

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

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

- 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;
- (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;

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

- (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

3.8 Airport District

3.8.1 Purpose

Templeton is the host community of the Gardner Municipal Airport (“Airport”). The Airport serves the aviation needs of the surrounding region and is an important asset to the overall economic prosperity of north-central Massachusetts. The purposes of the Airport District are:

1. To provide for future development of the Airport so that it may better serve the aviation needs of the region.
2. To protect the health, safety, and welfare of the Town of Templeton, while fostering a strong relationship between the Airport and the Town and minimizing adverse impacts on natural resources and residential neighborhoods.
3. To promote the economic development of Templeton by encouraging non-airport uses that are compatible with the safe operation of the Airport.

3.8.2 Extent of the District

The Airport District is shown on the Templeton Zoning Map and encompasses the area owned by the City of Gardner and designated as the Gardner Municipal Airport.

3.8.3 Site Plan Review Uses in the Airport District

The following uses are allowed by right. A change in use may be subject to site plan approval by the Planning Board pursuant to Section 8.4 of the Zoning Bylaw. Approval by said Planning Board shall not be unreasonably withheld or denied.

1. Uses required for airport operations, management, safety, and support services. All uses that are normally associated with air transportation facilities, including but not limited to: runways, taxiways, terminals, hangars, airport administration offices, equipment garages, tie-downs, aviation fuel storage, control towers, navigational aids, weather data collection devices, and other uses and structures necessary for the day-to-day operation, management, and, safety of an airport.
2. Establishments providing aircraft related services such as engine repair, bodywork, aircraft design, sales of aircraft, and aircraft related equipment and services.
3. Establishments providing services customarily associated with air transportation such as travel agencies, auto rentals, and taxi stands.

4. Recreational services dependent upon air transportation, such as skydiving, airplane rides, glider flights, ultralight aircraft flights, hot air ballooning, etc.
5. Establishments for the training of pilots, navigators, air traffic controllers, mechanics, and other air transportation related crafts, trades, and professions.
6. Changes to parking areas, taxiways, runways, and other paved surfaces, except to the extent said changes are required for the safe operation of the Airport.
7. Essential Services as defined in Section 2.0 of the Zoning Bylaw.
8. Municipal Facilities as defined in Section 2.0 of the Zoning Bylaw. A change of one municipal facility to another shall require a new site plan approval of the Planning Board.

3.8.4 Special Permit Uses in the Airport District

The Town recognizes the following uses may have unwanted effects on surrounding properties, abutting neighborhoods and the overall safe operation of the Airport. For these reasons the uses listed below are allowed by Special Permit of the Planning Board. All requirements of Section 8.3 of the Zoning Bylaw shall apply.

1. Outdoor storage facilities
2. Hotel, motel, or inn
3. Light manufacturing operations
4. Business and professional offices
5. Research and Development laboratories
6. Airfreight handlers, distribution centers, and warehousing
7. Non-profit clubs and lodges
8. Commercial kennels
9. Motor vehicle repair and service garages
10. Indoor commercial recreation or fitness facilities
11. Solar energy facilities
12. Restaurant and Restaurant Fast-Food, but drive-up customer service facilities are prohibited

3.8.5 Gardner Airport Commission Approval

Where the Gardner Airport Commission is not the applicant, each application to the Planning Board for a special permit or site plan approval shall contain a letter from the Commission stating its approval or opposition of the proposed use and its reasons therefor.

3.8.6 Dimensional Regulations

1. Lot Requirements: Aviation-related uses proposed by the Gardner Airport Commission on Airport property need not comply with specific dimensional standards but may be to subject to reasonable regulation of the Planning Board relating to bulk, setbacks, landscaping, screening,

construction materials, lighting, parking and loading, signs, aesthetics, and other measures to protect the environment and preserve neighborhood quality of life. Uses proposed by other entities on sites leased by the Commission or on parcels sold for development shall occur on lots that conform to the minimum lot area, width, buffer, and setback requirements of the Commercial-Industrial A (C-I-A) district.

2. Height Limits: Buildings shall not exceed one story in height unless the Planning Board grants a special permit for a greater height with full consideration for air traffic safety. Structures necessary for or incidental to airport operations may exceed height limits and shall comply with statutory and regulatory requirements of the Federal Aviation Administration and the Aeronautics Division of the Massachusetts Department of Transportation.

3.8.7 Special Events

The Gardner Airport Commission may hold special events, such as model airplane rallies, automobile exhibits, trade shows, etc. without obtaining site plan approval. If the event will include temporary structures, the sponsor shall comply with the requirements of the State Building Code. The sponsor shall notify the Police Chief and Fire Chief at least fifteen (15) business days in advance of the event. The Chiefs may set reasonable requirements that are necessary for public safety and traffic control.

3.8.8 Application

To the extent any provision or application of section 8.4 restricts the Gardner Airport Commission's custody, care, and management responsibility over the Airport or conflicts with state and/or federal statutory, regulatory, or grant assurance obligations required by the Federal Aviation Administration or the Aeronautics Division of the Massachusetts Department of Transportation, said provision or application shall not apply.

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
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

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

- 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.

With or Without Water or Sewer

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

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;

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

- (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

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

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 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.

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

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 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:

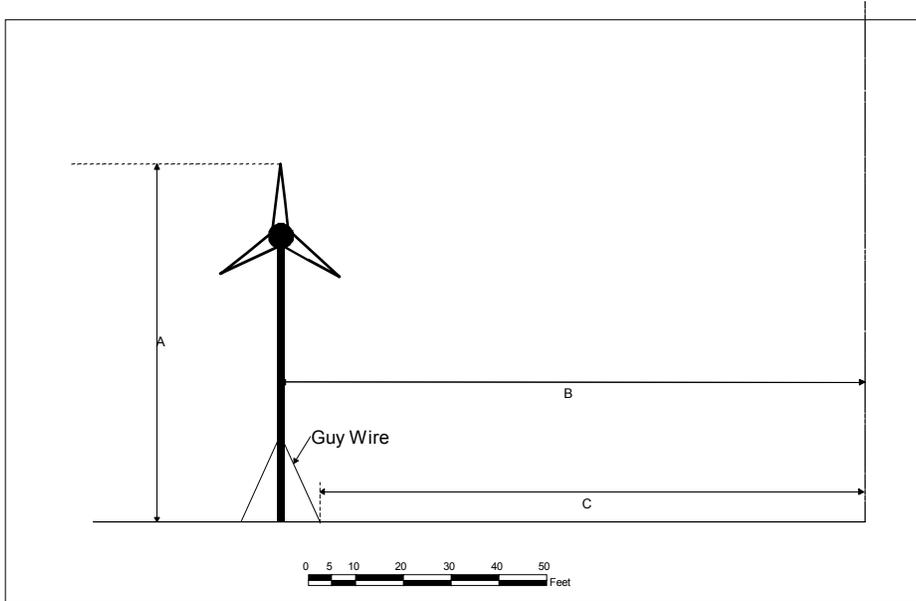
1. Removal of WECS, any equipment shelters and security barriers from the subject property.
2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
3. Restoring the location of the WECS to its natural condition, except that any landscaping 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.

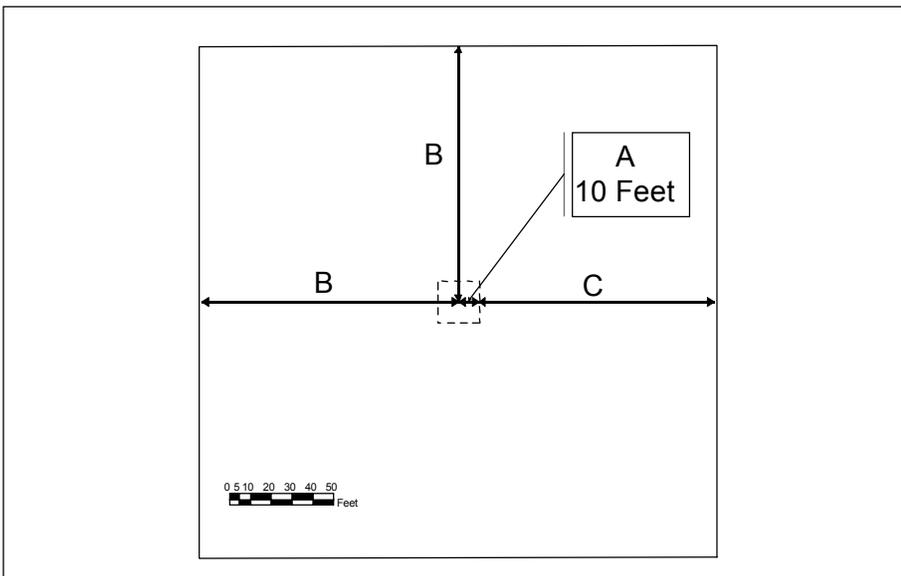
B = Fall Zone Setback: A minimum of the overall engineer designed fall zone plus 10 feet. This setback does not apply to any residential or commercial structure that is owned by the applicant.

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.
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

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

- 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:

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-

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

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.

C. 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**

¹⁵ Section 7.7 passed 5-17-10 at Town Meeting; A/G approval 8-24-10

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 space 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.

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 within that park, but may be sold either within or outside that park to an individual, the park owner or operator, or 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 without 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.

Amended 5-14-02, Approved by A/G 10-9-02; Amended 3-6-08, Approved by A/G 5-29-08
Section 3.8 added 11/7/11, approved by A/G