsible for maintaining the “public emergency radio communication system” and assuring its compliance with the requirements of this bylaw. The owner shall maintain a contract with a qualified radio service contractor for all systems that require power, which contract shall provide for next day service for such systems.

The owner of the building must notify the Fire Department with regard to any change to its Emergency Radio Equipment maintenance contract.

To the extent that the owner fails to maintain such systems and/or to ensure compliance of such systems with this bylaw, the town may, after due notice, undertake such repairs to bring such system into compliance with the requirements of this bylaw. Any costs incurred by the town in bringing such systems into compliance with this bylaw shall constitute a municipal lien against such real property.

10. Violations and Penalties:

Any person violating any provision of this bylaw shall be fined not more than \$300 for each offense per day until appropriate compliance is reached. The Fire Chief shall be the enforcement authority.

**Article LIII - NPDES PHASE II PERMIT STORMWATER
MANAGEMENT BYLAW**

STORMWATER MANAGEMENT

Section 1. Purpose and Intent.

Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Templeton's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated Stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater which result in the; contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; and flooding. This by-law establishes minimum storm water management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople and the general public.

This by-law requires local review and approval of a Stormwater management plan for all development and redevelopment projects that disturb one (1) acre or more. In addition to this by-law, the Owner and/or developer is also obligated to meet the requirements of the Federal Environmental Protection Agency's (EPA) regulations for Stormwater management.

Section 2. The objectives of this by-law are:

- a. To require practices to control the flow of Stormwater from new and redeveloped sites into the town's storm drainage system in order to prevent flooding and erosion;
- b. To protect groundwater and surface water from degradation;
- c. To promote groundwater recharge;
- d. To prevent pollutants from entering the town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
- e. To ensure adequate long-term operation and maintenance of structural Stormwater best management practices so that they work as designed;
- f. To comply with state and federal statutes and regulations relating to storm water discharges; and
- g. To establish Templeton's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

Section 3. Applicability

No person may undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater

than one acre of land or will disturb less than one acre of land but part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land, without a permit from the Permit Granting Authority. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site. Construction activities that are exempt are:

- a. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 or the improvement or preparation of land for agricultural use outside the jurisdictional areas of the Wetlands Protection Act, provided that the activity is undertaken in such a manner as to prevent erosion and siltation of wetlands and surface waters in accordance with U.S. Department of Agriculture "Guidelines for Soil and Water Conservation: and is conducted in accordance with Federal and State laws.
- b. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
- c. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- d. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
- e. Work activities of municipal, state, or federal agencies or their agents outside of the Phase II boundaries as shown on the latest U.S. Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) Phase II maps.
- f. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in Section 3 that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this by-law.

Section 4. Permits and Procedures

- a. The Permit Granting Authority (PGA) under this bylaw shall be the Templeton Planning Board. Such a permit shall be granted if the PGA determines, with the advice and recommendations of the Zoning Enforcement Officer, Conservation Commission, and the Highway Department, that the intent of this bylaw, as well as specific criteria, is met. The PGA shall not grant a permit under this section unless the petitioner's application materials include, in the PGA's opinion, sufficiently detailed definite and credible information to support positive findings in relation to the standards given in this section. The PGA shall document the basis for any departures from the recommendations of the other town boards or departments in its decision.
- b. The site owner or his agent shall file with the PGA, ten (10) copies of a completed application package for a Stormwater Management Permit (SMP). Permit issuance is required prior to any site altering activity. While the applicant

can be a representative, the permittee must be the owner of the site. The SMP Application package shall include:

- (1) A completed Application Form with original signatures of all owners;
- (2) Ten (10) copies of the Stormwater Management Plan and project description as specified in Section 5.
- (3) Ten (10) copies of the Operation and Maintenance Plan as required by Section 6 of this by-law;
- (4) Payment of the application and review fees.
- (5) A list of abutters (owners of property within 300 feet of the boundaries of the site), as certified by the Assessors.

c. Entry. To the extent permitted by state law, filing and application for a permit grants the PGA or its planning agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.

d. Other Boards. The PGA shall give one copy of the application package to the designated technical reviewers, which include the Zoning Enforcement Officer, Conservation Commission, and Highway department, for the purpose of reviewing the permit application. The PGA may also engage the services of a peer review engineer at the applicant's expense if, in the opinion of the PGA, such review is necessary for assessing technical information supplied by the applicant and assessing the adequacy of proposed Stormwater control measures.

e. The PGA shall obtain with each submission an Application Fee established by the PGA. If the PGA retains a Registered Professional Engineer or other professional consultant for technical review, additional review fees will be required. Applicants must pay review fees before the review process may begin.

f. Public Hearing. The PGA shall hold a public hearing within 60 days of the receipt of a complete application, and shall take final action within 60 days from the close of the public hearing, unless such time is extended by agreement between the applicant and the PGA. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town, by posting at Town Hall, and by first-class mailings to abutters at least 7 days prior to the hearing. The PGA shall make the application available for inspection by the public during business hours at the Town offices.

g. Actions. The PGA's action, rendered in writing, shall consist of either:

- (1) Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the Standards in Section 5 b. and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this by-law;

(2) Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the PGA which will ensure that the project meets the Standards in Section 5 b. and adequately protect water resources, set forth in this by-law;

(3) Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Standards in Section 5 b. or adequately protect water resources, as set forth in this by-law.

h. Project Completion. At completion of the project the permittee shall submit as-built record drawings of all structural Stormwater controls and treatment best management practices (BMP's) required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

Section 5. Contents of Stormwater Management Plan

a. Application. The Stormwater Management Plan shall contain sufficient information for the PGA to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from Stormwater. The plan shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in the current edition of the Department of Environmental Protection guidelines and policies. The plan shall be designed to also meet the policy standards of the PGA. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. It shall include:

- (1) Locus map,
- (2) The existing zoning, and land use at the site,
- (3) The proposed land use,
- (4) The location(s) of existing and proposed easements,
- (5) The location of existing and proposed utilities,
- (6) The site's existing and proposed topography with contours at 2 foot intervals,
- (7) The existing site hydrology,
- (8) A description and delineation of existing Stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which Stormwater flows.
- (9) A delineation of 100-year flood plains, if applicable
- (10) Estimated high groundwater elevation in areas to be used for Stormwater retention, detention, or infiltration.

- (11) The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
- (12) A drainage area map showing pre and post construction watershed boundaries, drainage area, and Stormwater flow paths,
- (13) A description and drawings of all components of the proposed drainage system including:
 - (i) Locations, cross sections, and profiles, of all brooks, streams, drainage swales and their method of stabilization,
 - (ii) All measures for the detention, retention, or infiltration of water,
 - (iii) All measures for the protection of water quality,
 - (iv) The structural details for all components of the proposed drainage systems and Stormwater management facilities
 - (v) Notes on drawings specifying materials to be used, construction specifications, and typicals, and
 - (vi) Expected hydrology with supporting calculations.
- (14) Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
- (15) Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization,
- (16) Plans to minimize soil erosion and control sedimentation during construction, including interim and permanent soil stabilization measures, management of on-site construction and waste materials, and prevention of off-site transport of sediment,
- (17) A maintenance schedule for the period of construction, and
- (18) Any other information requested by the PGA..

b. Standards. Projects shall meet the **Standards of the Massachusetts Stormwater Management Policy** as are currently in effect.

- c. Project Changes. The permittee, or their agent, shall notify the PGA in writing of any change or alteration of a land-disturbing activity authorized in a Stormwater Management Permit before any change or alteration occurs. If the PGA determines that the change or alteration is significant, based on the design requirements listed in Section 5 and accepted construction practices, the PGA may require that an amended

Stormwater Management Permit application be filed and a public hearing held. If any change or deviation from the Stormwater Management Permit occurs during a project, the PGA may require the installation or interim measures before approving the change.

Section 6. Operation and Maintenance Plans

An Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this by-law and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance Plan shall remain on file with the PGA and shall be an ongoing requirement. The O&M Plan shall include:

- a. The name(s) of the owner(s) for all components of the system
- b. Maintenance agreements that specify:
 - (1) The names and addresses of the person(s) responsible for operation and maintenance.
 - (2) The person(s) responsible for financing maintenance and emergency repairs.
- c. Maintenance Schedule for all drainage structures, including swales and ponds.
- d. List of easements with the purpose and location of each.
- e. The signature(s) of the owner(s).
- f. Evidence that the owner has sufficient legal authority and necessary property rights to access and maintain all aspects of the Stormwater control system.
- g. Changes to Operation and Maintenance Plans
 - (1) The owner(s) of the Stormwater management system must notify the PGA of changes in ownership or assignment of financial responsibility.
 - (2) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the PGA and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

Section 7. Surety

The PGA may require the permittee to post before the start of land disturbance or construction activity, a surety bond, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the PGA to ensure that the work will be completed in accordance with the permit. If the project is phased, the PGA may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the PGA has received the final inspection report as required by Section 8 g. and issued a Certificate of Completion.

Section 8. Inspections

At the discretion of the PGA, periodic inspections of the Stormwater management system construction may be conducted by the Town or a professional engineer approved by the PGA. Written reports shall include:

- a. Inspection date and location.
- b. Evaluation of compliance with the Stormwater permit.
- c. Any variations from approved specifications or any violations of the Stormwater Management Plan.

At a minimum, the PGA or its agent/engineer may inspect the project site at the following stages:

- d. Initial Site Inspection: prior to approval of any plan.
- e. Erosion Control Inspection: to ensure erosion control practices are in accord with the filed plan.
- f. Bury Inspection: prior to backfilling of any underground drainage Stormwater conveyance structures.
- g. Final Inspection. After the Stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual Stormwater management system as installed. The PGA or its agent may inspect the system to confirm its “as built” features.
This inspector may also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the PGA which will issue a Certificate of Completion. As-built plans shall be full size plans that include all final grades, prepared by a Professional Engineer. All changes to project design should be clearly depicted on the as-built plans.
- h. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, it shall be corrected by the permittee

before the performance guarantee is released. If the system does not comply with the Plan, the permittee shall be notified in writing of the violation and the required corrective actions. A Stop Work order shall be issued until any violations are corrected and all work previously completed has received approval by the PGA.

Section 9. Waivers

a. The PGA may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:

(1) Such action is allowed by federal, state, and local statutes and/or regulations,

(2) Is in the public interest, and

(3) Is not inconsistent with the purpose and intent of this by-law.

b. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the by-laws does not further the purposes or objectives of this by-law.

c. All waiver requests shall be discussed and voted on at the public hearing for the project.

d. If in the PGA's opinion, additional time or information is required for review of a waiver request, the PGA may continue the hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

Section 10. Certificate of Completion

The PGA will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this by-law.

Section 11. Enforcement

a. The PGA or an authorized agent of the PGA shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

b. Orders.

(1) The PGA or an authorized agent of the PGA may issue a written order to enforce the provisions of this by-law or the regulations hereunder, which may include requirements to:

(i) Cease and desist from construction or land disturbing activity until there is compliance with the by-law and the Stormwater management permit;

(ii) Repair, maintain, or replace the Stormwater management system or portions thereof in accordance with the operation and maintenance plan.

(iii) Perform monitoring, analysis, and reporting;

(iv) Remediate adverse impact resulting directly or indirectly from malfunction of the Stormwater management system.

(v) If the PGA or authorized agent of the PGA determines that the abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Templeton may, at its **option**, undertake such work, and the property owner shall reimburse the town's expenses.

(vi) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the PGA within thirty (30) days of receipt of the notification of the cost incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the PGA affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

c. **Criminal Penalty.** Any person who violates any provision of this by-law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

d. **Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40 Sec. 21D, and this bylaw of the Town of Templeton, in which case the PGA or its authorized agent shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each

day or part thereof that such violation occurs or continues shall constitute a separate offense.

Section 12. Rules and Regulations

The PGA may adopt, and periodically amend, rules and regulations to effectuate the purposes of this by-law. Failure by the PGA to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law or any permits issued pursuant to the by-law.

Section 13. Severability

The invalidity of any section, provision, paragraph, sentence, or clause of this by-law shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

Passed 3-6-08, Approved by A/G 5-29-08

Article LIV - Excessive Junk and Debris

Public Nuisance

Section 1. No owner or tenant shall keep in the public view, on any lot, in any residential district, any substantial amount of junk or debris for more than sixty days.

Section 2. The objectives of this by-law are:

- a. To prevent the depreciation of surrounding residences assessed value;
- b. To protect the health, safety and welfare of the public;
- c. To prevent pollutants from entering the ground water

Section 3. Definitions.

- a. "Junk and Debris" shall mean scrap metal, unsafe and dilapidated accessory buildings, rags, plastics, scrap rubble, debris, building salvage, abandoned autos, machinery, wreckage, batteries, paper, trash, furniture, and other similar items, which are not active for any purpose authorized in a residential district.
- b. "A Substantial Amount" shall mean a quantity of material which occupies more than 375 cubic feet in the aggregate on any lot.

Section 4. Conditions existing at the date of the by-law enactment, which meet the definition of substantial amounts of junk or debris, must be brought into compliance within ninety (90) days of the date of approval of this by-law.

Section 5. Enforcement.

- a. The Building Inspector, in conjunction with the Board of Health Director, shall be charged with the interpretation and enforcement of the by-law.

- b. Anyone found in violation may be fined \$50.00 for each day the violation persists beginning sixty (60) days after notice of violation.

Section 6. Action taken hereunder shall not bar any separate action initiated by any other Town department for health, safety or other violations. Provisions of this by-law are to be interpreted consistently with State and Federal laws and regulations relating to storage/contamination.

Passed 5-11-10, Approved by A/G 8-23-10

Town of Templeton Zoning Bylaw



Amended &
reorganized
5-17-10

Zoning Bylaws

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SECTION 1.0 INTRODUCTION: ¹

1.1 PURPOSE. These regulations are enacted to promote the purposes set forth in 1975 Mass. Acts 808, which include, but are not limited to, the following: -- to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the master plan, if any, adopted by the planning board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include, but are not limited to, restricting, prohibiting, permitting or regulating:

1. uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
2. size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of sections twenty-nine through thirty-three, inclusive, of Chapter ninety-three, and to Chapter ninety-three D;
3. uses of bodies of water, including water courses;
4. noxious uses;
5. areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;
6. density of population and intensity of use;
7. accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and

¹ **Section 1** passed 3/10/73, Attorney General (AG) approved 6/15/73; Amended 4/20/78, AG approved 7/27/78; Amended 9/___/02, AG approved 10/___/02

8. the development of the natural, scenic and aesthetic qualities of the community.

1.2 **AUTHORITY.** The Zoning By-law is authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

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

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

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

1.6 **SEPARABILITY.** The invalidity of any section or provision of this Zoning By-Law shall not invalidate any other section or provision herein.

SECTION 2.0 - DEFINITIONS ²

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the by-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in the by-law.

Accessory building: A subordinate building located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

Accessory use: A use customarily incidental to that of the main or principal building use of the land.

Accessory apartment: A dwelling unit located within or attached to a structure constructed as a single family dwelling, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the structural appearance of a single family house.

² **Section 2** passed 3/10/73, Attorney General (AG) approved 6/15/73; Amended 4/20/78, AG approved 7/27/78; Amended 9/___/02, AG approved 10/___/02; Amendment passed 12-7-06, approved by AG 3-6-07; Amended 3/6/08. Approved by AG 5/29/08

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts, or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving of the building or structure from one (1) location or position to another.

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

Applicant: The party, whether an individual, partnerships, corporation, trust or other legal entity, that applies for a permit or approval under this zoning by-law or other regulations of the Town of Templeton. If the applicant is not the record owner or representative of the owner of the subject property, consent of the legal owner shall be required.

Assisted Living Residence: See Nursing Home.

Automotive Repair Shop: See Motor Vehicle Body Repairs, Motor Vehicle General Repairs and Motor Vehicle Light Service.

Automatic Teller Machine (ATM), Freestanding: A pedestrian oriented mechanical device, not in proximity to a bank or other financial institution, which is accessed by an individual for the purpose of receiving cash from accounts and / or allows patrons to perform minor financial transactions. ATMs for use by Patrons in vehicles are to be considered drive-up customer service facilities.

Basement: The space in a residence or other building in which all or part of the space is located below the average surface grade of the lot.

Bed and breakfast establishment: A private owner-occupied dwelling of not more than 6 bedrooms for occupation by bed and breakfast guests where individual rooms are let as overnight accommodations and a breakfast is included in the rent as an accessory use. Bed and Breakfast establishments are intended for guests staying on an intermittent visits and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

Boarding house: A dwelling or part thereof in which lodging is provided by the owner or operator to individuals without meals shall be considered a boarding house.

Buffer Zone: An area along the boundary line between a residential district in the Town of Templeton and any Commercial, Industrial or Highway Business districts, extending into the aforementioned non-residential districts for a distance of fifty feet (50'), in order to reduce adverse development impacts on neighboring residential districts. NOTE: See Table of Dimensions.

Building: A building in which is conducted the main or principle use of the lot, on which said building is situated.

Building coverage: That percentage of the lot or plot area covered by the roof area of a building or buildings.

Building, detached: A detached building is one separated on all sides from adjacent building by open spaces from the ground up.

Building height: The vertical distance from the grade to the highest point of the roof. When a building faces more than one street, the height shall be measured from the average of the grade at the center line of each street front. Not included are spires, cupolas, antennae, or similar parts of structures that do not enclose potentially habitable floor space.

Building Inspector: The local municipal officials charged with the enforcement of the Templeton Zoning Bylaw.

Business or professional office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains on open air or natural character.

Cellar: See Basement.

Cemetery: An area set apart for or containing graves, tombs, crypts or funeral urns; a burial ground or grave yard.

Child Care Facility and Child Care Center: See Daycare Center.

Club or lodge, private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Cluster Development: See Open Space Residential Development.

Commercial recreation, indoor: A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, as permitted by federal, state and local law, including all connected rooms or space with a common means of egress and entrance. Indoor commercial recreation centers shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit.

Commercial recreation, outdoor: Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in the by-law.

Contractor's yard: Premises used by a building contractor, general contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of operative wheeled equipment.

DEPOT: See warehouse.

Drive-Up Customer Service Facility: A fast food restaurant, bank, retail, commercial, or service use which allows customers to access sales or services directly from a motor vehicle or where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle. This definition shall not include the selling of fuel at a gas station, or self-service gas station, or the accessory functions of a car wash facility such as vacuum cleaning stations.

Driveway: An open space on a private lot that provides adequate access to a private garage or off-street parking space.

Dwelling: A building designed and occupied as the living quarters of one (1) or more families. Single- and two-family dwellings shall be designed for and occupied by not more than one (1) or two (2) occupants, respectively. A multifamily dwelling shall be one designed for and occupied by three (3) or more occupants.

Earth removal: Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

Easement: A grant of one or more of the property rights by the owner to another for a general or specific purpose, such as access.

Educational use, nonexempt: Educational facilities not exempted from regulation by M.G.L. c. 40A, s. 3.

Elevation: Height relative to mean sea level.

Environmental Impact Report (EIR): A report that must be filed by a developer when MEPA thresholds are expected to be exceeded or encountered.

Environmental Notification Form (ENF): A form that must be filed by a developer when MEPA thresholds are expected to be exceeded or encountered.

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

Essential services: Services provided by a public service corporation or by governmental agencies 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, but not including wireless communications facilities (towers).

Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

Family: Any number of individuals residing together on the premises as a single housekeeping unit.

Farm stand, nonexempt: Facility for the sale of produce, wine and dairy products on property not exempted by M.G.L. c. 40A, s. 3.

Financial Institution: A state or federally chartered bank, savings association, credit union, or industrial land company located in a building, or portion of a building, which provides for the custody, loan, exchange, or issue of money, the extension of credit, or facilitating the transmission of funds, and which may include accessory drive-up customer service facilities on the same premises. This does not include small loan businesses or check cashing facilities.

Flea Market: A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets are conventional, permanent profit seeking businesses that require all local permits and licenses.

FIRM – Flood Insurance Rate Map: A map created and maintained by Federal Emergency Management Agency (FEMA) that depicts areas where flooding can be expected.

Floor area, gross: The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

Floor Area Ratios (FAR): A mathematical expression determined by dividing total floor area of a building by the area of the lot on which it is located. For example, a one acre lot with a FAR of .75 could contain 32,670 square feet of gross floor area ($43,560 \times .75 = 32,670$).

Frontage: Frontage shall be determined as the distance measured along the street right of way at the front of a lot, from one side line of the lot to the other. Frontage shall be an unbroken distance along said street right of way and shall provide both rights of access and safe year-round practical vehicular access. In the case of a lot that fronts on a curve or angle in the street, the distance shall be measured along the lot line in continuous linear feet to include any curve or angle.

Funeral home: Facility for the conducting of funerals and related activities such as embalming.

Garage: A structure for the storage of motor vehicles or the use of which is customarily incidental to that of the principal building.

Garage Auto and Truck Repair, (mechanical): An establishment for the storage, repair, servicing, adjusting and/or equipping of automobiles or other motor vehicles, body work and/or supplying oil and other automotive fluids to motor vehicles, and including repair of heavy motorized equipment and the storage of vehicles for the cannibalization of parts.

Gasoline Station: An establishment that provides for the sale of gasoline and accessory items, servicing and the minor repair of motor vehicles.

Golf Course-Country Club: Establishments consisting of golf courses and related facilities, usually known as "country clubs", consisting of restaurants, function rooms, accessory buildings, tennis courts, and other recreational facilities.

Golf Driving Range: A facility used for the instruction and practice of the game of golf by striking golf balls from fixed locations onto an open field together with incidental uses including but not limited to golf putting greens and rental of equipment. Each golf driving range shall be constructed according to nationally recognized safe practice standards for such amusements to protect patrons, passers-by and the surrounding area. Sufficient off-street parking for patrons shall be furnished and maintained. The premises shall be kept in an orderly manner and grass and weeds will be kept down.

Grade: The rate of change in elevation of the surface of the land as measured in feet of vertical change per one hundred feet horizontal, or percent. One foot (1') vertical change per one hundred feet horizontal is equal to a one percent (1%) grade.

Hazardous material: Any substance that is listed in, but not limited to, the EPA priority pollutants as described in section 307(a) of the Clean Water Act, as amended.

Home Occupation, Minor: any use customarily conducted for profit by the inhabitants of a dwelling, provided such use is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the residential character thereof. Such use shall be deemed incidental and secondary if it does not meet the definition of major home occupation.

Home Occupation, Major: A business where the operation of the business may have a greater impact on the neighborhood than a minor home occupation. A business shall be deemed a major home occupation if it has one or more of the following characteristics:

- More than one non-resident employee, but limited to three on the premises,
- Outdoor storage of materials or equipment,
- Outdoor parking of more than one commercial vehicle or any commercial vehicle exceeding 10,000 pounds gross vehicle weight,
- Occupies more than 25% of the floor area of the dwelling,
- Occupies more than 500 square feet of floor space in accessory buildings, or
- Routinely serves more than three customers or clients on the premises at any one time.

Household - a household shall include

- 1) All family members related by blood, marriage or adoption, regardless of generation;
- 2) Fewer than four unrelated adults living in any one dwelling unit, with or without children;

Impervious: Any surface impenetrable by surface water.

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

Junkyard or Automobile Graveyard: The licensed use, by the Board of Selectmen, of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

Kennel, Commercial: A commercial establishment, licensed by the Town Clerk in which more than six (6) dogs or domesticated animals are housed, groomed, boarded or trained located on at least two (2) acres of land.

Lot: A continuous parcel of land with legally definable boundaries.

Lot Area: The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. At least eighty (80) percent of the lot area required for zoning compliance shall be contiguous land other than that within any water body, bog, swamp, wet meadow, marsh, or other wetland, as defined in section 40, Chapter 131, G.L., as amended.

Lot, Corner: A lot with two (2) adjacent sides abutting upon streets or other public spaces. Corner lots shall meet the front yard requirements (setback) for each way that the parcel fronts.

Lot, Depth of: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

Lot, Frontage of: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than ninety (90) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.

Lot Line: A line dividing one lot from another or from a street or any public place.

Lot, Width of: The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

Manufacturing, Light: Fabrication, processing, packaging, or assembly operation employing only electric or other generally noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from agents disturbing to the neighborhood, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electro-magnetic radiation, heat, or vibration. Any manufacturing other than above shall be classified as “Heavy Manufacturing.”

Massage Therapy: An establishment created for the purpose of providing the public Massage Therapy by a duly licensed Massage Therapist.

Medical Center or Clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Mobile Home: A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

Motel or Hotel: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

Motor Vehicle Light Service: Premises for the supplying of fuel, oil lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

Municipal Facilities: Facilities owned or operated by cities or towns created under the appropriate statute of the Commonwealth of Massachusetts. Examples include the Town of Templeton and the City of Gardner.

Nursing or Convalescent Home: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Non-Conforming Use – use of a building or land, existing at the time of enactment or subsequent amendment of the zoning bylaw, which does not currently conform to the regulation of the district in which it is situated.

Open Space Residential Development: A residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property by open land, and in which provision has been made by conveyance or restriction that the land be kept in an open and natural state. Lot sizes, frontage, density, dimensional standards or types of buildings may vary from those

otherwise permitted or required. The land not included in the building lots is permanently preserved as open space.

Parcel – any area of land as defined on an assessors’ map or other plan, but not necessarily a buildable Lot.

Passenger Transport Terminal: A building or structure intended solely for the shelter and services needed for passengers of mass transportation (example: bus stop).

Personal Service Establishment: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

Recorded: Recorded in the Worcester County Registry of Deeds or for registered land, in the Land Court.

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

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

Senior Housing: Independent living and assisted living facilities located in detached single-family dwelling units, townhouse-style dwelling units or multi-family dwelling unit buildings restricted to individuals or families in which all residents are aged 55 or older, with the exception of spouses or caregivers, or unless specifically precluded by a public housing program under which the proposal is submitted, included or not, meals, housekeeping and transportation.

Setback: The required minimum horizontal distance between the building line and the related front, side, or rear property line, including terraces or any covered projection thereof, excluding handicapped ramps.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights are considered “signs.”

Solid Waste Disposal Facility: Refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Templeton for processing, handling, treating, and sludge, but not raw sewage and similar waste items.

Special Hospital: A facility or building used primarily for providing to members of the public, or members of designated groups of the public, either as residents of, or as periodic visitors thereto, psychiatric, psychological, mental health or emotional care, counseling and/or treatment; including herein a facility or building which is used for the care, counseling and / or treatment of persons suffering from substance abuse, including drugs and/or alcohol.

Special Permit Granting Authority (SPGA): The SPGA shall include the board of selectmen, board of appeals and planning board as designated by zoning by-law for the issuance of special permits.

Street: An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

Structure, Permanent: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, and mast for radio antenna or the like.

Structure, Temporary: A structure without any foundation or footing to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the building inspector.

Townhouse: A multi-family dwelling in which all dwelling units are separated by side or party walls.

Toxic Materials: A combination of pollutants including disease-carrying agents, which after discharge and upon exposure, ingestion, inhalation, and assimilation into any organism can cause death, disease, mutations, deficiencies, or malfunctions in such organisms or their offspring.

Trailer or Camper: A vehicular, portable unit designed for travel, camping or recreational use. This definition excludes mobile homes, but includes every variety of tent and boat trailers.

Transport Terminal: Terminal facilities for handling freight with or without maintenance facilities.

Variance: An exception allowed by the Board of Appeals where strict enforcement of the zoning bylaw would create unusual hardship due to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located. Variances shall only be granted upon satisfaction of the criteria for a variance set forth in M.G.L. c. 40A §10, as amended.

Warehouse: A building used primarily for the storage of goods and materials, for distribution but not for sale on the premises.

Yard: A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and other customary yard accessories.

Yard, Front: A yard extending the full width of the lot and situated between the street line and the nearest point of the building. See Table of Dimensions.

Yard, Rear: A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot. See Table of Dimensions.

Yard, Side: A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. See Table of Dimensions.

Zoning Administrator: A person designated by the Board of Appeals in accordance with MGL c. 40A §13, to assume certain duties of said board.

Zoning Enforcement Officer: The Building Inspector or other party so designated who shall be charged with the enforcement of the zoning by-law, Article XXI, and with duties consistent with MGL. c. 40A §7.

SECTION 3.0 USE DISTRICTS

3.1 Commercial-Industrial-A Zoning District (C-I-A)

The purpose of the C-I-A zoning district is to reserve an area for tax-generating non-residential uses that can be located in Templeton without detrimental impact to the community or the surrounding neighborhood. The C-I-A district accommodates larger business and industry than in the other business districts and maintains a quality of design through vegetative buffers to residential areas and other design standards. No building or use shall be constructed, altered, or expanded without Site Plan Approval by the Planning Board (PB) in accordance with Article XII Zoning, Section 8.0, General Administration and Procedures, Section 8.4, Site Plan Review.

The location of the C-I-A District shall be as described on the zoning map at the office of the Town Clerk.

3.1.1 Uses Allowed by Right in the C-I-A District

The following uses are allowed by right in the C-I-A zoning district, with site plan approval from the PB in accordance with Article XXI Zoning, Section 8.0 Administration and Procedures, Section 8.4 Site Plan Review.

- A. Retail establishments with a minimum of 20,000 square feet in size.
- B. Lumber yard, contractor's yard, building trade supplier or other open-air establishment, at a minimum of 20,000 square feet in building size, not stated elsewhere herein for the storage, distribution, or sale at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment provided that any and all open storage of materials and vehicles are screened from public view;
- C. Research and Development (R&D) or light manufacturing with a minimum of 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building;
- D. Distribution facilities with a minimum of 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods provided that any and all open storage of materials and vehicles are screened from public view;
- E. Restaurant and Restaurant Fast-Food
- F. Home Occupation, Minor
- G. Non-residential Uses Allowed by Right in the Village District (V). (See section 3.6.2)
- H. Non-residential Uses Allowed by Right in the Highway-Business (H-B). (See section 3.7.1),

3.1.2 Uses Allowable by Special Permit in the C-I-A Zoning District

No use allowed by a Special Permit within this section of the bylaw shall be allowed until the Planning Board has been satisfied by the applicant, agents of the applicant and/or agents of the Town of Templeton that the use that may be allowed by Special Permit is not injurious to any natural, cultural or historic resource within the Town of Templeton. Applicants seeking approval of a use by Special Permit, Article XXI Zoning, Section 8.3 SPECIAL PERMITS, paragraphs A) through Q), below.

- A. Gasoline and/or repair service stations with or without mini-market. An establishment for the repair, maintenance, and painting of automobiles or other motor vehicles, provided that all but minor repairs shall be conducted wholly within a building sufficiently sound-insulated and ventilated to confine disturbing noise and odors to the premises.
- B. Automobile showrooms, new and used automobile lots; Vehicular dealerships, including salesroom and related dealership facilities for automobiles, boats, motorcycles, trucks, off-road vehicles or farm implements.
- C. Light Manufacturing, packaging, processing and testing, including printing or publishing plant, bottling works, manufacturing establishment, or other assembling, packaging, finishing or processing use where the proposed use does not cause negative environmental or neighborhood impacts associated with noise, smoke, odors, or traffic that cannot be successfully mitigated;
- D. Warehouse or other storage facilities;
- E. Wireless communications facilities;
- F. Office building or Office Park, providing for one or more buildings on a lot integrated to provide for attractive and functional office space, vehicular and pedestrian circulation and overall site plan;
- G. Conference Center;
- H. Outdoor recreational facilities on five (5) acres or more, including camping area, golf course, miniature golf, ski areas and accessory structures, and other similar uses;
- I. Garage Auto and Truck Repair
- J. Retail establishments under 20,000 square feet in size
- K. Lumber yard, contractor's yard, building trade supplier or other open-air establishment, under 20,000 square feet in building size, not stated elsewhere

herein for the storage, distribution, or sale at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment provided that any and all open storage of materials and vehicles are screened from public view;

- L. Research and Development (R&D) or light manufacturing under 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building;
- M. Distribution facilities under 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods provided that any and all open storage of materials and vehicles are screened from public view;
- N. Home Occupation, Major
- O. Non-residential Uses Allowed by Special Permit in the Village District (V). (See section 3.6.4)
- P. Non-residential Uses Allowed by Special Permit in the Highway-Business (H-B). (See section 3.7.2)
- Q. Any accessory use customarily to any of the above uses.

3.2 Commercial-Industrial-B Zoning District (C-I-B)³

The purpose of the C-I-B district is to reserve an area for tax-generating non-residential uses that can be located in Templeton without detrimental impact to the community or the surrounding neighborhood. The C-I-B district accommodates larger business and industry than in the other business districts and maintains a quality of design through vegetative buffers to residential areas and other design standards. No building or use shall be constructed, altered, or expanded without Site Plan Approval by the Planning Board (PB) in accordance with Article XII Zoning, Section 8.0, General Administration and Procedures, Section 8.4, Site Plan Review.

In order to provide adequate protection of any Zone One Aquifer Zone, Zone Two Aquifer Zone, Aquifer Protection and/or Water Protection District, any use allowed in the C-I-B zoning district, by right or by special permit from the Planning Board, must also apply for and obtain a “C-I-B Land Protection Use Permit” from the Planning Board to operate such use within the C-I-B Zoning District. Any and all Zone One Aquifer Zone, Zone Two Aquifer Zone, Aquifer Protection and/or Water Protection District may be represented on a map available at the Office of the Town Clerk and as may be periodically updated.

The location of the C-I-B District shall be as described on the zoning map at the office of the Town Clerk.

3.2.1 *Uses Allowed by Right in the C-I-B District*

The following uses are allowed by right in the Commercial-Industrial (C-I-B) District, with site plan approval from the PB in accordance with Article XXI Zoning, Section 8.0 Administration and Procedures, Section 8.4 Site Plan Review.

- A. Retail establishments with a minimum of 20,000 square feet in size.
- B. Lumber yard, contractor's yard, building trade supplier or other open-air establishment, at a minimum of 20,000 square feet in building size, not stated elsewhere herein for the storage, distribution, or sale at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment provided that all open storage of materials and vehicles are screened from public view;
- C. Research and Development (R&D) or light manufacturing with a minimum of 20,000 square feet in size, including general offices with research, testing, training, light manufacturing or warehouse facilities for computer, telecommunication, photographic, instrumentation, biomedical or similar

³ Section 8.4 (Passed 5-9-06, Approved by the A/G 8-24-06) Amended 3-6-08, Approved by the A/G 5/29/08

high-technology or light manufacturing uses, including processing, fabrication and assembly; where such uses are conducted within the confines of a building;

- D. Distribution facilities with a minimum of 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods provided that all open storage of materials and vehicles are screened from public view.
- E. Restaurant and Restaurant Fast-Food
- F. Non-residential Uses Allowed by Right in the Village District (V). (See section 3.6.2)
- G. Non-residential Uses Allowed by Right in the Highway-Business (H-B). (See section 3.7.1)

3.2.2 *Uses Allowable by Special Permit in the C-I-B District*

No use allowed by a Special Permit within this section of the bylaw shall be allowed until the Planning Board has been satisfied by the applicant, agents of the applicant and/or agents of the Town of Templeton that the use that may be allowed by Special Permit is not injurious to any natural, cultural or historic resource within the Town of Templeton. Applicants seeking approval of a use by Special Permit, Article XXI Zoning, Section 8.3 SPECIAL PERMITS, paragraphs A) through Q), below.

- A. Gasoline and/or repair service stations with or without mini-market. An establishment for the repair, maintenance, and painting of automobiles or other motor vehicles, provided that all but minor repairs shall be conducted wholly within a building sufficiently sound-insulated and ventilated to confine disturbing noise and odors to the premises.
- B. Automobile showrooms, new and used automobile lots; Vehicular dealerships, including salesroom and related dealership facilities for automobiles, boats, motorcycles, trucks, off-road vehicles or farm implements.
- C. Light Manufacturing, packaging, processing and testing, including printing or publishing plant, bottling works, manufacturing establishment, or other assembling, packaging, finishing or processing use where the proposed use does not cause negative environmental or neighborhood impacts associated with noise, smoke, odors, or traffic that cannot be successfully mitigated;
- D. Warehouse or other storage facilities;
- E. Wireless communications facilities;
- F. Office building or Office Park, providing for one or more buildings on a lot integrated to provide for attractive and functional office space, vehicular and pedestrian circulation and overall site plan;
- G. Conference Center;
- H. Outdoor recreational facilities on five (5) acres or more, including camping area, golf course, miniature golf, ski areas and accessory structures, and other similar uses;
- I. Garage Auto and Truck Repair
- J. Retail establishments under 20,000 square feet in size.

K. LUMBER YARD, CONTRACTOR'S YARD, BUILDING TRADE SUPPLIER OR OTHER OPEN-AIR ESTABLISHMENT, UNDER 20,000 SQUARE FEET IN BUILDING SIZE, NOT STATED ELSEWHERE HEREIN FOR THE STORAGE, DISTRIBUTION, OR SALE AT WHOLESALE OR RETAIL, OF MATERIALS (EXCLUDING SALVAGE MATERIALS), MERCHANDISE, PRODUCTS OR EQUIPMENT PROVIDED THAT ANY AND ALL OPEN STORAGE OF MATERIALS AND VEHICLES ARE SCREENED FROM PUBLIC VIEW;

L. RESEARCH AND DEVELOPMENT (R&D) OR LIGHT MANUFACTURING UNDER 20,000 SQUARE FEET IN SIZE, INCLUDING GENERAL OFFICES WITH RESEARCH, TESTING, TRAINING, LIGHT MANUFACTURING OR WAREHOUSE FACILITIES FOR COMPUTER, TELECOMMUNICATION, PHOTOGRAPHIC, INSTRUMENTATION, BIOMEDICAL OR SIMILAR HIGH-

TECHNOLOGY OR LIGHT MANUFACTURING USES, INCLUDING PROCESSING, FABRICATION AND ASSEMBLY; WHERE SUCH USES ARE CONDUCTED WITHIN THE CONFINES OF A BUILDING;

- M. Distribution facilities under 20,000 square feet in size; including wholesale product preparation, storage and transfer of goods provided that any and all open storage of materials and vehicles are screened from public view;
- N. Non-residential Uses Allowed by Special Permit in the Village District (V). (See section 3.6.4)
- O. Non-residential Uses Allowed by Special Permit in the Highway-Business (H-B). (See section 3.7.2)
- P. Any accessory use customarily incidental to any of the above uses;
- Q. Uses classified as adult entertainment as per MGL Chapter 272, Section 31 (Definitions) and all other applicable state statutes concerning the permitting of adult entertainment establishments may be allowed by a Special Permit from the Planning Board.

3.3 Residential-Agricultural-1 District – (R-A-1) ⁴

The Residential-Agricultural-One Acre district (R-A-1) is intended for primarily residential and accessory uses, including customary home occupations, where the impact upon the R-A-1 District shall not be detrimental to the neighborhood or natural or cultural resources, where the minimum lot size shall be no less than one (1) acre for the following uses by right and by special permit to be constructed upon acceptance of this Zoning Bylaw in areas of the community as depicted on the town zoning map located in the office of the Town Clerk. All areas of Templeton that are not specifically defined as other zones are presumed to be within the R-A-1 zoning district.

3.3.1 Uses Allowed by Right in the R-A-1 District

The following uses shall be allowed in the R-A-1 zone, by right, and upon issuance of a building permit:

- (a) Single Family detached dwellings;
- (b) Two family dwellings;
- (c) Minor Home Occupations;
- (d) Customary home occupations, handicrafts, hobbies, or activities of a similar nature, provided that such are carried on by residents of the dwelling, and not more than one employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the dwelling;
- (e) Parks; playgrounds; ballfields; conservation or nature study areas; water supply protection, storage and distribution; water based recreation; and bridle paths, walking and bike trails for use by public during the daylight hours or if illuminated for night time use;
- (f) Golf courses and driving ranges other than miniature golf with Site Plan Approval;
- (g) Accessory structures, including walls, fences, or other structures or plantings on a lot provided they shall not interfere with line of sight or traffic safety when located adjacent to roadway intersections or curb cuts;
- (h) Accessory buildings and uses customarily incidental to uses otherwise allowed in the R-A-1 District;
- (i) Apartments contained within a single-family home where the residents are related to the residents of the primary dwelling;

3.3.2 Special Permit Uses in the R-A-1 District

⁴ Section 3.3 Passed 12/7/06, Approved by the A/G 3-6-07

The following uses may be permitted by special permit at the discretion of the Planning Board or Board of Appeals, as designated below.

- (a) Multi-family residences containing greater than two dwelling units per structure upon the grant of a special permit by the Board of Appeals in accordance with Article XXI, Section 7.1 MULTI-FAMILY HOUSING;
- (b) Conversion of a Seasonal Residence to Year-Round Residence with the grant of a special permit by the Board of Appeals;
- (c) Bed & Breakfast for more than five (5) rooms for rent or hire upon the grant of a special permit by the Board of Appeals;
- (d) Hospitals, sanitariums, nursing, convalescent or rest homes, on five (5) acres or more upon the grant of a Special Permit by the Board of Appeals;
- (e) Operation and maintenance of commercial kennels on two (2) acres or more provided such activity is performed at least 100 feet from any property line upon grant of a Special Permit by the Board of Appeals;
- (f) Non-profit clubs and lodges on three (3) acres or more upon grant of a Special Permit by the Planning Board;
- (g) Radio and television broadcasting facilities; telephone, telegraph, power and gas transmission facilities, not including transmission lines, upon the grant of a special permit by the Planning Board;
- (h) Wireless communications facilities with a Special Permit from the Planning Board in accordance with Article XXXX;
- (i) Home Occupation, Major

3.4 Residential-Agricultural-Two District –(R-A-2) ⁵

The Residential-Agricultural-Two Acre district (R-A-2) is intended for primarily residential and accessory uses, including customary home occupations where the impact upon the R-A-2 District shall not be detrimental to the neighborhood or natural or cultural resources, and where the minimum lot size shall be no less than two (2) acres for the following uses by right and by special permit to be constructed upon acceptance of this Zoning Bylaw as depicted on the town zoning map located in the office of the Town Clerk.

3.4.1 Uses Allowed by Right in the R-A-2 District

The following uses shall be allowed in the R-A-2 zone, by right, and upon issuance of a building permit:

- (a) Single Family detached dwellings;
- (b) Two family dwellings;
- (c) Minor Home Occupations;
- (d) Customary home occupations, handicrafts, hobbies, or activities of a similar nature, provided that such are carried on by residents of the dwelling, and not more than one employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the dwelling;
- (e) Parks; playgrounds; ballfields; conservation or nature study areas; water supply protection, storage and distribution; water based recreation; and bridle paths, walking and bike trails for use by public during the daylight hours or if illuminated for night time use;
- (f) Golf courses and driving ranges other than miniature golf with Site Plan Approval;
- (g) Accessory structures, including walls, fences, or other structures or plantings on a lot provided they shall not interfere with line of sight or traffic safety when located adjacent to roadway intersections or curb cuts;
- (h) Accessory buildings and uses customarily incidental to uses otherwise allowed in the R-A-2 District;
- (i) In-law apartments contained within a single-family home where the residents are related to the residents of the primary dwelling;

3.4.2 Special Permit Uses in the R-A-2 District

The following uses may be permitted at the discretion of the Planning Board or Board of Appeals as designated below.

⁵ Section 3.4 Passed 12/7/06, Approved by the A/G 3-6-07

- (a) Multi-family residences containing greater than two dwelling units per structure upon the grant of a Special Permit by the Board of Appeals in accordance with Article XXI, Section 7.1 MULTI-FAMILY HOUSING;
- (b) Conversion of a Seasonal Residence to Year-Round Residence with the grant of a special permit by the Board of Appeals;
- (c) Bed & Breakfast for more than five (5) rooms for rent or hire upon the grant of a special permit by the Board of Appeals;
- (d) Hospitals, sanitariums, nursing, convalescent or rest homes, on five (5) acres or more upon the grant of a Special Permit by the Board of Appeals;
- (e) Operation and maintenance of commercial kennels on two (2) acres or more provided such activity is performed at least 100 feet from any property line upon grant of a Special Permit by the Board of Appeals;
- (f) Non-profit clubs and lodges on three (3) acres or more upon grant of a Special Permit by the Planning Board in accordance with Article XXI, Section 8.3;
- (g) Radio and television broadcasting facilities; telephone, telegraph, power and gas transmission facilities, not including transmission lines;
- (h) Wireless communications facilities with a Special Permit from the Planning Board in accordance with Article XXXX;
- (i) Home Occupation, Major

3.5 Residential-Agricultural-5 District – (R-A-5) ⁶

The Residential-Agricultural-Five Acre district (R-A-5) is intended for primarily residential and accessory uses, including customary home occupations where the impact upon the R-A-5 District shall not be detrimental to the neighborhood or natural or cultural resources, and where the minimum lot size shall be no less than five (5) acres for the following uses by right and by special permit to be constructed upon acceptance of this Zoning Bylaw as depicted on the town zoning map located in the office of the Town Clerk.

3.5.1 Uses Allowed by Right in the R-A-5 District

The following uses shall be allowed in the R-A-5 zone, by right, and upon issuance of a building permit:

- (a) Single Family detached dwellings;
- (b) Two family dwellings;
- (c) Minor Home Occupations;
- (d) Customary home occupations, handicrafts, hobbies, or activities of a similar nature, provided that such are carried on by residents of the dwelling, and not more than one employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the dwelling;
- (e) Parks; playgrounds; ballfields; conservation or nature study areas; water supply protection, storage and distribution; water based recreation; and bridle paths, walking and bike trails for use by public during the daylight hours or if illuminated for night time use;
- (f) Golf courses and driving ranges other than miniature golf with Site Plan Approval;
- (g) Accessory structures, including walls, fences, or other structures or plantings on a lot provided they shall not interfere with line of sight or traffic safety when located adjacent to roadway intersections or curb cuts;
- (h) Accessory buildings and uses customarily incidental to uses otherwise allowed in the R-A-5 District;
- (i) In-law apartments contained within a single-family home where the residents are related to the residents of the primary dwelling;

3.5.2 Special Permit Uses in the R-A-5 District

The following uses may be permitted at the discretion of the Planning Board or Board of Appeals as designated below.

- (a) Multi-family residences containing greater than two dwelling units per structure upon the grant of a Special Permit by the Board of Appeals in accordance with Article XXI, Section 7.1 MULTI-FAMILY HOUSING;

⁶ Section 3.5 Passed 12-7-06, Approved by A/G 3-6-07

- (b) Conversion of a Seasonal Residence to Year-Round Residence with the grant of a special permit by the Board of Appeals;
- (c) Bed & Breakfast for more than six (6) rooms for rent or hire upon the grant of a special permit by the Board of Appeals;
- (d) Hospitals, sanitariums, nursing, convalescent or rest homes on five (5) acres or more upon the grant of a Special Permit by the Board of Appeals;
- (e) Operation and maintenance of commercial kennels on two (2) acres or more provided such activity is performed at least 100 feet from any property line upon grant of a Special Permit by the Board of Appeals;
- (f) Non-profit clubs and lodges on three (3) acres or more upon grant of a Special Permit by the Planning Board;
- (g) Radio and television broadcasting facilities; telephone, telegraph, power and gas transmission facilities, not including transmission lines;
- (h) Wireless communications facilities with a Special Permit from the Planning Board in accordance with Article XXXX.
- (i) Home Occupation, Major

3.6 Village (V) Districts ⁷

Section 3.6.1. The Village (V) districts:

- Shall be comprised of the following four Villages: Templeton Center Village District; East Templeton Village District; Otter River Village District; and, Baldwinville Village District and located, as described on the zoning map available for review in the office of the Town Clerk.
- Enable the development and re-development of Town’s four (4) Village Districts (“Villages”) in harmony with the existing historical, cultural and natural assets in each Village.
- Are target areas for a mix of single-family and multi-family housing and small neighborhood-scale businesses including services, retail and meeting places.
- Are intended as service and gathering spots primarily serving the immediate village, surrounding neighborhoods and community.
- Encourage upper floor housing units to provide a mix of commercial and residential uses and diversity of housing types in Templeton.

3.6.2 Uses Allowed by Right in the V District

Recognizing that village-style development entails a mixture of uses, the Planning Board, upon Site Plan Approval (Article XXI, Section 8.4, Site Plan Review), is authorized to allow a mix of residential and non-residential uses within the same building in the Village districts.

Single-family and two-family uses are allowed by right without Site plan Approval by the Planning Board, as long as structure(s) contain less than 5,000 square feet floor area.

The following non-residential uses are allowed by right, with site plan approval from the PLANNING BOARD.

- (a) Retail sales;
- (b) Personal Service shops, including but not limited to barber, salon, cosmetologist, massage therapist;
- (c) Business or professional offices;
- (d) Banks and other financial institutions;

⁷ **Section 3.6** Passed 12/7/06, Approved by A/G 3/6/07; Amended 3/6/08, Approved by A/G 5/29/08

(e) Liquor store including the sale of beer, wine, liquor and/or other hard spirits;

(f) Ice cream stands.

(g) Home Occupation, Minor

3.6.3 Special Permit Uses in the V District

The following residential uses may be permitted by Special Permit from the Boards designated below according to Article XXI, Section 8.3:

(a) Multi-family dwellings (Board of Appeals, sec. 7.1 MULTI-FAMILY HOUSING)

(b) Floor Area greater than 5,000 square feet

Construction or expansion resulting in a structure or structures containing greater than 5,000 square feet floor area on a lot shall be allowed only upon receipt of a Special Permit by the PLANNING BOARD.

3.6.4 Non-Residential Uses.

The PLANNING BOARD may allow the following non-residential uses only upon the granting of a special permit.

(a) Veterinary hospitals, clinics and grooming facilities; but not including kennels. Overnight stays of animals are permitted only if associated with medical procedures;

(b) Gasoline and/or service stations;

(c) An amusement enterprise, including but not limited to bowling, theater, performing arts center, skating or fitness clubs operated for profit;

(d) Hotel, motel or inn;

(e) Small appliance or equipment repair, including but not limited to household appliances, lawnmowers, chain saws;

(f) Dry cleaner or self-service coin-operated laundry;

- (g) Wireless communications facilities in accordance with Article XXX
- (h) Home Occupation, Major
- (i) Restaurant and Restaurant Fast-Food, but Drive-up Customer Service Facilities are prohibited.

3.7 Highway-Business (H-B) ⁸

The purpose of the Highway Business (H-B) District is to maintain Templeton's character for viable business uses that can co-exist with the residential areas in which many of the Town's business districts are located. The H-B district is intended to compliment the Village Districts and Residential-Agricultural Districts and the more intense Commercial-Industrial Districts. The locations of the H-B districts are depicted on the zoning map located in the office of the Town Clerk. No building or use shall be constructed, altered, or expanded in the H-B district without a Site Plan Approval by the Planning Board in accordance with this zoning bylaw.

3.7.1 Uses Allowed by Right in the H-B District

The following uses are allowed by right in the H-B district with Site Plan Approval by the PLANNING BOARD, so long as the new or expanded structure contains less than 5,000 square feet of gross floor area, unless otherwise specified. Where the use proposed is to be located within an existing structure and no structural changes or modification to the site plan are proposed, the PLANNING BOARD may waive the requirement for Site Plan Approval for non-residential uses. Structures of greater than 5,000 square feet, or other specified size, may be permitted with the grant of a special permit by the Planning Board. See the Table of Dimensional Requirements for minimum acreage and setback requirements.

- (a) Retail sales, excluding restaurants;
- (b) Personal Service shops, including but not limited to barber, salon, cosmetologist, massage therapist by a licensed practitioner;
- (c) Business or professional offices;
- (d) Banks and other financial institutions;
- (e) Convenience store; grocery store or supermarket;
- (f) Restaurant;
- (g) Liquor store including the sale of beer, wine, liquor and/or other hard spirits;

⁸ **Section 3.7** Passed 12-7-06, Approved by A/G 3-6-07; Amended 3-6-08, Approved by A/G 5/29/08

- (h) Art or craft studios (public and private), gallery, museum or library open to the public;
- (i) Post office, municipal uses up to 10,000 sf in size; including parks, golf-courses, subject to reasonable height and bulk regulations as applied by the Board of Appeals; public utilities, but not including wireless communication towers which are allowed only by special permit;
- (j) Ice cream stand;
- (k) Amusement enterprises including but not limited to dance academy, bowling alley, theater, movie cinema, performing arts center, skating, fitness clubs or place of instruction (not defined as educational use), operated for profit;
- (l) Small appliance or equipment repair, including but not limited to household appliances, lawnmowers, chain saws;
- (m) Outdoor recreational facilities on one (1) acre or more, including camping area, golf course, miniature golf, ski areas with accessory structures not exceeding 1,500 square feet, and other similar uses but not including Recreational Motorized Vehicles. Outdoor recreational facilities involving structures greater than 1,500 square feet may be permitted only upon a grant of a special permit by the Planning Board.
- (n) Veterinary hospitals, clinics and grooming facilities; but not including commercial kennels. Overnight stays for animals are permitted only if associated with medical procedures;
- (o) Restaurant and Restaurant Fast-Food
- (p) Accessory use customarily incidental to any of the above uses.
- (q) Home Occupation, Minor

3.7.2 Special Permit Uses in the H-B District

The following uses may be allowed in the H-B District upon grant of a special permit by the Planning Board, unless otherwise specified. Where the use proposed is to be located within an existing structure and no structural changes or modification to the site plan are proposed the Planning Board may waive the requirement for Site Plan Approval for non-residential uses.

- (a) Lumber yard, contractor's yard, building trade supplier or other open-air establishment not stated elsewhere herein for the storage, distribution, or sale at wholesale or retail, of materials (excluding salvage materials), merchandise, products or equipment provided that all open storage of materials and vehicles are screened from public view;
- (b) Restaurants exceeding 5,000 square feet and dispensing food to be consumed within building and to be sold and packaged for take-out and drive-throughs;
- (c) Hotel, motel, inn or other lodging accommodations;

- (d) Operation and maintenance of commercial kennels on two (2) acres or more provided such activity is performed at least 100 feet from any property line upon grant of a Special Permit by the Board of Appeals;
- (e) Dry cleaner or self-service coin-operated laundry;
- (f) Gasoline stations with or without mini-market and garage auto and truck repair, general vehicle, and general repair;
- (g) Wireless communications facilities in accordance with Article XXXX;
- (h) Outdoor recreational facilities on one (1) acre or more, including but not limited to camping area, golf course, miniature golf, ski areas and accessory structures, and other similar uses but not including motorized vehicles;
- (i) Garage Auto and Truck Repair
- (j) Home Occupation, Major

SECTION 4.0 OVERLAY DISTRICTS

4.1 Public Water Supply Protection.

4.1.1 The purpose of this By-Law is to promote the health, safety, and general welfare of the residents, institutions and businesses of the Town of Templeton by ensuring adequate quality and quantity of drinking water by preventing the pollution of the community's public drinking water.

4.1.2 There is created hereby a "Water Supply Protection District" which is defined to include all lands within the Town of Templeton as located within a half-mile (2,640 feet) radius of a public water supply well. This district is shown on a plan entitled "Water Supply Protection District Plan for the Town of Templeton" prepared by Szoc Surveyors, which plan is on file with the Town of Templeton Town Offices and the Town of Templeton Water Department Office. This plan shall be considered a zoning map for purposes of establishing the district under this section.

If the location of the boundary of the Water Supply Protection District in relation to a particular parcel of land is in doubt, the burden of proof shall be upon the owner(s) of the parcel of land in question to show where the bounds should be located properly.

4.1.3. The following land uses are prohibited in the Water Supply Protection District:

- A. Landfills and open dumps as defined in 310 CMR 19.006;
- B. Landfilling and storage of septage and sludge as defined in 310 CMR 32.05;
- C. Automobile graveyards and junkyards as defined in MGL, Chapter 140B, Section 1;
- D. Stockpiling and disposal of snow or ice that contains deicing chemicals, if brought in from outside the wellhead protection area;

- E. Storage and use of hazardous materials, as defined in MGL, Chapter 21E, unless in a free standing container within a building or above ground with secondary containment large enough to hold the entire contents of the container;
- F. Facilities that generate, treat, store or dispose of hazardous materials and/or waste subject to MGL Chapter 21C and 310 CMR 30.00;
- G. Industrial and commercial uses which discharge process waste water on site that contains contaminants hazardous wastes;
- H. Wastewater treatment facilities subject to 314 CMR 5.00, except for the replacement or repair of an existing facility with a system of equal or less design capacity;
- I. Storage of deicing chemicals, animal manures and commercial fertilizers and soil conditioners (as defined in MGL Chapter 128, Section 64) unless such storage is within a structure that prevents the generation and escape of contaminated runoff or leachate;
- J. Land uses that result in impervious surfaces covering greater than 25% of any lot, unless artificial recharge from runoff is provided. (Note: the following should not be part of the By-Law, for example, runoff from a roof allowed to fall on the ground or rain gutter downspouts directed to grassy areas).

4.1.4. Any non-conforming uses hereunder not used continuously for a period of one year shall be considered abandoned and any re-use must conform to be provisions of this By-Law.

4.1.5. The provisions of this Article shall be enforced by the Building Inspector, who may obtain the advice of the Board of Health. Whoever violates any of the provisions of this Article shall accrue a separate offense for each day the violations exist.

4.1.6. No variances within the Water Supply Protection District will be allowed through the Zoning Board of Appeals without a written advisory report from the Board of Health. Review and recommendation of the Planning Board shall also be considered in granting of any variance.

4.2 Flood Plain District

4.2.1. Purpose

The purposes of the Flood Plain District are to protect the public health, safety, and general welfare, to protect human life and property from hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

4.2.2. District Delineation

The general boundaries of the Flood Plain District are shown on the Templeton Flood Insurance Rate Map (FIRM), dated 5/17/82, as Zones A, A1-30 to indicate the 100 year flood plain. The exact boundaries of the District are defined by the 100 year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated November, 1981. The floodway boundaries are delineated on the Templeton Flood Boundary Floodway Map (FBFM), dated 5/17/82 and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These maps as well as the accompanying Study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Board of Selectmen.

Within Zone A, where the 100 year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Conservation Commission. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with the by-law and the State Building Code.

4.2.3. Use Regulations

The Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the MGL and with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plains (currently Section 744).

A. Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing.
7. Building lawfully existing prior to the adoption of these provisions.

B. Special Permits

No structure of building shall be erected, constructed, substantially improved, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Board of Appeals. Said Board may issue a special permit hereunder (subject to other applicable provisions of this by-law) if the application is compliant with the following provisions:

1. The proposed use shall comply in all respects with the provisions of the underlying District, and
2. Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, and Building Inspector. Final action shall not be taken until reports have been received from the above Boards or until 35 days have elapsed, and
3. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood, and

4. The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use.

SECTION 5 USE REGULATIONS

5.1 GENERAL.

5.1.1 All multiple dwellings for residential use require a special permit from the Board of Appeals.

5.1.2 Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon issuance of a special permit by the Planning Board, provided the Planning Board finds that the proposed accessory use does not derogate from the public good.

5.2 NONCONFORMING USES AND STRUCTURES:

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

5.2.2 Nonconforming Uses. The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.

5.2.3 Nonconforming Structures. The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alternation or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- a. Reconstructed, extended or structurally changed;
- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
- c. Demolition and rebuilding thereafter, as set forth in subsection 5.7, below.

5.2.4 Variance Required. Except as provided in subsection 5.5 below, the reconstruction, extension or structural change of a nonconforming structure in such manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

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

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

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

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

5.2.7 Catastrophe or Demolition. Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, or after demolition, provided that such reconstruction is completed within twelve months after such catastrophe or after voluntary demolition, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure and located on the original building footprint, unless a larger volume or area or a new building footprint is authorized by special permit from the Board of Appeals. Such time for reconstruction may be extended by the Board of Appeals for good cause.

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

SECTION 6.0 TABLE OF DIMENSIONAL REGULATIONS ⁹

	C-I-A and C-I-B *	R-A-1 * & V*	R-A-2 *	R-A-5 *	H-B *
Minimum Lot Area	1.0 acre	1.0 acre	2.0 acres	5.0 acres	1.0 acre

⁹ Section 4 Amended 12/7/06, AG approval 3/6/07

Minimum Lot Frontage On A Street	150 LF	150 LF	150 LF	500 LF	150 LF
Minimum Front Yard Setback	30 LF	30 LF	30 LF	30 LF	30 LF
Minimum Rear Yard Setback	30 LF	30 LF	30 LF	30 LF	30 LF
Minimum Side Yard Setback	15 LF	15 LF	15 LF	15 LF	15 LF
Minimum Lot Width	50 LF	50 LF	50 LF	50 LF	50 LF
Buffer Zone Between C-I-A & C-I-B Districts and Abutting, Non-C-I-A & non-C-I-B Districts	50 LF	XXXXX	XXXXX	XXXXX	XXXXX
Maximum Height	2.5 stories or 35 LF	2.5 stories or 35 LF	2.5 stories or 35 LF	2.5 stories or 35 LF	2.5 stories or 35 LF

- * - C-I-A and C-I-B – Commercial-Industrial-A and Commercial-Industrial-B Districts.
- * - R-A-1& V*– Residential-Agricultural District and Village Districts – 1 Acre Zone (where a minimum of 1 acre of land is required for the construction of a single-family home).
- * - R-A-2 – Residential-Agricultural District – 2 Acre Zone (where a minimum of 2 acres of land are required for the construction of a single-family home).
- * - R-A-5 – Residential-Agricultural District – 5 Acre Zone (where a minimum of 5 acres of land are required for the construction of a single-family home).
- * - H-B – Highway-Business Districts.

Section 7.0 SUPPLEMENTAL REGULATIONS

7.1 Multi-Family Housing

The purposes of these special requirements are as follows:

- to prevent overcrowding of land
- to avoid undo concentration of population
- to encourage housing for persons on all income levels
- to conserve health
- to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment
- to encourage the most appropriate use of land throughout the Town of Templeton
- to insure proper municipal review of construction of multi-family housing of three (3) or more (but not more than six (6) units)

Multi-family housing shall be allowed by special permit by the Zoning Board of Appeals according to the following conditions:

- a. The gross land area on which multi-family housing is permitted shall be not less than listed below for the number of square feet required per dwelling times the number of units per multi-family housing being proposed, with a limit of six (6) units per building.

Frontage Requirements:

Each 3 or 4 units – 200 feet

Each 5 or 6 units – 250 feet

Size of Lot Required:

2 Acres 87,120 sq. feet

3 Acres 130,680 sq. feet

Each three (3) or four (4) – unit building shall be erected on a lot having not less than two hundred (200) feet of frontage and two (2) acres. Each five (5) or six (6) – unit building shall be erected on a lot having not less than 250 feet of frontage and three (3) acres. All the above frontages shall be on a way.

- b. Multi-family buildings shall not cover more than thirty (30) percent of the gross land area of the lot.
- c. No multi-family building shall be higher than two (2) stories or thirty (30) feet in height.
- d. An unbroken yard space not less than ten (10) feet in depth shall be established all along the entire perimeter of the lot on which a multi-family building is located. Such yard space shall be planted and maintained by the building owner or left in natural state. In such yard space, there shall be no off-street parking nor driveway except a driveway crossing that part of the yard as is bordered by a street.
- e. Paved off-street automobile parking spaces will be provided on the lot containing a multi-family housing building and each space shall be easily accessible from a paved driveway on the property. There shall be two (2) such spaces per unit on the property. Each such space shall have minimum dimensions of eighteen (18) feet long by nine (9) feet wide. In addition, spaces for handicapped per State requirements shall be installed.
- f. A Minimum of thirty (30) percent of the gross area of the lot on which a multi-family building is permitted shall not be built on and shall be left unpaved, landscaped and/or left in its natural state and maintained with an acceptable balance of trees, shrubs and grass.

A multi-family dwelling constructed near a municipal boundary must be protected by a buffer zone from an incompatible use on adjacent land in the neighboring municipality. A one hundred (100) foot natural or landscaped zone shall be constructed and maintained by the multi-family building owner if the land in the neighboring municipality is used or zoned for commercial or industrial use.

A fifty (50) foot buffer zone between proposed multi-family buildings constructed adjacent to an industrial, residential or commercial use must be created. Buffer zone must function as a physical barrier to minimize noise and to provide a visual screen to adjacent industrial, residential or commercial buildings. It may consist of existing natural vegetation, selective planting, earth berms, fences, or any combination of these arranged to enhance the aesthetic quality of the area.

7.2 MAJOR HOME OCCUPATIONS ¹⁰

¹⁰ **Section 7.2** Passed 12-7-06, Approved by A/G 3-6-07; Amended 3-6-08, Approved by the A/G 5/29/08

Through a Special Permit home occupations that exceed the “minor home occupation” criteria may be permitted by the Planning Board. This section is intended to support a work-at-home concept appropriate for a rural-suburban community, in order to allow proprietors flexibility to operate businesses out of their homes.

7.2.1 Standards

Major home occupations shall comply with the following standards:

- (a) No more than three employees not residing on the premises shall be allowed to report to the home business site;
- (b) The home occupation shall be clearly incidental and subordinate to the primary residential nature of the property. The principal practitioner must be the owner of the property and maintain his permanent residence in the dwelling;
- (c) Utility areas (such as dumpsters, fuel storage facilities, etc.) and outdoor storage of equipment, vehicles, or supplies associated with the home occupation shall be adequately screened to minimize the visual intrusion on adjacent properties and views from public ways. The Board may require an evergreen vegetative screen with plantings of not less than three (3) feet in width and not less than six (6) feet in height at commencement of the use. At the discretion of the Board, fences may be used, which shall not exceed four (4) feet in height in front yards or six (6) feet in side and rear yards.
- (d) Parking needed for employees and visitors shall be located at the side or rear of the dwelling and shall be suitably landscaped to minimize the visual impact on adjacent properties. On-street parking shall not be permitted;
- (e) Signs provided in conformance with this zoning bylaw to advertise the home occupation;
- (g) Major home occupations may include the selling of products, the major portion of which are refurbished, manufactured, assembled, or produced on the premises
- (h) Lighting shall be appropriate to the building and its surroundings in terms of style, scale, hours, and intensity of illumination. Low wattage systems are recommended and site lighting shall be shielded, especially in developed residential areas;
- (i) The Board may grant a special permit if it determines that the activities will not create a hazard to the public or natural environment, disturbance to any abutter, or injury to the neighborhood, and will not create unsightliness visible from any public way or neighboring property. The Board may impose conditions deemed necessary to preserve neighborhood character and protect existing and future abutting land uses, including limitations on time and ownership. The special permit shall be granted to the owner and shall expire upon transfer of the property or business; any new owner shall apply for a new special permit. The special permit may at any time be subject to review and/or renewal by the Board, and may be further conditioned or amended as necessary to ensure that the intent of this section is maintained.

7.2.2. Process

- (a) Applicants shall submit the required fee and nine (9) copies of the special permit application and other information specified below, to the Town Clerk. The Town Clerk shall stamp each copy with the date and time of submission. Eight copies of said application and information shall be filed forthwith by the applicant with the Planning Board.

- (b) A site plan shall be submitted to show location of buildings and structures, utility areas, parking, lighting, fencing, landscaping and buffering, location and size of sign, and access to the lot from existing public ways.
- (c) A written statement shall be provided by the applicant describing the nature of the home occupation, the number of employees, hours of operation, and other pertinent information on the operation of the business.
- (d) The applicant, within three days of the Board accepting the application as complete, shall submit one copy to the Board of Appeals, Board of Health, Zoning Enforcement Officer, Conservation Commission, Highway Department, and Police and Fire Chiefs with a request for their review and comment. Said boards and officials shall have thirty-five (35) days to submit their comments to the Board.
- (e) The Board shall hold a public hearing in accordance with the Special Permit procedures described within this zoning bylaw and MGL c. 40A §9 and notice shall be given as specified by MGL c. 40A §11.

7.3 Adult Entertainment¹¹

7.3.1 Authority, Purpose and Intent

The purpose of this section is to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, in response to studies demonstrating their deleterious effect.

This section addresses and mitigates the secondary effects of adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime and blight, the flight of existing businesses, and adverse impacts on public health, property values of residential and commercial properties, the business climate, and the general quality of life in the community. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Templeton and its inhabitants.

This section is intended to be consistent with the provisions of M.G.L. chapter 40A and the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. The provisions of this by-law have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials that are protected by the U.S. or Massachusetts Constitutions, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Similarly, it is not the intent nor effect of this chapter to condone or legitimize the distribution of obscene or other illegal matter or materials.

7.3.2 Definitions Specific to Adult Entertainment

As used herein, and consistent with the definitions in M.G.L. c.40A, section 9A, Adult Uses shall include the following: adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre establishment, adult live entertainment, massage service establishment, sexual encounter club, adult cabaret or club, adult motel or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or sexual excitement as defined in MGL c. 272 §31.

Adult uses shall include an establishment with a combination of adult use materials as

¹¹ **Section 7.3** Passed 12-7-06, Approved by A/G 3-6-07

listed above including books, magazines, devices, objects, tools, or toys, movies, videos, and any similar audio/visual media for sale or rent, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272 §31, which in combination, is either:

- (a) greater than fifteen percent 15% of the subject establishment's inventory stock measured by volume and /or value; or
- (b) greater than twenty-five percent (25%) of subject premise's gross floor area, or 200 square feet, whichever is greater.

Adult Use - a use of a building or business (whether partial or entire) for the purpose of engaging in the sale, display, hire, trade, exhibition or viewing of materials or entertainment depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, §31, including adult bookstores, adult live entertainment, adult motion-picture theaters, adult paraphernalia stores and adult video stores, massage service establishments, sexual encounter clubs, adult cabaret or club, adult motel or similar establishment customarily excluding any minor by reason of age as a prevailing practice, as may be further defined in this bylaw.

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

Adult Video Store: An establishment having as a substantial or significant portion of its stock in trade, videos, movies, computer software, computer discs, laser discs or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, §31.

Nudity - Uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered male genitals in a discernibly turgid state. For the purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered as defined in M.G.L. c. 272, §31 as it may be amended.

Sexual Conduct - Human masturbation, sexual intercourse, actual or simulated, normal or perverted, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse that gives the appearance of the consummation of sexual intercourse, normal or perverted as defined in M.G.L. c. 272, §31 as it may be amended.

Sexual Excitement - The condition of human male or female genitals or the breasts of the female while in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity as defined in M.G.L. c. 272, §31 as it may be amended.

Sexual Encounter Club - A business or commercial enterprise, public or private, that as one of its primary business purposes, offers for any form of consideration: (A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (B) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (A) or (B) are distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31, as amended.

Adult Cabaret or Club - A restaurant, or other establishment licensed under Section 12 of Chapter 138, of the General Laws, which, as a form entertainment, which features exotic dancers, strippers, male or female impersonators or similar entertainers, or allows a person or persons to work in a state of nudity; or provides films, motion pictures, video cassettes, compact disks, slides, photographic reproductions, or other visual and/or audio media, regardless of form or method of presentation, which are characterized by the depiction or description of sex-related anatomical areas, or relating to any sexual activity, including sexual conduct or sexual excitement, as defined in M.G.L. c. 272 § 31, as amended.

Adult Motel - A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31, as amended.

Membership Club - A social, sports, or fraternal association or organization used exclusively by members and their guests and which may contain bar facilities, but excluding sexual encounter clubs.

7.3.3 Special Permit

Adult entertainment uses shall be only in non-residential zoning districts, where such uses shall be allowed only upon the grant of a Special Permit by the Planning Board in accordance with Site Plan Approval by the Planning Board in accordance with this zoning bylaw.

7.3.4 Filing Requirements, Siting Criteria, Conditions

7.3.4.1 Submission Requirements

a. The application for a special permit for an adult use shall provide:

- (1) name and address of the legal owner of the establishment,
- (2) legal owner of the property,
- (3) manager of the proposed establishment,
- (4) proposed number of employees
- (5) proposed security precautions,
- (6) description of compliance with the siting criteria set forth in Section 4.2, and
- (7) description and illustration of the physical layout of the premises.

b. A special permit hearing shall be held within forty-five (45) days after an application is filed with the Town Clerk. A decision on the special permit application shall be held within forty-five (45) days after the public hearing.

c. No adult use special permit shall be issued to any applicant, or the representative of an owner, operator, or manager of an adult entertainment facility who has been convicted of violating the provisions of M.G.L. c. 119, §63 (Inducing or abetting delinquency of a child) or M.G.L. c. 272, §28 (Crimes against chastity, morality, decency and good order) or equivalent statutes in other jurisdictions. The application shall include authorization for the Town to confirm criminal record information through the appropriate authorities.

7.3.4.2 Siting Criteria

Adult entertainment uses shall comply with the following siting criteria, where the distance from the developed portion of the subject site shall:

- a. Adult uses shall not be located closer than 100 feet from a residential zoning district or residential dwelling;
- b. Adult uses shall not be located within 1,000 feet from a church, school, playground, play field, cemetery, public open space, youth center, day care center.
- c. Adult uses shall not be located within 1,000 feet from another adult use as defined herein;
- d. Adult uses shall not be located within 500 feet from an establishment licensed under M.G.L. c. 138, §12 allowing sale of alcohol for drinking on premises;
- e. The distances specified in this section shall be measured by a straight line from the nearest developed portion of the premises on which the adult entertainment use is proposed (including structures proposed to contain adult uses and associated accessory structures and parking) to the nearest property line of the uses stated in a. through d. above.
- f. All adult entertainment uses shall be located in the C-I-B district in accordance with Section 8.4.2(k).

7.3.4.3 Conditions

The Planning Board shall issue a special permit for an Adult Entertainment Use if the Submission Requirements of Section 4.1, the Siting Criteria in Section 4.2, and the following conditions are met:

- a. No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises. All entrances to an adult entertainment business, or portion of the business displaying material of adult content, shall be clearly and legibly posted by a notice indicating that minors are prohibited from entering the premises or portion of the business as the case may be.
- b. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.
- c. No adult entertainment use shall be allowed to display any advertisement, sign, placard, or other matter of visual material containing or depicting nudity, sexual conduct or sexual excitement.
- d. Any special permit granted for an adult entertainment use shall be personal to the applicant, shall not run with the land, and shall expire upon the expiration of the applicant's lease or upon sale or transfer of the subject's property/business.
- e. If the Adult Use allows for the showing of films or videos within the premises, any booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.
- f. No adult use shall be allowed within a building containing residential uses.
- g. No adult use shall be allowed within a shopping center, shopping plaza or mall. For the purposes of this section "shopping center", "shopping plaza", and "mall" shall be defined as an integrated group of retail establishments and associated parking whether located on one or more parcels of land.
- h. No loudspeakers or sound equipment shall be used by an Adult Entertainment Business for the amplification of sound to a level discernible by the public beyond the walls of the building in which the Adult Entertainment Business is conducted.
- i. An Adult Entertainment Business shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 1:00 A.M. and 10:00 A.M. of any particular day. In the case of Adult Bookstores, Video Stores, and Adult Paraphernalia Stores, business hours shall be limited to hours between 9:00 A.M to 10:00 P.M. These hours of operation may be further restricted in the conditions granting a Special Permit for an Adult Entertainment Business.
- j. A Certificate of Occupancy for an Adult Use shall not be issued until the applicant has first received any required license from the appropriate Licensing Boards.
- k. Any adult entertainment use granted a special permit shall comply with all other Town Bylaws and all statutes of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

7.3.5. Severability

The provisions of this section are severable and, in the event, that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

7.4 WIND ENERGY CONVERSION SYSTEMS (WECS) BYLAW.¹²

1. **Purpose.** The purpose of this section is to provide for the development and use of wind power as an alternative energy source, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.
2. **Applicability.** Construction and use of a Wind Energy Conversion System (WECS) or any part thereof shall comply with this by-law.
3. **Definitions.**
 - A. Wind Energy Conversion Systems (WECS) - All equipment, machinery, and structures, whether underground, on the surface, or overhead, used to collect, transmit, distribute, store, supply, or sell energy derived from wind, including but not limited to wind turbines (rotors, electrical generators and towers), anemometers (wind measuring equipment), transformers, substations, power lines, control and maintenance facilities, and site access and service roads.
 - B. Commercial Wind Energy System (CWES): A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity greater than 10 kW.
 - C. Residential Wind Energy System (RWES): A wind energy conversion system consisting of a wind turbine, and associated control or conversion electronics, which has a rated capacity of not more than 10 kW, located on a single lot, intended as an accessory use in a designated residential district or in connection with any residential use in a designated commercial district. The rated capacity of not more than 10 kW can be increased at the discretion of the SPGA.
 - D. Wind Turbine: A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower with or without guy wires.
 - E. Overall Engineer Designed Fall Zone: The area on the ground, determined by a registered professional engineer, within a prescribed radius from the base of a WECS, typically the area within which there is a potential hazard from falling debris or collapsing material.
 - F. Wind Farm: A collection of towers in the same location. See Section 5.D for allowance of more than one (1) tower on the same lot or on contiguous lots held in common ownership.
4. **Special Permit Granting Authority:** The Planning Board is hereby established as the Special Permit Granting Authority (SPGA) in connection with construction of Wind Energy Facilities (WECS). WECSs are allowed in all districts by special permit (See Templeton Bylaws Section 9.3 Special Permits), except the Village and Historic Districts, where they are prohibited.

The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw and is consistent with the applicable criteria for granting special permits.
5. **Development Requirements.** The following requirements apply to all Wind Energy Conversion Systems (WECS).
 - A. Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements
 - B. WECS serving neighborhoods or multiple residences are encouraged however; proposals shall be permitted as a CWES allowed in residential districts. If applicable, any necessary easements between property owners must be recorded.
 - C. RWES and CWES shall be limited to one (1) tower per lot including one (1) tower per lot on contiguous lots held in common ownership. The SPGA may exceed this limit if the applicant can demonstrate that additional number is necessary to serve the purposes of this bylaw and that the additional towers will not create an adverse impact in comparison to the siting of one tower as outlined in this bylaw with respect to factors including, but not limited to, Noise (Section 5.H.), Shadowing/Flicker (Section 5.I.), Visual Impact (Section 5.K.), and Electromagnetic Interference (Section 5.L.).
 - D. Tower height.
 1. *CWES. Maximum height three hundred feet. The SPGA may allow the height restriction to be exceeded as part of the special permit*

¹² Section 7.4 Passed 3-6-08, Approval by A/G 5/29/08

process if it finds that the applicant has demonstrated that additional height is needed and that increased height does not create a greater adverse impact than a facility built in compliance with this section with respect to factors including, but not limited to, Noise (Section 5.H.), Shadowing/Flicker (Section 5.I.), Visual Impact (Section 5.K.), and Electromagnetic Interference (Section 5.L.).

2. RWES. Maximum height one hundred and fifty feet. The SPGA may allow the height restriction to be exceeded as part of the special permit process if it finds that the applicant has demonstrated that additional height is needed and that increased height does not create a greater adverse impact than a facility built in compliance with this section with respect to factors including, but not limited to, Noise (Section 5.I.), Shadowing/Flicker (Section 5.J.), Visual Impact (Section 5.L.), and Electromagnetic Interference (Section 5.M.).

- E. Monopole towers are the preferred type of support.
- F. Height Calculation. Overall height of the wind turbine, including any roof mounted wind turbine, shall be measured from the ground level (the land in its natural state prior to grading or filling) to the highest point reached by any part of the wind turbine.
- G. Fall Zone Setbacks. (See figure A) The minimum setback for the WECS shall be maintained equal to the overall engineer designed fall zone plus ten (10) feet from all boundaries of the site on which the WECS is located.
 - 1. No part of the WECS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.
 - 2. WECS shall be set back a distance of the overall engineer designed fall zone plus ten (10) feet, from ways, drives, access easements, trails, ascertainable paths and above ground utility lines (See Figure A).

The SPGA may waive the Fall Zone Setbacks in Section 5.H. if it determines that such a waiver does not derogate from the purpose of this bylaw, and is in the public interest. If any portion of the fall zone setback area referred to in Section 5.H includes abutting property, in order for the SPGA to grant such a waiver, the applicant must present evidence that he or she has secured a permanent “fall zone easement” from the abutting property owner(s). The area of the “fall zone easement” shall be shown on all applicable plans submitted to the SPGA. The easement shall prohibit the placement of temporary or permanent buildings or structures within the “fall zone” and state that it is for the benefit of the applicant’s property and that the easement shall run with the land and forever burden the subject property. The easement shall be recorded no later than ten (10) days from the grant of said waiver, and a copy of the recorded easement shall be provided to the SPGA promptly. In addition, the SPGA may waive the setback requirement in Section 5.H. for setbacks from a public way for good cause.

- H. Noise. The WECS and associated equipment shall conform to the Massachusetts noise regulation (310 CMR 7.10). If deemed necessary by the SPGA, an analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
 - 1. Manufacturers specifications may be accepted when, in the opinion of the SPGA, the information provided satisfies the above requirements.
 - 2. If noise levels are determined to be excessive, the Zoning Enforcement Officer shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence.

- I. Shadowing/Flicker. The WECS shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that a WECS does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- J. Prevention of Access. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access. Climbing access to the tower shall be limited by the following methods: by placing climbing apparatus no lower than twelve feet from the ground and by installation of a six foot high fence with locked gate set back no less than ten (10) feet from the base of the WECS (See Figure B).
- K. Visual Impact. The applicant shall employ all reasonable means, including landscaping and alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain non-reflective muted colors without graphics or other decoration.

The WECS shall not unreasonably interfere with any scenic views, paying particular attention to such views from the downtown business area, public parks, natural scenic vistas or historic building or districts. Furthermore, WECS are prohibited in the Historic and Village Districts. WECS shall, when possible, be sited off ridgelines where there visual impact is least detrimental to scenic views and areas. In determining whether the proposed WECS will have an undue adverse impact on the scenic beauty of a ridge of hillside, the SPGA consider, among other things, the following:

1. The period of time during which the proposed WECS will be viewed by the traveling public on a public highway, public trail, or public body of water;
2. The frequency of the view of the proposed WECS by the traveling public;
3. The degree to which the view of the WECS is screened by existing vegetation, the topography of the land, and existing structures;
4. Background features in the line of sight to the proposed WECS that obscure it or make it more conspicuous;
5. The distance of the WECS from the viewing vantage point and the proportion that is visible above the skyline;
6. The number of travelers or vehicles traveling on a public highway, public trail, or public body of water at or near the critical vantage point, and
7. The sensitivity or unique value of the particular view affected by the proposed WECS.

To assist the SPGA in its review it may require the applicant to fly or raise a three-foot diameter balloon at the maximum height of the proposed WECS at a location within fifty (50) horizontal feet of the center of the proposed facility. The applicant shall provide photographs of the balloon test taken from at least four vantage points previously designated by the SPGA.

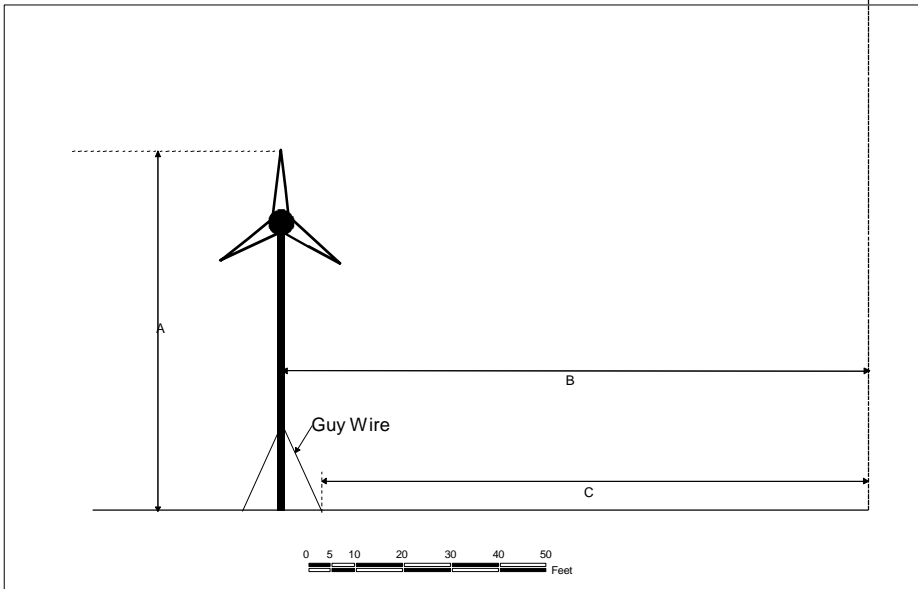
- L. Electromagnetic interference. No WECS installation shall cause electromagnetic interference. The applicant may be asked to bring in consultants at his/her own expense to certify that the system will not cause interference. If neighbors can demonstrate that there is excessive interference, the Inspector of Buildings shall notify in writing the owner of the WECS to correct the violation. If the interference is not remedied within 30 days the WECS shall remain inactive until the interference is remedied, which may include relocation or removal.

6. Procedural Requirements:

- A. Site Plan. A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines and any other significant features or appurtenances. Any portion of this section may be waived if in the opinion of the SPGA the materials submitted are sufficient for the SPGA to make a decision.

1. Vegetation. Existing vegetation must be shown including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The SPGA may also consider the height of vegetation at maturity.
 2. Lighting. If lighting is proposed (other than required FAA lights) the applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and twenty-five (25) beyond the property lines. The plan shall also indicate the locations and types of luminaries proposed.
 3. The Site Plan shall be accompanied by any additional documentation necessary to provide a complete description of WECS including technical, economic, environmental, and other reasons for the proposed location, height and design.
- B. Proof of Liability Insurance.** The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
- C. Compliance with FAA Regulations.** WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- D. Utility Notification.** No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- E. Discontinuance:** A WECS shall be considered to be discontinued if it is not operated for a period of two years. Once a WECS is designated as discontinued, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:
1. Removal of WECS, any equipment shelters and security barriers from the subject property.
 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 3. Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- If the applicant fails to remove the WECS in accordance with the requirements of this section, the town shall have the authority to enter the property and physically remove the facility at the owners cost, which may include placing a lien on the property and/or taking other actions.
- F. Modifications.** All modifications (excluding routine repairs and maintenance) to a WECS made after issuance of the Special Permit shall require approval by the SPGA.
- G. Professional Fees.** The SPGA may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be the expense of the applicant.

FIGURE A: WIND ENERGY CONVERSION SYSTEM (ILLUSTRATIVE EXAMPLE ONLY)



A = Overall Height of WECS. Maximum Height of a Residential WECS is 150 Feet and Maximum Height for a Commercial WECS is 300 Feet. Maximum Height may be exceeded as part of the special permit process if there is a demonstrated need.

B = Fall Zone

Setback: A minimum of the overall engineer designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant.

C = Standard Structure Setback.

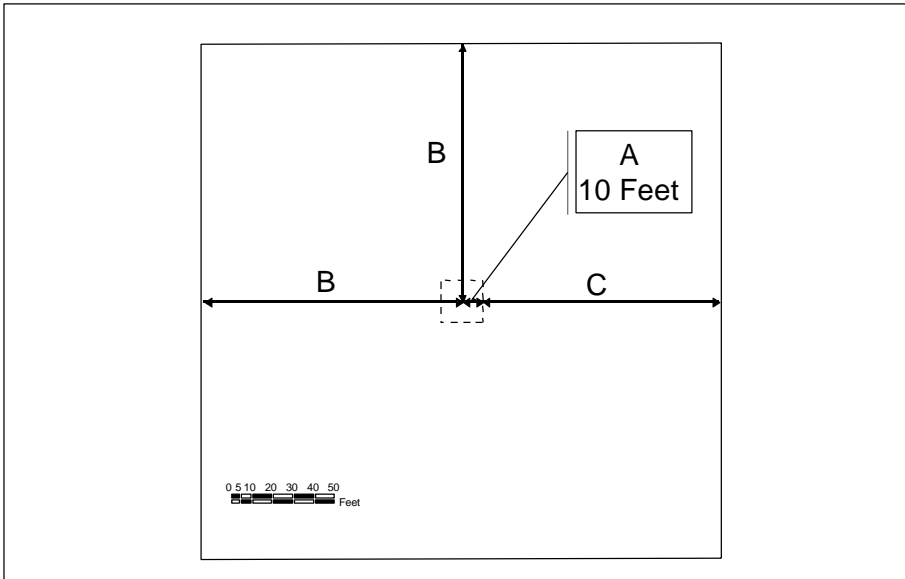


FIGURE B: WIND ENERGY CONVERSION SYSTEM (Illustrative Example Only)

A = Six foot high fence with locked gate set back **no less than ten (10) feet from the base of the WECS**

B = Fall Zone Setback: A minimum of the overall engineer designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant.

C = Standard Structure Setback.

7.5 INCLUSIONARY HOUSING ¹³

- 1. Purpose and Intent.** The purpose of this bylaw is to encourage development of new housing that is affordable to households up to moderate-income as defined by U.S. Department of Housing and Urban Development. At a minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24. It is intended that the affordable housing units that result from this bylaw be considered as Local Action Units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development (DHCD) and the most recent update of its Local Initiative Program Guidelines. Definitions for affordable housing unit and eligible household can be found in the Definitions Section.

¹³ Section 13 Passed 3-6-08, Approval by A/G 5/29/08

2. **Applicability.** In the Residential-Agricultural-1 (R-A-1), Residential-Agricultural-2 (R-A-2), and Residential-Agricultural-5 (R-A-5) zoning districts, the inclusionary zoning provisions of this section shall apply to the following uses:
 - A. Any project that results in a net increase of seven (7) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and
 - B. Any subdivision of land for development of seven (7) or more dwelling units. This also includes lots that could potentially be developed in the future. Therefore, applicants must also show a long term phasing plan, and
 - C. Any life care facility development that includes seven (7) or more assisted living units and accompanying services.
3. **Definitions.**
 - A. **Affordable Housing Unit:** A decent, safe and sanitary housing unit created through the Local Initiative Program or other state or federal housing production programs which is restricted to occupancy by households of Low or Moderate Income.
 - B. **Eligible Household:** An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and the Commonwealth's Local Initiative Program.
4. **Special Permit.** The development of any project set forth in Section 2.0 (above) shall require the grant of a Special Permit from the Planning Board or other designated Special Permit Granting Authority (SPGA).
5. **Mandatory Provision of Affordable Units.**
 - A. As a condition of approval for a Special Permit, the applicant shall contribute to the local stock of affordable unit in accordance with the following requirements:
 1. At least ten (10) percent of the units in a division of land or multiple unit development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below:
 - a. constructed or rehabilitated on the locus subject to the Special Permit (see Section 6.0); or
 - b. constructed or rehabilitated on a locus different than the one subject to the Special Permit (see Section 7.0); or
 - c. An applicant may offer donations of land in fee simple to the Town, subject to acceptance by the Town, or eligible non-profit affordable housing developer subject to the approval of the SPGA, on or off-site, that the SPGA in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The SPGA may require that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. On-site land donated to the Town or eligible non-profit affordable housing developer shall scatter the donated parcels throughout the development so that the land on which affordable housing units are to be constructed are not clustered in any one part of the development. The applicant must coordinate the development of affordable housing units to be constructed by a third party (such as an eligible non-profit affordable housing developer) so that the affordable housing units will be constructed in accordance with the Section 6.C.

The applicant may offer, and the SPGA may accept, any combination of the Section 5.A.1(a)-(c) requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this bylaw.

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

- A. Siting of affordable units. All affordable units constructed or rehabilitated under this bylaw shall be situated within the development so as not to be in less desirable locations than market rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- B. Minimum design and construction standards for affordable units. Affordable housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units. Interior features and mechanical systems of affordable units shall conform to the same specifications as apply to market-rate units.
- C. Timing of construction or provision of affordable units or lots. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-rate (% Complete)	Affordable Housing Unit (% Required)
<30%	-
30% plus 1 unit	10%
Up to 50%	30%
Up to 75%	50%
75% plus 1 unit	70%
Up to 90%	100%

- 7. **Provision of Affordable Housing Units Off-Site.** As an alternative to the requirements of Section 6.0, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 5.0 off-site, as long as the applicant meets the minimum percent of affordable housing units in accordance with Section 5.0 of this zoning bylaw. All requirements of this bylaw that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the Special Permit review and approval process.
- 8. No building permits may be issued until: (1) the owner of the site has executed and recorded a regulatory agreement with the Town, consistent with the requirements of 760 CMR 45, in a form approved by the SPGA and Town Counsel; (2) the Local Action Units have received state approval under 760 CMR 45 for inclusion in the Subsidized Housing Inventory for the Town; and (3) the use restriction required under 760 CMR 45 has been recorded.
- 9. **Conflict with Other Bylaws:** The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.
- 10. **Severability:** If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

7.6 OPEN SPACE RESIDENTIAL DEVELOPMENT BYLAW¹⁴

1. Purpose and intent.

- A. The Primary Purposes for this bylaw are the following:

¹⁴ Section 7.6 Passed 3-6-08, Approval- by A/G 5/29/08

1. To allow for greater flexibility and creativity in the design of residential developments;
 2. To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
 3. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
 4. To minimize the total amount of disturbance on the site;
 5. To further the goals and policies of the Town of Templeton Comprehensive Plan and Open Space and Recreation Plan and other local and regional plans as may be applicable;
 6. To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.
- B. The Secondary Purposes for this bylaw are the following:
1. To preserve and enhance the community character;
 2. To protect and enhance the value of real property;
 3. To provide for a diversified housing stock;
 4. To control sprawl.

2. Definitions

Basic Maximum Number – The number of units that would be allowed on a site using the standard Zoning Bylaw Provisions and/or Subdivision Rules and Regulations as determined by a Yield Plan.

Hard Stormwater Management Techniques – Structural stormwater management techniques including, but not limited to, catch basins, subsurface piping, stormwater inlets, and subsurface leaching facilities. These techniques generally require heavy infrastructure and often result in significant alteration of the site hydrology.

Major Residential Development-Any new Open Space Residential Development that will create more than four (4) residential lots. This also includes lots of 4 or more residential lots that could potentially be developed in the future. Therefore, applicants must also show a phasing plan if lots of 4 or more are held in common ownership.

Soft Stormwater Management Techniques – Non-structural stormwater management techniques that use passive surface pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre-development hydrologic conditions to the greatest practicable extent.

3. Applicability.

- A. Any Major Residential Development may be permitted by issuance of a Special Permit from the Planning Board for either Conventional Development or Open Space Residential Development (OSRD) in accordance with this bylaw. Applicants for a Major Residential Development shall submit both a conventional plan and an OSRD plan in accordance with the applicable provisions of this Bylaw.
- B. Developments of 4 lots or smaller may also apply for an OSRD Special Permit subject to the following criteria:
 1. **Contiguous Parcels.** To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are “contiguous” for the purpose of this section, if they will serve as a singular resource and effectively satisfy the Purpose and Intent of this bylaw as listed in Section 1.

2. Land Division. To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to G.L. c. 41, § 81P provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided.

4. Pre-application.

A. Conference. The applicant is required to request a pre-application review at a regular business meeting of the Planning Board. The Planning Board may conduct a pre-application review, if deemed necessary by the Planning Board. The Planning Board may invite local officials and/or representatives of local boards, commissions and committees as deemed appropriate by the Planning Board. The Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a Conventional or OSRD Special Permit at the expense of the applicant.

B. Submittals. Applicants shall submit the following information:

1. Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features such as, but not limited to, lakes, brooks, and streams that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.

2. Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature non-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

3. Other Information. In addition, applicants are invited to submit the information set forth in 5.A. in a form acceptable to the Planning Board.

C. Site Visit. The Planning Board and/or its agents may conduct one or more site visit(s) during the review of the proposed Open Space Residential Design plan. The Planning Board may invite local officials and/or representatives of local boards, commissions and committees as deemed appropriate by the Planning Board.

D. Design Criteria. The design process and criteria set forth below in Sections 6 and 7 should be discussed by the parties at the pre-application conference and site visit.

5. Major Residential Development/OSRD Application for Special Permit. The Planning Board, acting as the Special Permit Granting Authority (SPGA), may authorize a Conventional Development Special Permit or an OSRD Special Permit pursuant to the procedures outlined below and in accordance with the Town of Templeton Subdivision Rules and Regulations. However, anything within the Templeton Subdivision Rules and Regulations can be waived at the discretion of the Planning Board during the OSRD Special Permit process.

A. Application. An application for the Special Permit shall be submitted on the form(s) provided by the Planning Board in the Templeton Subdivision Rules and Regulations, as may be amended. Applicants for OSRD shall also file with the Planning Board 8 copies of the Concept Plan. The Concept Plan shall include a Yield Plan and a Sketch Plan [see Subsections A(1) and (2) of this Section], and shall be consistent with the Town of Templeton Subdivision Rules and Regulations. The applicant shall also submit both the Site Context Map and Existing Conditions/Site Analysis Map prepared according to Section 4.B. above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

1. Yield Plan. The Basic Maximum Number of allowable units shall be derived from a Yield Plan. The Yield Plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots resulting from the design and engineering specifications shown on the Yield Plan. The Yield Plan shall contain, at a minimum, the following information:
 - a. Parcel boundaries, north point, date, legend, title "Yield Plan," and scale.
 - b. The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan.
 - c. The names, approximate location, and widths of adjacent streets.
 - d. Existing topography at 2-foot contour intervals.
 - e. Map of soils using NRCS soils mapping.
 - f. All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Yield Plan.
 - g. Lot lines with approximate areas and frontage dimensions, or unit placements and proposed common areas.
 - h. Location and extent of parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate the use.
 - i. If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.

2. Sketch Plan. The Sketch Plan, which details the open space residential development design, shall address the general features of the land, and give approximate configurations of the proposed lots, of unit placements if treated as a condominium, of open space, and roadways. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section 6 below, and the Design Standards, according to Section 7 below, when determining a proposed design for the development. In addition to those requirements for a Yield Plan listed in Section 4.A(1), a Sketch Plan shall contain the following information:
 - a. The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.
 - b. The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archaeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major land views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to Section 6.A. Proposals for all site features to be preserved, demolished, or altered shall be noted on the Sketch Plan.
 - c. The existing and proposed lines of streets, ways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or unit development, or parcels of land or lots to be used for any purpose other than private residential shall be

so designated within the subdivision in a general manner. Common driveways shall not be allowed.

- d. Proposed roadway grades.
- e. Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Board of Health. However, a narrative explanation shall be prepared by a Massachusetts Certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.
- f. A narrative explanation prepared by a Massachusetts Certified Professional Engineer proposing systems for stormwater drainage and likely impacts onsite and to any abutting parcels of land. For example, the narrative will specify whether Soft or Hard Stormwater Management Techniques will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.
- g. A narrative explanation prepared by a Massachusetts Certified Professional Engineer, detailing the proposed drinking water supply system.
- h. A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
- i. All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
- j. A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, condominium or cooperative documents, with an accompanying narrative explaining their general purpose.
- k. A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.

B. Procedures. Whenever an application for a Conventional/ OSRD Special Permit is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan(s), and other documentation, to the Board of Health, Conservation Commission, Historical Commission, Building Inspector, Highway Department, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period.

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

D. Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any

application for a Special Permit for Conventional or OSRD Special Permit with the public hearing required for approval of a definitive subdivision plan.

6. Design process. At the time of the application for the Special Permit, in conformance with Section 5.A., applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, unit placement if treated as a condominium, and designation of all common areas and open space.

A. Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

B. Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.

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

E. Lot Lines. Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

7. Design Standards. Applicants shall refer and adhere to the Templeton Subdivision Rules and Regulations as amended. In addition, the following Generic and Site Specific Design Standards shall apply to all Sketch Plans for OSRD's and shall govern the development and design process:

A. Generic Design Standards.

1. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

2. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

3. Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.

4. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

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

B. Site Specific Design Standards.

1. Mix of Housing Types. The OSRD may consist of any combination of single-family and two-family structures and multi-family residences containing greater than two dwelling units per structure upon the grant of a special permit by the Board of Appeals in accordance with Article XXI, Section 7.0 Special Regulations.

2. **Parking.** Each dwelling unit for single or two-family homes shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. For dwelling units with fewer than two bedrooms in structures containing four or more units, the applicant shall provide two (2.0) parking spaces per unit for residents' parking and one and a half (1.5) for visitors' parking that shall be marked as such. For dwelling units with more than two bedrooms in structures containing four or more units, the applicant shall provide three (3.0) parking spaces per unit, the third of which may be used for visitors' parking.

Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.

3. **Drainage.** The Planning Board may consider the use of Soft Stormwater Management Techniques and other Low Impact Development techniques that reduce impervious surface and enable infiltration where appropriate.

4. **Screening and Landscaping.** All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.

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

6. **Disturbed Areas.** Every effort shall be made to minimize the area of disturbed areas on the tract. A disturbed area is any land not left in its natural vegetated state.

8. Open space requirements.

A. **Generic Design Standards.** A minimum of fifty percent (50%) of the parcel(s) shown on the development plan shall be set aside as protected open space. Any proposed open space, unless conveyed to the Town or its Conservation Commission or Cemetery and Parks Department or appropriate non-profit organization such as a land trust, shall be subject to a recorded restriction enforceable by the Town through a conservation restriction, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes. The Planning Board may develop model documents for the applicant's use.

1. The percentage of the open space which is wetlands **shall not normally exceed 50%**. The percentage of the parcel(s) which is wetlands that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in this section. For purposes of this section, "wetlands" shall mean all areas defined as "freshwater wetlands" in the Wetlands Protection Act, M.G.L. c.131, §40.

2. **The open space shall be contiguous to other open space.** Contiguous shall be defined as being connected and open space shall not include residential uses. Open space will be considered connected if it is separated by a roadway or an accessory amenity. The Planning Board may allow non-contiguous open space where such non-contiguous open space will promote the purposes of this bylaw and/or protect important conservation resources.

3. The open space shall be arranged to protect valuable natural and cultural elements including waterbodies, streams, wetland buffers, un-fragmented forest, wildlife habitat, open fields, scenic views, trails, stone walls, archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes.

4. The open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by accessible and suitable public access for such purposes.

5. The open space shall remain unbuilt upon, except that the Planning Board may permit up to 20% of the open space to be paved with permeable material, or built upon for structures accessory to the dedicated use or uses of the open space, such as pedestrian walks and bike paths.

6. **Underground utilities.** Subject to the approval of the Planning Board, underground utilities to serve the OSRD site may be located within the open space.

7. **Wastewater facilities.** Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components

of sewage disposal systems serving the development, where the Planning Board finds that such use will not be detrimental to the character, quality of use of the open space, wetlands or waterbodies, and enhances the site plan. The Planning Board shall require adequate legal safeguards and covenants that such facilities shall be adequately maintained by the lot owners within the development.

8. Storm water management systems. Subject to the approval of the Planning Board, storm water management systems may be located within the required open space. Surface systems, such as retention and detention ponds shall not qualify towards the minimum open space required.

B. Ownership of the Open Space. The open space shall, at the Planning Board's election, be conveyed to either:

1. The Town of Templeton or its Conservation Commission or Cemetery and Parks Department.
2. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above such as a land trust; or
3. A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town of Templeton to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town of Templeton an easement for this purpose. In such event, the Town of Templeton shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town of Templeton may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted with the special permit application to the Planning Board for approval, reviewed by Town Counsel, and shall thereafter be recorded.

The developer shall include in the deed to such owner beneficial rights in the open space, and shall grant a perpetual open space restriction to the Town to insure that it will remain in an open state and not be used for residential purposes or accessory uses. Such restriction shall be in the form and substance prescribed by the SPGA, and may contain such additional restrictions on the use of the open space as the SPGA deems appropriate.

C. Buffer Areas. A buffer area equal to the minimum backyard setback required for the zoning district shall be provided at the perimeter of the **OSRD** parcel where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the **OSRD** parcel. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement: (i) where the land abutting the **OSRD** parcel is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the **OSRD** parcel is held by the town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer, or no buffer, will suffice to accomplish the objectives set forth herein (e.g. if integration with neighborhood is better achieved without buffer).

No person may encroach or cause another person to encroach on open space land or on any land for which a public body, a nonprofit land conservation organization, or homeowners association holds a conservation easement interest, without the permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

D. Encumbrances. All areas set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

9. Reduction of Dimensional Requirements.

Applicant may propose to modify lot size, unit placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

A. Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.

RA1 – 1.0 acre w/o sewer and 0.5 acre w/sewer and 75 LF frontage.

RA2 – 1.0 acre w/o sewer and 1.0 acre w/sewer and 75 LF frontage.

RA5 – 2.5 acre w/o sewer and 2.5 acre w/sewer and 250 LF frontage.

B. Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 30 feet from the roadway right-of-way, and 15 feet from any rear or side lot line. In no event shall structures be closer than 30 feet to each other. Where structures containing three to four dwelling units are being proposed, the side lot lines between units may be 15 feet, however the distance between structures shall be a minimum of 30 feet.

10. Increases in Permissible Density.

Increases in density are not permissible and not waivable.

11. Decision of the Planning Board.

A. Criteria for Approval. The Planning Board will review all data and hold a public hearing in accordance with M.G.L.c.40A, section 9. The Board may grant a Special Permit for an OSRD, with or without conditions, if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight (8) factors are present:

1. That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;
2. That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archaeological resources;
3. That the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
4. That the OSRD reduces the total amount of disturbance on the site;
5. That the OSRD furthers the goals and policies of existing community planning documents including, but not limited to, the Town's Local Comprehensive Plan, Open Space and Recreation Plan, Planned Production Strategy for Affordable Housing and EO418 Community Development Plan;
6. That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
7. That the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.
8. That the proposed design does not create undo risk to public health, safety and welfare.

B. Relationship between Concept Plan and Definitive Subdivision Plan. Any Special permit for a Major Residential Development or any Special Permit for OSRD that is granted a Special Permit and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

1. An increase in the number of building lots and/or units;
2. A significant decrease in the open space acreage;
3. A significant change in the lot layout or unit placement;
4. A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
5. Significant changes to the stormwater management facilities; and/or
6. Significant changes in the wastewater management systems.

12. Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of

any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

7.7 **SENIOR HOUSING PLANNED COMMUNITY MANUFACTURED HOME PARKS¹⁵**

In Residential Districts – RA1 and RA2

7.7.1 **Purpose and Intent**

This section of the zoning bylaw is established in order to encourage the development and maintenance of attractive and filling sites for Manufactured Homes, so called; to protect and foster the health, safety, and welfare of the residents of Manufactured Home Developments, and in general, preservation of the environment and appearance of the areas within which such parks are established and maintained. It is the intent of the Town that Manufactured Home Parks serve the needs of the elderly and retired population of moderate means, who no longer need or can maintain a larger home. In order to provide a quiet, safe, and convenient environment for the elderly residents of Manufactured Home Parks, the Special Permit Granting Authority shall, as a condition of a special permit, provide for occupancy of Manufactured Home Parks by persons fifty-five (55) years of age and older and by members of their families. All Manufactured Home Parks granted a Special Permit may be required to be licensed by the Board of Health as provided by M.G.L Chapter 140, Section 32.

7.7.2 **Special Permit Granting Authority**

Special Permit Granting Authority (SPGA) shall be solely the responsibility of the Planning Board.

7.7.3 **Special Conditions**

Except as otherwise provided herein, or in a particular special permit, the design and construction of a Manufactured Home Park shall be in general conformity with the Rules and Regulations of the Templeton Planning Board under the Subdivision Control Law, so far as the SPGA shall deem appropriate and applicable, but dimensional and use regulations of the Zoning Bylaw shall not apply, except as specified herein. However, waivers may be granted from the Rules and Regulations as deemed appropriate.

No home occupations, commercial, or other non-residential uses shall be permitted as either principal or accessory uses in Manufactured Home Parks, except for service or recreation facilities for the residents thereof.

7.7.4 **Area**

No Manufactured Home Park shall be less than Twenty (20) acres in area, including the roads and the area provided for recreation, service, and other permanent installations.

7.7.5 **Utilities**

All Manufactured Home Parks shall require public water systems.

Where an existing public sewer or water service is to be utilized, the applicant shall present such evidence as will show that such utilization is acceptable to the applicable Departments for the Town of Templeton.

When a sewage system is proposed, the applicant shall present such evidence as will show that his waste treatment system is approved by the appropriate Department of the Town.

7.7.6 **Density of Use**

There shall be no more than Eight (8) Manufactured home units with accessories per acre; however, no more than 30% of the gross land mass shall be developed for a Manufactured Home Park. Said 70% land mass shall be designated as open space and reserved for recreational purposes.

Manufactured homes shall not be located closer than (10) feet to the nearest Manufactured home and (20) feet from Park Street.

Each Manufactured home shall be located with at least a forty (40) foot set back from any park property boundary abutting a public street or highway or adjacent property.

7.7.7 **Parking**

At least two off street parking spaces shall be provided for each Manufactured home.

7.7.8 **Street and Services**

The street system shall conform to construction standards set forth in the rules and regulations relative to the construction and paving of streets in subdivisions in the Town of Templeton, and shall have direct connection to a public street or highway sufficient to satisfy requirements for the Highway Department, the Chief of the Fire Department and the rules and regulations of the Planning Board. The maintenance of these streets shall be the responsibility of the Manufactured Home Park owner.

¹⁵ Section 7.7 passed 5-17-10 at Town Meeting; A/G approval 8-24-10

There shall be provided central facilities for recreation, open space and services which shall be available to all Manufactured Home Park residents.

7.7.9 Units for Sale

Manufactured homes shall not be stored or displayed on park premises except when mounted on a pad on a lot. New Manufactured homes displayed for sale by the park owner or operator must be sold for use within that park. Used Manufactured homes offered for sale by individual Manufactured home owners must be displayed on a pad on a lot with in that park, but may be sold either with in use within that park to an individual, the park owner or operator, of for use outside that park. The park owner or operator may also display those units on a pad on a lot for resale within that park premises. Nothing in this section shall be construed as permitting the storage of unoccupied units in any park, for sale in the ordinary course of business, or as inventory, or the sale of such units except in those districts, as determined by the Zoning Bylaw, wherein such commercial activity is permissible with or with out permits from the proper authority.

SECTION 8.0 ADMINISTRATION AND PROCEDURES

8.1 GENERAL

1. Permits. This By-Law shall be administered by the Building Inspector. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth and may request advisory reviews by other municipal boards and officials. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed with regard to size or shape or principal use unless in compliance with this Zoning By-Law and all necessary permits have been received under federal, state, or local law.
2. Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits, special permits, variances, and site plan approval issued thereunder, including notification of noncompliance and request for legal action.
3. Penalties. The penalty for violation of any provision of this By-Law of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

8.2 BOARD OF APPEALS

1. Establishment. There shall be a Board of Appeals as provided by G.L. C. 40A, S. 12, as amended, which shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in such section. The Board shall consist of five members and one alternate member.
2. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this By-Law. The Board's powers are as follows:
 - 1) To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 6.3, or as otherwise specified.
 - 2) To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. C. 40A, S. 10. The Board of Appeals shall not grant use variances.

- 3) To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. C. 40A, ss. 7, 8 and 15.
 - 4) To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. C. 40B, ss. 20-23.
3. Procedures. Applications shall be filed in accordance with the rules and regulations of the Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Board of Appeals.
 4. Conditions. Special permits and variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit or permit granting authority may deem necessary to serve the purposes of this By-Law.
 5. Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.
 6. Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

8.3 SPECIAL PERMITS

1. Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
2. Criteria. Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the proposed use or structure(s) shall not cause substantial detriment to the neighborhood or the Town, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, such determination shall include consideration of each of the
 - 1) Social, economic, or community needs which are served by the proposal;
 - 2) Traffic flow and safety, including parking and loading;
 - 3) Adequacy of utilities and other public services;
 - 4) Neighborhood character and social structures;
 - 5) Impacts on the natural environment; and
 - 6) Potential fiscal impact, including impact on Town services, tax base, and employment.
3. Procedures. Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

Special permits shall only be issued following public hearings held within sixty-five days after filing an application. When requesting a special permit from the Board of Appeals the application shall be filed with the Town Clerk who shall transmit the application to the Board of Appeals. When requesting a special permit from the Planning Board the application shall be filed with the Planning Board and the applicant is responsible for transmitting a copy of the application to the Town Clerk forthwith. Failure of the Board of Appeals or the Planning Board to act within 90 days after a public hearing for a special permit shall be deemed as approval. The “Rules and Regulations of the Board of Appeals and Planning Board Concerning Special Permits” should be obtained from the Town Clerk in order to have the complete procedures concerning special permits.

4. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this By-Law.
5. Plans. An applicant for a special permit shall submit a plan in substantial conformance with the requirements set forth per each SPGA set Rules and Regulations and with in the Templeton Zoning Bylaw herein.
6. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s.17, from the grant thereof) with the Town Clerk.
7. Regulations. The special permit granting authority may adopt rules and regulations for the administration of this section.
8. Fees. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

8.4 SITE PLAN REVIEW

1. Applicability. The following types of activities and uses require site plan review by the Planning Board:
 - 1) Construction, exterior alteration or exterior expansion of, or change of use within any nonresidential or nonagricultural building or structure or lot.
 - 2) Construction or expansion of a parking lot for any nonresidential or nonagricultural building or structure or lot.
2. Procedure. Applicants shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Board of Selectmen, Board of Health, Building Inspector, and Conservation Commission for their advisory review and comments. **The Planning Board shall hold a public hearing on any complete application within 60 days of its submission. Public notice of said hearing shall be given in accordance with the requirements of Massachusetts General Laws Chapter 40A Section 11.** The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of **the closing of the Public Hearing**, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of the Board, shall be in writing, and shall be filed with the Town Clerk within fourteen days thereafter. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse **of the closing of the Public Hearing** without action by the

Planning Board. All time limits may be extended in writing by mutual agreement of the applicant and the Planning Board.

3. Preparation of Plans; Contents. Applicants are invited to submit a pre-application sketch of the proposed project at a regular meeting of the Planning Board. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=20'. The contents of the site plan are as follows:

- 1) Six (6) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the Planning Board. The plans are as follows:
 - a. Locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.
 - b. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, areas for snow storage after plowing, and all proposed recreational facilities and open space areas.
 - c. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage, and all wetlands including floodplain areas.
 - d. Utility plan, which shall include all facilities for refuse and sewage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.
 - e. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
 - f. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control
- 2) The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.
- 3) A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this By-Law.

- 4) The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Planning Board subdivision regulations.
 - 5) The Planning Board may waive any requirement of this section 6.4.3.
4. Approval. Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following standards. The Planning Board may impose reasonable conditions. New building construction or other site alterations shall be designed to:
- 1) Minimize the volume of cut and fill, the number of removed trees 6” caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
 - 2) Provide adequate access to each structure for fire and service equipment and adequate utilities and stormwater drainage consistent with the functional requirements of the Planning Board’s Subdivision Rules and Regulations;
 - 3) Maximize pedestrian and vehicular safety both on the site and egressing from it;
 - 4) Minimize obstruction of scenic views from publicly accessible locations and visual intrusion by screening parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
 - 5) Minimize glare from headlights and lighting intrusion;
 - 6) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
 - 7) Ensure compliance with the provisions of this Zoning By-Law.
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.
6. Regulations Fees. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of this Section. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.
7. Appeal. Any decision of the Planning Board pursuant to this Section 6.4 shall be appealed in accordance with the provisions of G.L. c. 40A, s. 17 to a court of competent jurisdiction.

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