PROPOSED
AYER ZONING BYLAW
February 15, 2018

SECTION 1.0 TITLE, PURPOSES, AUTHORITY 1

1.1 Title 1
1.2 Authority 1
1.3 Purposes 1
1.4 Applicability 1
1.5 Other Laws 1
1.6 Amendment 2
1.7 Severability 2

SECTION 2.0 DEFINITIONS 3

SECTION 3.0 ADMINISTRATION AND ENFORCEMENT 19

3.1 Enforcement 19
3.2 Board of Appeals 20
3.3 Planning Board 21
3.4 Special Permit 21
3.5 Site Plan Review 23

SECTION 4.0 ZONING DISTRICTS 27

4.1 Establishment 27
4.2 Overlay Districts 27
4.3 Zoning Map 28
4.4 Interpretation of District Boundaries 28
4.5 Lots Divided by District Boundaries 28

SECTION 5.0 USE REGULATIONS 29

5.1 Principal Uses 29
5.2 Table of Uses Regulations 29
5.3 Accessory Uses 29

SECTION 6.0 DENSITY & DIMENSIONAL REGULATIONS 33

6.1 General Provisions 33
6.2 Schedule of Dimensional Requirements 33
6.3 Additional Requirements 33

SECTION 7.0 NONCONFORMING USES AND STRUCTURES 36

7.1 Applicability 36
7.2 Nonconforming Single-Family and Two-Family Dwellings 36
7.3 Special Permit for Other Uses and Structures 37
7.4 Variance Required 38
7.5 Discontinuance 38
7.6 Reconstruction after Catastrophe 38

7.7 Reversion to Nonconformity 38

SECTION 8.0 OVERLAY DISTRICTS 39

8.1 Aquifer Protection Overlay District 39
8.2 Floodplain Overlay District 46
8.3 Wireless Communications Services Overlay District 49
8.4 Adult Entertainment Overlay District 55

SECTION 9.0 GENERAL REGULATIONS 58

9.1 Off-Street Parking and Loading 58
9.2 Open Space and Landscaping Standards 69
9.3 Commercial Development Standards 71
9.4 Environmental Performance Standards 73
9.5 Signs 75
9.6 Land Clearing and Grading 79
9.7 Earth Removal 83

SECTION 10.0 SPECIAL REGULATIONS 84

10.1 Open Space Residential Development 84
10.2 Multi-Family Development Standards 90
10.3 Affordable Housing 92

SECTION 1.0 TITLE, PURPOSES, AUTHORITY

1.1 Title

This Bylaw shall be known as the Zoning Bylaw of the Town of Ayer, Massachusetts, hereinafter referred to as "this Bylaw."

1.2 Authority

This Bylaw is adopted in accordance with the provisions of Chapter 40A of the General Laws, as amended by c. 808 of the Acts of 1975, and by Article 89 of the Massachusetts Constitution, the Home Rule Amendment, to regulate the use of land, buildings, and structures to the full extent of the constitutional powers of cities and towns to protect the health, safety, and welfare of the present and future inhabitants of the town.

1.3 Purposes

The purposes of this Bylaw are to promote the general welfare of the Town of Ayer; to protect the health and safety of its inhabitants; to encourage the most appropriate use of land throughout the town; to provide for adequate light and clean air, and to limit pollution; to preserve the natural, historical, scenic, and aesthetic qualities of the town; to encourage preservation of historic land uses and structures; to increase the amenities of the town; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to further the goals and policies of the Ayer Comprehensive / Master Plan; and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them.

1.4 Applicability

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

1.5 Other Laws

In their interpretation and application, the provisions of this Bylaw shall be held to be minimum requirements. Whenever the requirements of this Bylaw are at variance with the requirements of any other lawfully adopted regulations or bylaws, the most restrictive or the one imposing the highest standards shall govern.

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1.6 Amendment

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

1.7 Severability

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

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SECTION 2.0 DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The abbreviation “sq. ft.” shall include square foot or square feet. 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 words "such as," “includes” or “including” shall not limit a term to specified examples, but are intended to extend 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 a firm, association, organization, partnership, company, or corporation, as well as an individual.

Terms and words not defined herein but defined in the Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

ABANDONMENT: Cessation of an activity for a period of two years or more causing the loss of any right to restore a nonconforming use or activity on a given site.

ACCESSORY STRUCTURE: A structure located on the same lot as, but detached from, a principal building or use, the use of which is customarily incidental to that of the principal building or use, such as detached garages, utility sheds, gazebos, and swimming pools.

ACCESSORY USE: A use customarily incidental to that of the main building or to the use of the land, not including exterior storage of junk, dismantled or abandoned cars or any other storage detrimental to the health, safety or general welfare.

ADULT DAY CARE: A day services program designed to provide assistance with activities of daily living and meet the cognitive, social, physical, and medical needs of elderly clients, and provide temporary relief for their caregivers; certified, licensed, or operated under a contract administered by the Executive Office of Elder Affairs or other state agency authorized under the laws of the Commonwealth.

ADULT USE: An adult bookstore, an adult motion picture theater, an adult dance club, an adult paraphernalia store, an adult video store and such other uses as provided by G.L. c. 40A, § 9A.

ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, computer compact disks, computer disks or diskettes, or coin-operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "sexual conduct" as that term is defined in G.L. c. 272, § 31, “sexual devices” or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including dildos, penisators, vibrators, penis rings, erection

enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.

ADULT ENTERTAINMENT ESTABLISHMENT: Any establishment which displays entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement, all as defined in G.L. c. 272, § 31.

ADULT LIVE ENTERTAINMENT ESTABLISHMENT: Any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

ADULT MOTION PICTURE THEATER: An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating 'sexual conduct'' as defined in G.L. c. 272, § 31, for observation by patrons therein.

ADULT MINI MOTION PICTURE THEATER: An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to 'sexual conduct'' as defined in G.L. c. 272, § 31, for observation by patrons therein.

SUBSTANTIAL OR SIGNIFICANT PORTION shall mean at least that portion of retail sales accounting for at least twenty-five percent of gross sales; or merchandise accounting for at least twenty-five percent of total merchandise available for sales; or shelf space and display space which when combined is in excess of eighty (80) sq. ft.

AFFORDABLE HOUSING: A dwelling unit that is affordable for purchase or rent by a low- or moderate-income household. Each affordable housing unit shall be eligible for inclusion on the Chapter 40B Subsidized Housing Inventory, in accordance with the regulations and policies of the Massachusetts Department of Housing and Community Development (DHCD) in effect on the date of the applicant’s submission to the Planning Board.

AFFORDABLE HOUSING RESTRICTION: A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Ayer, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of G.L. c. 184, §§ 31-33 or other applicable state law. The Ayer Board of Selectmen may accept, hold, and enforce affordable housing restrictions.

AGRICULTURE, EXEMPT: as provided under G.L. c. 40A, § 3. (See also, FARM)

AGRICULTURE, NON-EXEMPT: if not exempt under G.L. c. 40A, § 3, agriculture shall include production of agricultural, floricultural or horticultural commodities; the growing and harvesting of forest products upon forest land, and the keeping and raising of domesticated animals such as horses, subject to applicable regulations of the Ayer Board of Health, but shall not include swine, cattle, or other such animals kept or raised for purposes of food or other commodities, nor fur-bearing animals.

ALTERATIONS: As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement whether by extending any wall or by increasing in height, or the moving from one (1) location or position to another.

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

AUTO REPAIR SHOP: A building or part thereof in which repairs are made to any motor vehicles.

AUTOMATED TELLER MACHINE (ATM): A machine that acts as a teller for standard banking transactions such as cash withdrawals, deposits, and checking account balances, regardless of where it is located.

AUTOMOBILE: Motorized vehicle consisting of four wheels and powered by an internal engine, and used to transport people and items from one location to another location.

BED AND BREAKFAST: Use of a portion of an owner-occupied single-family dwelling for transient overnight lodging for not more than three (3) paying guests, with breakfast service typically included in the room charge. No cooking facilities shall be located in individual guest rooms or suites. The use of that portion of the dwelling devoted to transient occupancy shall be an accessory use of the single-family dwelling and shall not change the character thereof.

BEDROOM: As defined in Title V of the Massachusetts environmental code (310 CMR 15.002) or successor regulation.

BUFFER: This term refers to both the 100 foot distance from a wetland resource area as defined in the Massachusetts Wetlands Protection Act and the area used to visually screen activities or buildings on a site from abutting properties.

BUILDING COVERAGE: See LOT COVERAGE.

BUILDING HEIGHT: Building height shall be measured as the vertical distance from the average finish grade at the perimeter of the building to the average height of the highest roof plane. Building height shall not include spires, cupolas, antennae, or similar parts of structures which do not enclose potentially habitable floor space.

BUILDING LINE: A line through any point of the exterior of the building or structure.

BUILDING: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature. The word “building” shall be construed where the context requires as though followed by the words “or part or parts thereof.”

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

CELLAR (or BASEMENT): A portion of a building, partly or entirely below grade, which has more than one-half (1/2) of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building.

CHILDCARE (or DAYCARE) CENTER: As defined in G.L. c. 15D, § 1, with a valid license from the Massachusetts Department of Early Education and Care (EEC) or successive agency. .

COMMERCIAL AMUSEMENT: A building or any portion thereof used for entertainment or amusement activities, such as a pool hall, bowling alley, video arcade, or cinema or movie theatre, but not including adult uses.

COMMERCIAL RECREATION, INDOOR: A facility operated as a business, open to the public for a per-visit or membership fee, for indoor recreation purposes such as tennis, racquetball, swimming, ice skating, roller skating or similar activities, including a health club or athletic club.

COMMERCIAL RECREATION, OUTDOOR: A facility operated as a business, open to the public for a per-visit or membership fee, for outdoor recreation purposes such as skiing, swimming, ball games, miniature golf, golf driving range, or similar customary and usual sports or recreation activities, but not including a golf course (see also, extensive uses: golf course).

COMMERCIAL STORAGE FACILITY: A building or structure for the storage of goods and materials, which may include a refrigerated storage facility (cold storage) or a warehouse for the storage of wholesale goods and merchandise. Commercial storage shall not include a self-storage facility.

COMMON DRIVEWAY: A driveway serving up to three (3) detached dwelling units or buildings.

COMMUNICATION TOWER: Any tower or structure, natural or man-made, existing or erected, used to support one or more antennas, including self-supporting lattice towers, guyed towers, or monopoles, for electromagnetic transmission and/or reception purposes such as radio and television transmission towers, microwave towers, common carrier towers, wireless communications facilities ("WCF"), alternative tower structures and the like; but not including a communication tower used by an amateur radio operator with a written license or permit from the Federal Communications Commission (FCC) to be the control operator of an amateur radio facility.

CONTIGUOUS: Sharing a common lot line or touching at any point.

CONTINUING CARE RETIREMENT COMMUNITY: A managed development that provides housing, services and nursing care primarily to persons over 55 years of age; which includes two or more of the following uses: assisted living residence, nursing home or chronic care facility, adult day care facility, or medical offices; and for which there is a legal agreement that assures life care to residents and services appropriate to each type of housing.

DAY CAMP: A lot, tract or parcel of land operated as either a commercial or non-commercial enterprise in which seasonal facilities are provided for all or any of the following: camping, picnicking, boating, fishing, swimming, outdoor games and sports and activities incidental and relating to the foregoing, but not including miniature golf grounds, golf driving ranges, mechanical amusement device, or permanent structures for housing of guests.

DOMESTICATED ANIMAL: Any of the various animals that have been tamed, through generations of captivity and breeding, to live under human control and in close association with humans, such as dogs, cats, chickens, cows, goats, sheep, and horses.

DRIVE-THROUGH FOOD SERVICE: A food service establishment in which food prepared and sold at retail may be consumed on the premises or purchased at a drive-up service window.

DRIVEWAY: An improved access, other than a street, connecting between a street and one or more parking or loading spaces.

DWELLING UNIT: A building designed and occupied as the living quarters of one (1) or more families.

DETACHED SINGLE-FAMILY DWELLING: A detached residential dwelling unit designed or intended or used exclusively as a single housekeeping unit for one family, with common cooking and living facilities. As used in this Bylaw, single-family dwelling shall not include a mobile home or trailer.

TWO-FAMILY DWELLING: A detached residential building designed or intended or used exclusively as the home or residence of two families.

TOWNHOUSE: A dwelling unit in a multi-unit building with units separated by party walls, with each unit not more than three rooms deep front to back and with separate entrances and stairways serving each unit exclusively.

MULTI-FAMILY DWELLING: A building designed or intended or used as the home or residence of three (3) or more families, each occupying a separate dwelling unit, living independently of each other and which may have a common right in halls and stairways; with the number of families in residence not exceeding the number of dwelling units provided.

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. (See also, MINING or NATURAL RESOURCE EXTRACTION)

EDUCATIONAL USE, EXEMPT: An educational use conducted by a for-profit organization, such as a computer training program, a cosmetology school, or a trade school or training program that is not otherwise exempt under G.L. c. 40A, § 3.

EDUCATIONAL USE, NON-EXEMPT: Educational facilities not exempt under G.L. c. 40A, § 3, such as a commercial or for-profit educational use.

ESSENTIAL SERVICES: Services provided by public utility, governmental agencies, or other entity providing equivalent services through erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services include poles, wires, fiber optic strands, mains, drains, sewers, pipes, conduits,

cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith.

EXTERIOR STORAGE: The storage of any materials related to the principal or accessory use of a property that are located outside the principal or accessory buildings on a property.

FAMILY: Any number of individuals related by blood, marriage, domestic partnership, or adoption; or any number of individuals with disabilities occupying a group home owned or operated by a public agency or non-profit organization; or up to four (4) unrelated individuals, living and cooking together on the premises as a single housekeeping unit.

FAMILY DAY CARE HOME: Child care provided for compensation in an owner-occupied single-family dwelling, for compensation during all or a portion of the day on a regular basis, for not more than six children including children living in the residence, and with a valid license from the Massachusetts Office for Children under G.L. c. 15D, § 1.

FARM STAND: A facility for the sale of produce, dairy products or other agricultural, floricultural or horticultural commodities, as defined in G.L. c. 40A, § 3.

FARM: Five or more contiguous acres of land under one ownership devoted primarily to commercial agriculture or horticultural use, including a farm stand and other accessory buildings and structures, vehicles, animals and equipment. (See also, AGRICULTURE)

FLOOR AREA, GROSS: The total square feet (sq. ft.) 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. The computation of gross floor area shall include garages and basements with ceiling heights of six (6) feet or more.

FLOOR AREA, HABITABLE: The temperature controlled, finished floor area within a building or dwelling unit exclusive of finished garages, attics and cellars.

FORESTRY: Cultivating and harvesting of forest products, including the sale of firewood, on five or more acres of land.

GASOLINE STATION: A building or part of a building and the land thereof used in connection with tanks, pumps and other appliances to supply motor vehicles with gas, air, oil, water, and similar supplies, and which may include routine vehicle maintenance services as an accessory use. All maintenance and service, other than minor service and emergency repairs, shall be conducted entirely within a building. For purposes of this Bylaw, a gasoline station shall not mean a motor vehicle repair shop.

HAZARDOUS MATERIALS: See TOXIC OR HAZARDOUS MATERIALS.

HELIPORT: An area of land or water or a structure used or intended to be used for the take-off or landing of a helicopter, which may include auxiliary facilities such as waiting room, hangar, parking, fueling or maintenance facilities.

HOME OCCUPATION: An occupation conducted as an accessory use in an owner-occupied dwelling or a detached accessory structure, by the resident owner or members of the owner's family.

HOMEOWNERS ASSOCIATION: A corporation or trust owned or to be owned by the owners of lots or dwelling units within a tract approved for residential development, which holds the title to open land and which is responsible for the costs and maintenance of said open land and any other facilities to be held in common.

HOSPITAL: An acute or chronic care facility with an original license from the Massachusetts Department of Public Health, pursuant to G.L. c. 111, § 51, to provide medical, surgical, skilled nursing or rehabilitation services to in-patients or institutionalized persons; or an ambulatory surgery center. Such facility may include ambulatory care and emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, out-patient departments, training, staff offices, and similar adjunct facilities and functions.

HOTEL OR MOTEL: A building or part thereof, or a group of buildings on a single lot, providing transient overnight lodging accommodations and accessory services to the general public. For a hotel or motel with units equipped with independent cooking facilities, such units shall not be occupied by any guest for more than two (2) continuous months, nor may guests reoccupy any unit within thirty (30) days of a continuous two-month stay or stay more than a combined total of four (4) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

IMPERVIOUS: Any area impenetrable by surface water. For purposes of this Bylaw, impervious includes semi-pervious or semi-porous paving materials.

INTERIM WELLHEAD PROTECTION AREA (IWPA): For public water systems using wells or wellfields that lack a DEP-approved Zone II, DEP will apply an IWPA, which is defined as the one-half mile radius measured from the well or wellfield for sources whose approved pumping rate is 100,000 gpd or greater.

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: The use 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.

LIGHT MANUFACTURING: Fabrication, processing, packaging, or assembly operations, employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, cinders, refuse matter, electromagnetic radiation, heat, vibration, or noise; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.

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.

LOT, CORNER: A lot with two (2) adjacent sides abutting upon streets or other public spaces.

LOT COVERAGE: The proportion of the area of a lot which is covered by principal and accessory structures. For purposes of calculating lot coverage, the area of an enclosed structure shall be taken as all of the horizontal area within outside walls. The projection of cornices, eaves, and other similar architectural projections shall not be included in the calculation of coverage. Coverage shall include all principal and accessory buildings including dwellings, garages, carports, greenhouses, lath houses, enclosed patios, and equipment and tool sheds. Coverage shall not include areas paved at grade for driveways, walkways, uncovered parking, uncovered or unenclosed swimming pools, walls or fences, covered but unenclosed patios, or structures used for beautification or landscaping such as arbors, trellises, and flagpoles.

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: 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 one hundred and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot. On a lot with frontage on more than one street, frontage on one street only may be used to satisfy the minimum lot frontage.

LOT LINE: A line dividing one lot from another, or from a street or any public place. On a corner lot, the rear lot line shall be the furthest lot line opposite the front lot line.

LOT WIDTH, MINIMUM: The required minimum lot frontage extending from the front lot line to the front building line of the principal building on the lot.

MANUFACTURING: The indoor assembly, fabrication, packaging, or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services. Manufacturing includes but is not limited to the processing, fabrication, assembly, treatment or packaging of food, textiles, leather, wood, paper, chemicals, plastic, or metal products.

MEDICAL CLINIC OR AMBULATORY SURGERY CENTER: An outpatient care facility licensed or approved by the Massachusetts Department of Public Health to provide medical or surgical services. Such facility may include emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, training, staff offices, and similar adjunct facilities and functions, but no in-patient facilities.

MEDICAL OR DENTAL OFFICE: A building designed or intended or occupied and used by one or more physicians providing outpatient health care, including dental care, with accessory facilities such as specialty diagnostic services, laboratories, and administrative offices, with no

accommodations for overnight stays; not including a hospital, medical clinic or an ambulatory surgery center.

MINING or NATURAL RESOURCE EXTRACTION: The process by which soil, sand or gravel is removed from any open pit, borings or any other underground workings and produced for sale, exchange or commercial use or otherwise removed from the site, and all shafts, slopes, drifts or inclines leading thereto and including all buildings, structures and equipment above and below the surface of the ground used in connection with such process. Natural resource extraction shall not be deemed to include exploratory activities, the drilling or boring of wells for the purpose of obtaining water, nor the removal of soil and other related material as necessary to establish another permitted use upon the same site.

MOBILE HOME: Any vehicle or object designed and constructed or reconstructed or added to by means of accessories or facilities to permit the use and occupancy thereof for human habitation; whether resting on wheels, jacks or other foundations, and shall include the type of vehicle known as a house trailer, which shall mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary foundation for living quarters.

MOTOR VEHICLE: Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or alleys, or other public ways.

MUNICIPAL FACILITY: Any facility owned or operated by the Town of Ayer.MUSEUM: An institution devoted to the procurement, care, study, and display of objects of scientific interest, value, or historic significance.

MUSEUM: An institution devoted to the procurement, care, study, and display of objects of scientific interest, value, or cultural or historic significance.

NONCONFORMING STRUCTURE: Any structure which does not conform to the dimensional requirements of this Bylaw, or which is located on a lot which does not comply with the frontage or lot size requirements, which was existing and lawful at the time of the adoption or subsequent amendment of this Bylaw.

NONCONFORMING USE: A use of a building or land, existing and lawful at the time of the adoption or subsequent amendment of this Bylaw, which does not conform to the regulations of this Bylaw.

NURSING HOME: An extended or intermediate care facility licensed by the Department of Public Health under G.L. c. 111, § 71 to provide full-time convalescent or chronic care, and may include adult day care.

OPEN SPACE: The space on a lot unoccupied by buildings or structures, and not devoted to streets, driveways, off-street parking or loading spaces and expressed as a percentage of the total lot area. Open space shall be unobstructed to the sky by man-made objects. Walks, above-ground or temporary swimming pools, and terraced areas may be part of a lot’s open space. Open space within a cluster or open space development is prohibited from development.

PARKING AISLE: The area immediately adjacent to the car parking stalls which permits maneuvering of cars entering and leaving a parking stall, and which connects the parking stalls to the driveway.

PASSIVE RECREATION, OPEN SPACE OR CONSERVATION: Use of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state, or water resource or wildlife management programs.

PERSONAL SERVICE ESTABLISHMENT: An establishment whose primary business relies on customers coming and going on a regular basis and which provides a service directly to the consumer, such as a barber, hairdresser, manicurist, caterer, decorator, dressmaker or tailor, optician, photographer, shoemaker or upholsterer, and similar uses, but not including professional or business office or medical office uses.

POSTAL SERVICE: A post office or similar establishment for the delivery and receipt of mail or parcels, but not including a parcel distribution facility.

POTENTIAL DRINKING WATER SOURCES: Areas which could provide significant potable water in the future.

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production of a solar energy photovoltaic system in direct current (DC).

RECHARGE AREAS: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, Zone III or Interim Wellhead Protection Areas.

REPAIR SHOP: A building used for the repair of appliances, office equipment, bicycles, lawn mowers or similar household or small-business equipment, but not including repair of automobiles, motorcycles or large vehicles or equipment.

RESEARCH AND DEVELOPMENT: An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products employing only electric or other substantially noiseless and inoffensive motor power, and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, cinders, refuse matter, electromagnetic radiation, heat, vibration, or noise; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.

REST HOME: A facility licensed by the Department of Public Health to provide 24-hour supervision and supportive services for individuals who do not routinely need nursing or medical care.

RESTAURANT: A food service establishment where food is prepared, served and consumed inside a building or on an attached patio or other outdoor seating area on the premises, and provides seating accommodations for all patrons to be served at any one time. A restaurant may include a bar or lounge as an accessory use, or the taking of food and drink from the building as incidental. “Restaurant” does not include an establishment that operates exclusively or principally

as a caterer, a food processing establishment, a retail food store or a take-out food service establishment, nor does it include drive-through service.

RETAIL: Any facility selling goods to consumers regardless of whether it is specifically listed in the Table of Uses.

ROOMING HOUSE (or BOARDING HOUSE): An owner-occupied, detached single-family dwelling in which long-term, non-transient lodging, with or without meals, is supplied for compensation to not more than three (3) persons unrelated to the owner; without cooking facilities for the exclusive use of individual occupants. As used in this Bylaw, boarding house does not mean or include transient quarters such as a motel, hotel, or bed and breakfast or inn. Any food service provided shall be in compliance with applicable regulations of the Ayer Board of Health.

SEASONAL RESIDENCE: A residence that is used for fewer than 180 days per year. Evidence to document whether a residence is seasonal or year-round may include utility bills, United States Post Office records, principal place of garaging, or sworn affidavits by three year round residents.

SELF-STORAGE FACILITY: A building or buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods, automobiles, boats or contractor's supplies.

SHOP FOR CUSTOM WORK: Manufacture of crafts or custom work to be sold at retail only on the premises.

SPECIAL PERMIT GRANTING AUTHORITY: The Ayer Zoning Board of Appeals, the Ayer Planning Board and in some cases the Ayer Board of Selectmen, as designated within this zoning bylaw having the authority to grant special permits.

SUBSTANTIAL RECONSTRUCTION: Extensions or alterations for which the cost of building construction exceeds twenty-five (25%) percent of the assessed value of the existing building(s) on a lot, and any project involving demolition of an existing building.

SIGN: Any words, lettering, parts or letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention. Where the following terms are used in this Bylaw, they shall have the following meanings:

AGRICULTURAL SIGN: A sign which may have wording that may be changed periodically to advertise products raised or grown principally on the premises.

AWNING SIGN: A permanent sign which is affixed to or consists of a permanent or retractable awning or marquee permanently mounted to the exterior surface of a building.

BANNER SIGN: A sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered "banners" for the purpose of Section 9.5.

BILLBOARD SIGN: A sign which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted, sold or offered on a lot other than the lot on which the sign is erected.

BUILDING FRONTAGE: The building elevation facing a street and providing public access to the building. When a building provides public access on more than one elevation, maximum sign area shall be based on primary building frontage, or the building elevation containing the main entrance.

COMMERCIAL MESSAGE: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

CONSTRUCTION SIGN: A sign identifying the proposed building, the owner or intended occupant and the contractor, architect and engineers. A construction sign for more than a single lot will be considered to be a “subdivision sign.”

DIRECTIONAL OR INFORMATIONAL SIGN: A sign which is necessary for the safety and direction of vehicular or pedestrian traffic.

DIRECTORY SIGN: A sign listing the name and location of the occupants of a site or building.

DISPLAY AREA: See ”sign area.”

ERECTING: Any installing, constructing, reconstructing, replacing, relocating, relettering, except as specifically provided, extending, altering or otherwise changing of a sign. "Erecting" shall not include repairing or maintaining an existing sign.

EXTERIOR SIGN: A wall sign, projecting sign or awning sign placed on or about the exterior of any structure.

FLAG: See “banner.”

FREESTANDING SIGN: A nonmovable sign not affixed to any building but constructed in a permanently fixed location of the ground with its own support structure, including a monument sign, and displaying a sign face on not more than two (2) sides.

GASOLINE PUMP SIGN: The standard type of gasoline pump bearing thereon in the usual size and form the name or type of gasoline and the price thereof.

HORIZONTAL BLADE SIGN: A short, wide sign that projects from and is supported by a wall of a building and is oriented perpendicular to the face of the building.

INDIVIDUAL LETTER SIGN: A wall sign consisting of individual letters mounted to a building surface without any background or frame.

MARQUEE: Any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN: Any sign attached to, in any manner, or made part of a marquee.

MOVABLE SIGN: Any sign not permanently attached to the ground or to a building or permanent structure, which is designed to be portable, such as an A-frame, H-frame, T-frame, banner or flag, trailer sign placed on the surface of the ground, temporarily staked into the ground or a sign attached to a motor vehicle (registered or unregistered).

NEON SIGN: A sign which features exposed glass tubing filled with fluorescent gas.

OFFICE PARK OR INDUSTRIAL PARK: See “business center.”

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

PERMANENT SIGN: A sign that is permanently attached to a building or having in-ground supporting structure(s) or braces.

POLITICAL SIGN: A sign designated to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, county or local election.

PROJECTING SIGN: A sign which is permanently affixed to the exterior surface of a building or structure with the display area positioned perpendicular to the wall to which the sign is mounted.

REAL ESTATE SIGN: A sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

ROOF SIGN: A sign attached to or erected wholly upon and over the roof of any building and supported solely on the roof structure.

SHOPPING CENTER: Any aggregation of three (3) or more business or industrial tenants which share a common parking area.

SIGN AREA: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matters shall not be included unless internally or decoratively lighted. Where sign faces are placed back-to-back and face in opposite directions, the sign area shall be defined as the area of one (1) face of the sign.

SPECIAL EVENT SIGN: A sign, which is to be portable, to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business or similar event. Such sign shall identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature.

SUBDIVISION SIGN: A sign to identify the name of the residential subdivision and located on the property of the subdivision.

TEMPORARY SIGN: A sign that is used only temporarily, for a period of time not to exceed thirty (30) days, and is not permanently mounted.

TRAILER SIGN: A sign mounted on a vehicle normally licensed by the state as a trailer and used for advertising or promotional purposes.

WALL SIGN: A sign which is painted or otherwise permanently affixed to a vertical exterior surface of a building or structure with the display area positioned parallel with the wall to which the sign is mounted, and including such a sign affixed to a parapet or to the lower slope of a gambrel or mansard roof.

WINDOW SIGN: A sign, picture, symbol or message that is placed inside a window, drawn, painted or etched on the window pane or glass or otherwise attached in or on a window and visible from the exterior of the window, not including any part of a customary window display of merchandise or other product.

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 Ayer Board of Health for processing, handling, treating, and disposing of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items, and sludges but not raw sewage, and similar waste items.

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 buildings erected or to be erected thereon.

STREET LINE: The right-of-way line of a street.

STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter, such as a building, retaining wall which retains more than four (4) feet of unbalanced fill, tent of one hundred twenty (120) sq. ft. or more and for the use of ten (10) or more persons, reviewing stand, platform, fence six (6) feet or more in height, sign, flagpole, recreational tramway, mast for radio antenna, solar panel arrays and their supports, or the like.

TAKE-OUT FOOD SERVICE: A food service establishment in which food prepared and sold at retail may be consumed on the premises if purchased from a counter or a walk-up service window and consumed off the premises; but not a drive-through service.

TEMPORARY STRUCTURE: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Schedule of Density and Dimensional Requirements and shall require a permit or a certificate of zoning compliance from the Building Inspector.

TENANT: As applied to commercial or industrial development, a business or other establishment occupying space within a building under an agreement with the owner, or the owner-occupant of the building.

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

USES: The purpose for which a building or land is arranged or intended for which a building or tract of land is or may be used, occupied or maintained.

WIRELESS COMMUNICATIONS FACILITY: A wireless communications facility ("WCF") shall mean a facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication buildings, communication structures and accessory structures in their entirety or as separate components.

COMMUNICATION BUILDING: Any building utilized primarily for the installation and operation of equipment for generating or receiving electromagnetic radiation and which is accessory to a communication structure.

COMMUNICATION STRUCTURE: Any structure intended to support equipment used for the transmission and/or reception of electromagnetic radiation, including communication monopolies, antennas, wiring or other devices attached thereto. Such a structure shall not include a lattice tower.

COMMUNICATION MONOPOLE: Any cylindrical pole intended to support equipment used for the transmission and reception of electromagnetic radiation including antennas, wiring or other devices attached thereto.

LATTICE TOWER: A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

MOUNT: The structure or surface, upon which antennas are mounted, including the following four (4) types of mounts.

ROOF-MOUNTED: Mounted on the roof of a building.

SIDE-MOUNTED: Mounted on the side of a building.

GROUND-MOUNTED: Mounted on the ground.

INTERIOR-MOUNTED: Mounted within a building such that the WCF is not visible from the exterior of the building/structure.

RADIOFREQUENCY (Rf) ENGINEER: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIOFREQUENCY RADIATION (RFR): The emissions from WCFs.

WETLANDS: Any wetland resource area subject to the provisions of G.L. c 131, § 40.

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 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. No structures as defined herein shall be placed within front yard setbacks.

YARD, REAR: A yard the full width of the lot and situated between the rear lot line and the nearest part of the main building projected to the side line of the lot.

YARD, SIDE: A yard situated between the nearest point of the building and the side lot line 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.

ZONE I: The DEP approved protective 400-foot radius surrounding a public water supply well that must be owned by the water supplier or controlled through a recorded conservation restriction.

ZONE II: The area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days of pumping safe yield with no recharge from precipitation), as defined in 310 CMR 22.00.

ZONE III: The land area beyond the Zone II from which surface and groundwater drain into the Zone II, as defined in 310 CMR 22.00.

SECTION 3.0 ADMINISTRATION AND ENFORCEMENT

3.1 Enforcement

A. Enforcement by Building Inspector. This Bylaw shall be enforced by the .Building Inspector.

B. Compliance Required. No permit shall be issued by the Building Inspector unless the application for such permit demonstrates compliance with this Bylaw and any other applicable town bylaws and regulations, the Title V of the Massachusetts Environmental Code and regulations of the Board of Health, the Planning Board's Rules and Regulations of Subdivision Control, the Massachusetts Wetlands Protection Act, and all other applicable state and federal regulations. The applicant shall be responsible for identifying and obtaining all required local, state, and federal permits and approvals for the project and for informing the Building Inspector and other permit granting authorities of the status of each approval.

C. Permit Required. No building or structure shall be erected, moved, added to, or structurally altered without a permit issued therefor by the Building Inspector. Failure to obtain a building permit shall be a violation of this Bylaw and shall be punishable as provided herein.

D. Certificate of Occupancy or Compliance. It shall be unlawful to use or permit the use of any building or structure or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure under the terms of a building permit issued by the Building Inspector until a certificate of occupancy is issued therefor by the Building Inspector, stating that such building or structure or part thereof and the proposed use thereof, conform to the terms of the building permit, all provisions of this Bylaw or an order of the Board of Appeals. Failure to obtain a certificate of occupancy shall be a violation of this Bylaw and shall be punishable as provided herein.

E. Violations. If the Inspector of Buildings shall find or shall have reasonable grounds to believe that any of the provisions of this Bylaw are being violated, he shall notify in writing the person responsible for such violations or the record owner of the premises, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures, removal of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other authorized action to ensure compliance with or to prevent violation of the provisions of this Bylaw.

F. Aggrieved Persons. Whenever a violation of this Bylaw occurs or is alleged to have occurred, any aggrieved person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Inspector of Buildings. He shall record such complaint, immediately investigate, and take action thereon as provided by this Bylaw, and notify the complainant in writing of any action or refusal to act, and the reasons therefor, within 14 days of receipt of such complaint. A copy of such letter, together with a

copy of the written complaint, shall be forwarded to the Board of Selectmen. The decision of the Inspector of Buildings may be appealed to the Board of Appeals within 30 days in accordance with G.L. c. 40A, §§ 8 and 15.

G. Penalties. Whoever violates any provisions of this Bylaw or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $300 for each offense. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking other lawful action as it deems necessary to prevent or remedy any violation.

H. Noncriminal Disposition. In addition to the procedures as described above, the provisions of this Bylaw may also be enforced by the Inspector of Buildings by noncriminal disposition pursuant to the provisions of G.L. c. 40, § 21D. Each day on which a violation continues shall be deemed to be a separate offense. The penalty for violation of any provision of this Bylaw shall be $25 for the first offense; $50 for the second offense; $100 for the third offense; and $200 for the fourth and each subsequent offense.

3.2 Board of Appeals

A. Establishment. There is hereby established a Board of Appeals. Membership, appointments, and terms of regular and associate members shall be made in accordance with the General Bylaws of the Town of Ayer.

B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by G.L. c. 40A, c. 40B, and c. 41 and by this Bylaw. The Board's powers are as follows:

1. Unless otherwise specified herein, the Board of Appeals shall serve as special permit granting authority and will hear and decide applications for special permits.

2. To hear and decide appeals or petitions for variances from the use, dimensional, or density requirements of this Bylaw, with respect to particular land or structures, as set forth in G.L. c. 40A, § 10.

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, §§ 8 and 15.

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

C. Rules and Regulations. The Board by vote shall establish rules and regulations for its own procedures consistent with the general laws of the Commonwealth pertinent thereto, and shall file a copy of such rules with the Town Clerk.

D. Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for special permit applications, petitions for variances, administrative appeals, and applications for comprehensive permits. Such regulations shall include procedures for hiring peer review consultants.

3.3 Planning Board

A. Establishment. The town has established the Planning Board under G.L. c. 41, § 81A, and the Planning Board shall have all the powers and duties set forth in G.L. c. 41, §§ 81A through 81GG, inclusive.

B. Powers. The Planning Board shall have the following powers and those established by the General Laws:

1. To hear and decide applications for special permits as provided in this Bylaw, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the Board.

2. To review and decide applications for site plan approval.

3. To review and decide applications for subdivision approval.

C. Associate Member. The Planning Board is authorized to have one associate member. The associate member shall be appointed for a three-year term by a majority vote of the members of the Planning Board and the Board of Selectmen. The Chairman of the Planning Board may designate the associate member to sit on the Planning Board for the purposes of acting on a special permit or site plan application, or any other matter for which a quorum is required, in case of an absence, inability to act, or conflict of interest on the part of any member of the Board, or in the event of a vacancy on the Board.

D. Rules and Regulations. The Planning Board shall adopt rules and regulations not inconsistent with the provisions of the Zoning Bylaw for conduct of its business and otherwise carrying out the purposes of G.L. c. 40A, and shall file a copy of such rules in the office of the Town Clerk. Such regulations shall include procedures for hiring peer review consultants.

E. Fees. The Planning Board may adopt reasonable administrative fees and technical review fees for special permit applications and site plan review applications.

3.4 Special Permit

A. Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

B. Criteria. Special permits shall be granted by the Special Permit Granting Authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth elsewhere in this Bylaw, the determination shall include consideration of each of the following:

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.

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

D. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw. Such conditions, safeguards or limitations shall be in writing and shall be made a part of the special and building permit, and may include but are not limited to the following:

1. Front, side and rear yards greater than the minimum required by this Bylaw.

2. Screening buffers or planted strips and/or fences or walls as specified by the Planning Board.

3. Design and installation of lighting to minimize glare into the night sky and spill into adjacent properties.

4. Limitations on the size, number of occupants, method and/ or time of operation, time duration of the permit and/or extent of facilities.

5. Requirements as to number and/or location of driveways and/or other traffic features, off-street parking and/or loading and/or other specific features beyond the minimums required by this Bylaw.

E. Regulations. The Special Permit Granting Authority shall adopt rules and regulations for the administration of this Section 3.4 and shall file a copy of such rules in the office of the Town Clerk.

F. Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

G. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two years 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.

3.5 Site Plan Review

3.5.1 Applicability

A. Site plan review by the Planning Board shall be required for the following uses or activities in all districts:

1. Construction, alteration or expansion of or change of use within a municipal, institutional, commercial, industrial, or multi-family structure;

2. Construction or expansion of any parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose involving five (5) or more new or additional parking spaces;

3. Clearing or grading more than 10,000 sq. ft. of land, unless specifically exempt under Section 9.6 of this Bylaw;

4. Any use requiring a special permit, except that where single-family or two-family dwellings require a special permit, site plan review shall not apply.

5. All new commercial or industrial construction.

B. Exceptions.

1. Any activity, construction or installation conducted solely for the purpose of environmental remediation, approved by the United States Environmental Protection Agency (EPA) or the Massachusetts Department of Environmental Protection (DEP), shall not be subject to this Section 3.5.

2. New construction or alteration of a detached single-family dwelling or two-family dwelling shall not be subject to this Section 3.5 except when such alteration is associated with any use other than a single-family dwelling or two-family dwelling.

3.5.2 Other Permits and Approvals

A. No building permit shall be issued for any use or activity requiring site plan review unless the Planning Board has reviewed and approved a site plan therefor, or unless ninety (90) days lapse from the date of submission of a complete site plan application without action by the Planning Board; and no building permit shall be issued for any use or activity requiring a special permit with site plan approval until a special permit has been granted therefor, or unless ninety (90) days lapse from the date of the public hearing without action by the Planning Board; and no certificate of occupancy or certificate of zoning compliance shall be issued unless the site is constructed in accordance with the approved site plan.

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

3.5.3 Procedures

A. Any application for a building permit to perform work as set forth in Section 3.5.1 above shall be accompanied by a site plan approved by the Planning Board.

B. Submittal Requirements. Site plan submission requirements and procedures, including fees, shall be in accordance with the rules and regulations of the Planning Board..

C. The Planning Board shall hold a site plan review meeting with the applicant no later than forty-five (45) days from the date of submission of the proposed site plan. Other town boards, commissions, and departments shall forward their comments, in writing, to the Planning Board no later than the date of the public meeting.

D. The Planning Board's decision to approve, approve with conditions, or deny the site plan shall be by a majority of those present, and shall be in writing.

E. If no action is taken within ninety (90) days from the date of submission, the application shall be deemed approved as submitted except where the Planning Board and the applicant have agreed in writing to extend the review period.

F. One copy of the approved site plan shall be provided each to the applicant, the Building Inspector, the Department of Public Works, the Police Department, the Fire Department, the Conservation Commission, and the Board of Health. One (1) copy of the approved site plan shall remain in the records of the Planning Board.

3.5.4 Decision

A. The Planning Board shall approve a site plan if it determines that:

1. The site plan meets all applicable requirements of this Bylaw;

2. Given the location, type and extent of land use proposed by the applicant, the design of building form, building location, egress points, grading, and other elements of the site plan could not reasonably be altered to:

    a. Reduce clearing and grading on the site, or reduce the volume of cut and fill, the number of removed trees, the length of removed or altered stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, or threat of air or water pollution,

    b. Reduce the risk of groundwater contamination from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances,

    c. Improve pedestrian, bicycle or vehicular safety, both on the site and egressing from it,

    d. Improve access to each structure for fire and other emergency service equipment,

e. Reduce visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned,

f. Improve building design or scale, or site design, to strengthen compatibility with surrounding properties,

g. Reduce glare from headlights, reduce light trespass from luminaires onto adjacent lots or the street, or light overspill into the night sky,

h. Avoid the removal or disruption of historic, traditional or significant structures or architectural elements,

i. Reduce obstruction of scenic views from publicly accessible locations; and

3. Any variances required from the Board of Appeals have been granted.

B. The Planning Board may impose reasonable site plan approval conditions at the expense of the applicant, including performance guarantees as established under Section 3.5.5 below, to promote these objectives. The Planning Board's conditions shall become binding zoning requirements of the project. Noncompliance with the site plan or the conditions placed on said plan by the Planning Board shall be cause for action by the zoning enforcement officer of the Town of Ayer.

C. The Planning Board may deny a site plan only if the applicant's submission does not include the specific information required to make the determinations under subsection A above.

D. Approval of a site plan shall not substitute for the requirement of obtaining a special permit or other permits or approvals required by this Bylaw.

3.5.5 Performance Guarantee

As a condition of site plan approval, the Planning Board may require a performance bond or cash security to be posted with the Town to guarantee completion of site improvements in compliance with the plans submitted and approved hereunder, or for land restoration not having to do with the construction of site improvements. The amount of security shall be determined by an estimate from the applicant's engineer, which may be confirmed or increased by the Planning Board. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Planning Board, as provided in the approval.

3.5.6 General Provisions

A. Regulations. The Planning Board shall adopt site plan review administrative rules and regulations and file a copy of such rules in the office of the Town Clerk.

B. Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not 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.

C. Appeal. Any decision of the Building Inspector based on failure to obtain site plan approval or failure to comply with conditions of a site plan approved pursuant to this Section 3.5 may be appealed to the Board of Appeals in accordance with G.L. c. 40A, §§ 8 and 15.

3.5.7 Special Permit with Site Plan Review

A. For any use requiring a special permit from the Planning Board, the special permit and site plan applications shall be combined as a single submission. The procedures for a special permit with site plan review from the Planning Board shall be the same as any other special permit and shall conform to the requirements of G.L. c. 40A, § 9, as amended, and Section 3.4 of this Bylaw. The site plan submission requirements shall be in accordance with the rules and regulations of the Planning Board.

B. For any use requiring a special permit from the Board of Appeals, the site plan application shall be submitted to the Planning Board in accordance with Section 3.5.3. Whenever possible, the Board of Appeals shall consider incorporating the Planning Board's conditions of site plan approval as conditions of the special permit.

SECTION 4.0 ZONING DISTRICTS

4.1 Establishment

For purposes of this Bylaw, the Town of Ayer is divided into the following zoning districts:

4.1.1 Residential Districts

A. Residence A-1 (A-1)

B. Residence A-2 (A-2)

C. General Residence (GR)

4.1.2 Business Districts

A. Mixed-Use Transitional (MUT)

B. Downtown Business (DB)

C. General Business (GB)

4.1.3 Industrial Districts

A. Light Industrial (LI)

B. Industrial (I)

4.1.4 Unclassified

A. Health Care Services (HCS)

4.2 Overlay Districts

There are hereby established the following overlay districts:

A. Aquifer Protection Overlay District (Aquifer Protection Overlay District)

B. Floodplain Overlay District (FOD)

C. Wireless Communication Services Overlay District (WCSOD)

D. Adult Entertainment Overlay District

E. Solar Energy Systems

4.3 Zoning Map

The location and boundaries of the zoning districts are hereby established as shown on the map entitled the "Zoning Map of the Town of Ayer, Massachusetts," and dated February, 2018, bearing the signatures of the members of the Planning Board and being on file in the office of the Town Clerk, which map, as amended, with all explanatory matter thereon, is hereby made a part of this Bylaw.

4.4 Interpretation of District Boundaries

The location of the boundary lines of the districts shown upon the aforesaid zoning map shall be determined as follows:

A. District Boundary Lines on Ways. Where the boundary lines are shown upon said map within the street lines of public and private ways, railroads or utility lines, the center lines of such ways, railroads or utility lines shall be the boundary lines.

B. District Boundary Lines on Lot Lines. Where the district boundary lines are shown approximately on property or lot lines, and their exact location is not indicated by dimensions the property or lot lines shall be the zoning district boundary lines.

C. District Boundary Lines outside of Ways. Boundary lines located outside of public and private ways, railroads or utility lines and shown approximately parallel thereto shall be regarded as parallel to such lines, and intervening dimensions shown are the distances in feet from such street, railroad or utility lines, such distances being measured at right angles to such lines unless otherwise indicated.

D. District Boundary Lines Following Natural Features. Where the district boundary line follows a body of water, said boundary line shall be construed to be at the thread of the channel of the stream unless otherwise indicated.

E. District Boundary Lines Determined by Identifications on the Maps. In all cases not covered by other provisions of this Section 4.4, the location of boundary lines shall be determined by the distance from other lines upon said maps, if given, by the use of identifications shown on the maps, or by the scale of the maps.

F. Determination of Uncertain Boundary Lines. Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the Building Inspector.

4.5 Lots Divided by District Boundaries

Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend no more than fifty (50) feet into the more restricted portion of such lot, provided the lot has frontage in the less restrictive district and the lot existed when the zoning district boundary was established.

SECTION 5.0 USE REGULATIONS

5.1 Principal Uses

No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Table, or as otherwise set forth herein, or as exempted under G.L. c. 40A, § 3. Any building or use of premises not herein expressly permitted is hereby prohibited.

A. Other Laws. All uses permitted as of right or by special permit are subject to all applicable provisions of this Bylaw, including but not limited to overlay districts, general regulations and special regulations, and the regulations of the Board of Health and any other Town departments.

B. If Classified Under More than One Use. Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

C. In all zoning districts, no use shall be permitted which would be offensive because of injurious or noxious noise, vibration, smoke, gas, fumes, odors, dust, debris, glare, radiation, or electrical interference, or other objectionable features, or be hazardous to the town due to fire or explosions or the creation of traffic hazards, or any other cause.

5.2 Table of Uses Regulations

The Table of Use Regulations shall be as shown in Appendix A.

Symbols. Symbols employed in the Table of Use Regulations shall mean the following:

Y - Permitted as of right

N - Prohibited

SPB - Special Permit/Planning Board

SPZ - Special Permit/Board of Appeals

5.3 Accessory Uses

5.3.1 General

A. An accessory use shall be incidental and subordinate to the principal use on the lot.

B. An accessory use shall be located on the same lot as the principal residential or non-residential use to which it is accessory, and shall not alter the character of the premises on which it is located or impair the area proximate to its location.

5.3.2 Residential Accessory Uses

The following shall be deemed accessory residential uses under this Bylaw:

A. An accessory building, such as a garage for parking and storage of up to three (3) vehicles, not more than one of which shall be a commercial vehicle; or a barn, shed, or greenhouse.

B. An accessory structure, such as gazebos, tennis courts or above-ground or below-ground swimming pools.

C. Home occupation, subject to the following requirements:

1. Not more than one non-resident shall be employed on the premises except by special permit from the Board of Appeals;

2. Not more than twenty-five (25) percent of the existing gross floor area of the dwelling shall be devoted to the home occupation, including any stock in trade, commodities, or products associated with said use, except by special permit from the Board of Appeals;

3. Except for one sign as permitted in a residential district under Section 9.5, there shall be no advertising visible from off the lot or display of goods or wares visible from the street;

4. No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard;

5. There shall be no sale of goods on the premises unless authorized by special permit from the Board of Appeals; and

6. No equipment or process shall be used in the home occupation which creates noise, vibration, odor, fumes, gas, smoke, dust, or electrical disturbance detectable to the normal senses off the lot.

D. Bed and breakfast, by special permit from the Board of Appeals.

E. Rooming house for up to four (4) boarders not members of the resident family.

F. Family day care home.

5.3.3 Nonresidential Accessory Uses

A. Any use permitted as a principal use also shall be permitted as an accessory use, provided such use is customarily incidental to the main or principal building or use of the land, as determined by the Building Inspector.

B. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land.

C. Nonresidential accessory uses also include:

1. Facilities for training employees of the principal use.

2. Accessory to an industrial use:

3. Restaurant or cafeteria, pharmacy, printing and copying, office supplies or personal services accessory to a permitted use, primarily for the use of employees, provided that all such uses combined shall not exceed fifteen (15) percent of gross floor area of principal building.

4. Retail outlet accessory to a light manufacturing use.

5. One dwelling unit per industrial establishment, on the same lot as and incidental to a permitted industrial use, occupied by the owner or an employee, such as a watchman's or caretaker's quarters.

D. Outdoor display of retail goods shall be permitted for any retail use, subject to the following requirements:

1. There shall be no outside storage of materials or finished goods, but outdoor display of merchandise is permitted for any retail use during normal hours of operation within the front yard or within the side yard if the side yard abuts a public right-of-way, provided that:

a. Such use is clearly related to the retail use conducted inside the principal building;

b. All merchandise shall be located within the confines of the retailer's owned or leased property;

c. A minimum width of forty-two (42) inches shall be continuously maintained and unobstructed on the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the approved site plan;.

d. Outdoor storage or display of merchandise is prohibited in designated or required landscaped areas, parking lots, or drive aisles; and sidewalks.

e. Such use does not obstruct or otherwise interfere with visibility at intersections.

2. Outdoor display is not intended to be, and shall not be interpreted to include, outdoor storage of inventory or of items that are not part of the business operation. No merchandise shall remain outdoors when the business is closed.

E. Mobile homes. No mobile home travel trailer shall be permitted in any nonresidential district unless it is clearly accessory to the principal business use of the lot.

SECTION 6.0 DENSITY & DIMENSIONAL REGULATIONS

6.1 General Provisions

In each district, no land shall hereafter be used, occupied or changed and no structure or building shall hereafter be erected, altered, moved or used or occupied unless it complies with the provisions as set forth in the Schedule of Dimensional Requirements herein, except as provided in G.L. c. 40A, § 6 for nonconforming circumstances. Variations and exceptions from these minimum requirements shall be as set forth in the Notes to the Schedule of Dimensional Requirements and as specifically provided elsewhere in this Bylaw.

6.2 Schedule of Dimensional Requirements

See Appendix B of this Bylaw.

6.3 Additional Requirements

A. Average Front Setback. In any district, no building need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of fifty (50) feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having frontage of less than fifty (50) feet shall be deemed an adjacent lot.

B. Multiple Buildings on a Lot.

1. Every building shall have frontage on a way, public or private, except that with Planning Board approval it may use a clear unobstructed passageway at least twenty (20) feet wide over the lot on which it is located, to said way. Except in the Health Care Services District, if a building is located in the rear of another building located on the same lot, it shall meet the side and rear yard requirements of the district in which it is located and the open space between such buildings shall be at least fifty (50) percent greater than the rear yard requirement for the district.

2. In the Health Care Services District:

   a. The minimum lot frontage and yard requirements are to apply to the perimeter of Health Care Services District unless the owner elects to divide or subdivide land pursuant to the Subdivision Control Law. Following any such division or subdivision, such minimum lot frontage and yard requirements shall apply to all property lines created thereby.

   b. The minimum lot area, maximum building coverage percentage, maximum floor area ratio and minimum open space percentage are to apply to the entire

District only in the aggregate, regardless of whether or not any such division or subdivision occurs from time to time.

C. Corner Lots. On a corner lot, the yard fronting on each street shall meet the minimum front yard requirement of the applicable district.

D. Cornices and Eaves. Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen (18) inches in width, or of uncovered steps, unroofed porches, or window sills into a required minimum yard or other open space.

E. Maintenance of Minimum Required Dimensions. Lots on which buildings are located shall not be reduced or changed in size or shape so the building or lot fail to comply with the minimum lot area, frontage, setback or yard provisions of this Bylaw except when a portion of a lot is taken or conveyed for a public purpose. Yards, courts, or other open space required for a building shall not, during the life of such building, be occupied or counted as an open space for another building.

F. Division of Developed Lots. Any lot on which more than one house existed at the time of the adoption of this Bylaw may be divided and sold to separate owners and used as follows: for each foot that such lot is less than seventy-five (75) feet wide, one (1) foot may be deducted from the sum of the width of the required two (2) side yards, provided that the buildable width need not be reduced to less than thirty (30) feet and further provided that no side yard shall be less than six (6) feet.

G. Location of Accessory Structures

1. The minimum yard requirements for principal structures shall apply to accessory structures, both detached or attached to the principal structure, when used for human occupancy.

2. A detached accessory structure of one (1) story shall not be closer to the principal structure than ten (10) feet. A detached accessory structure of two (2) stories or more shall not be closer to the principal structure than fifteen (15) feet. No accessory structure shall be closer to the front lot line than the front building line of the principal building on the lot.

3. Accessory structure or structures shall not occupy more than twenty-five (25) percent of the required rear or side yard areas.

4. Accessory structures shall be no closer than five (5) feet to any side or rear lot line.

H. Minimum Floor Area; Dwelling Units. All dwelling units except single family houses shall provide a minimum habitable floor area as follows:

1. Seven hundred and fifty (750) sq. ft. for a dwelling unit on one (1) floor.

2. Five hundred (500) sq. ft. on the first floor of a dwelling unit of one and one-half (1 1/2) floors.

3. Four hundred (400) sq. ft. on the first floor of a dwelling unit on two (2) floors.

I. Corner Clearance. Between the property lines of intersecting streets and a line joining points on such lines twenty (20) feet distant from their point of intersection (or in the case of a rounded corner, the point of intersection of their tangents), there shall be no structure or vegetation except shade trees between two (2) and eight (8) feet above the plane through their curb grades.

J. Special Requirements for Gasoline Stations. Notwithstanding other provisions of this Bylaw, any gasoline service station to be constructed or established must conform to the following minimum requirements as to setback, sidelines, building size, pump island area, and entrance to and egress from the street or way on which said station is situated.

Yard, front:	75 feet
Pump set-back from street line or public way:	35 feet
Set-back of building from nearest pump island:	40 feet
Space between pump islands if more than one island:	30 feet
Minimum means of entrance and egress from way (one entrance and one egress):	Two (2)
Minimum distance from corner (intersection of extended street lines) to entrance and egress curb cuts:	50 feet
Minimum frontage:	100 feet
Minimum size of service station building:	1,200 sq. ft.
Minimum size of filling station building:	750 sq. ft.
Dimension of rear yard:	30 feet
Minimum side of building:	30 feet
Minimum width per curb cut:	25 feet

SECTION 7.0 NONCONFORMING USES AND STRUCTURES

7.1 Applicability

A. This Bylaw 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, § 5 at which this Bylaw 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 except as authorized hereunder.

B. Construction or operations under a building or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of not less than six (6) months after the issuance of the permit and, in cases involving construction, unless construction is continued through to completion in a reasonably expeditious manner.

7.2 Nonconforming Single-Family and Two-Family Dwellings

A. In accordance with G.L. c. 40A, § 6, the Building Inspector may issue a building permit to allow an alteration, reconstruction, extension, or structural change to a lawfully pre-existing nonconforming single-family or two-family dwelling, provided that the alteration, reconstruction, extension, or structural change meets the following criteria:

1. On a lot that does not conform to the current minimum lot area requirement:

    a. Dwellings. Alteration, reconstruction, extension or structural change that complies with all current setback, lot coverage, and building height requirements, provided that such alteration, reconstruction, extension or structural change does not increase the footprint or height of the existing dwelling and does not include demolition of the existing dwelling, including the foundation.

    b. Accessory Buildings and Structures.

        i. The gross floor area of sheds and other outbuildings shall not exceed ten (10) percent of the dwelling's gross floor area as determined by information on file in the Assessors' Office. Such ten (10) percent shall be cumulative to include the gross floor area of existing sheds and other outbuildings.
        ii. Attached decks and in-ground swimming pools shall meet all current setback requirements.

2. On a lot that conforms to the minimum lot area requirement but is nonconforming due to insufficient frontage or setbacks:

a. Dwellings. Alteration, reconstruction, extension or structural change that complies with all current setback, building coverage, and building height requirements, provided that such alteration, reconstruction, extension, or structural change does not increase the footprint of the dwelling by more than fifty (50) percent and does not include demolition of the existing dwelling.

b. Accessory Buildings and Structures.

i. The gross floor area of sheds and other outbuildings shall not exceed ten (10) percent of the dwelling's gross floor area as determined by information on file in the Assessors' office. Said sheds and other outbuildings shall meet all current setback requirements and be no taller than the dwelling.
ii. Decks and swimming pools shall meet all current setback requirements.

B. Except as provided in subsection C below, any proposal to demolish and reconstruct a nonconforming single-family or two-family dwelling shall require a special permit from the Board of Appeals.

C. For any proposed alteration, reconstruction, extension or structural change other than as provided under subsection A above, application shall be made to the Board of Appeals for a determination whether such alteration, reconstruction, extension, or structural change will increase the nonconforming nature of said structure. If the Board of Appeals finds that such alteration, reconstruction, extension, or structural change will not increase the nonconforming nature of said structure, the property owner may apply for a building permit and no special permit will be required. In the event that the Board of Appeals determines that such alteration, reconstruction, extension, or structural change will increase the nonconforming nature of said structure, the Board of Appeals may grant a special permit only if it determines that the proposed modification(s) will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

7.3 Special Permit for Other Uses and Structures

A. 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 will not be substantially more detrimental than the existing nonconforming use to the neighborhood, and in making such determination the Board of Appeals shall consider whether the proposed use is different in character or in its effect on the neighborhood or on property in the vicinity.

B. The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood, and in making such determination the Board of Appeals shall consider whether the proposed structure is different in character or in its effect on the neighborhood or on property in the vicinity.

7.4 Variance Required

Except as provided in Sections 7.2 and 7.3, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require a variance; provided however, that the extension of an exterior wall at or along the same nonconforming distance within a required setback, may be approved by special permit from the Board of Appeals.

7.5 Discontinuance

A nonconforming use or structure, including a non-accessory sign, that has not been used for a period of two or more years shall not be re-established and shall conform to the provisions of this Bylaw.

7.6 Reconstruction after Catastrophe

A nonconforming structure damaged by fire or other causes may be reconstructed in accordance with the following provisions:

A. Reconstruction shall commence within two years after such catastrophe, except that the Board of Appeals may grant an extension of time where strict adherence to this Section 7.6 would cause undue hardship or because construction has not commenced within two years due to circumstances beyond the applicant's control.

B. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, and shall be only as great in volume or area as the original nonconforming structure.

C. In the event that the proposed reconstruction would cause the structure to (a) exceed the volume or area of the original nonconforming structure or (b) be located other than on the original footprint, a special permit shall be required from the Board of Appeals.

7.7 Reversion to Nonconformity

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

SECTION 8.0 OVERLAY DISTRICTS

8.1 Aquifer Protection Overlay District

8.1.1 Purposes

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

8.1.2 Establishment and Delineation of Aquifer Protection Overlay District

A. The Aquifer Protection Overlay District includes all land mapped as a designated Zone II area surrounding a public water supply well, and certified by the Massachusetts Department of Environmental Protection (DEP), and all Interim Wellhead Protection Areas. The Aquifer Protection Overlay District shall be shown on a map at a scale of 1 inches to 800 feet, to be entitled "Aquifer Protection Overlay District" dated April 1999, which shall be considered to be superimposed over other zoning districts and is part of the official Zoning Map. This map, as it may be amended from time to time, shall be on file in the offices of the Town Clerk, Building Inspector, and Planning Board, and with any explanatory material thereon, is hereby made a part of this Bylaw.

B. District Boundary Disputes.

1. If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Board of Appeals. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

2. The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the District boundary with respect to a parcel(s) of land is uncertain. At the request and expense of the owner(s), the Town of Ayer may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the District with respect to individual parcels of land. Amendments to the Aquifer Protection Overlay District Map require Town Meeting approval.

3. Where the boundary line of the Aquifer Protection Overlay District divides a lot or parcel, the requirements established by this Section 8.1 shall apply only to the portion of the lot or parcel located within the Aquifer Protection Overlay District.

8.1.3 Scope of Authority

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

8.1.4 Use Regulations

A. Permitted Uses. The following uses are permitted within the Aquifer Protection Overlay District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

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

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

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

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

5. Maintenance, repair, and enlargement of any existing structure, subject to Section 7 and Section 8 of this Bylaw;

6. Residential development, subject to Section B and Section C of this Section;

7. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section B and Section C of this Section;

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

B. Prohibited Uses. The following uses are prohibited within the Aquifer Protection Overlay District:

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

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

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

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

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

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

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

d. Water remediation treatment works approved by DEP for the treatment of contaminated waters; and

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

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

   a. Above ground level and on an impervious surface; and

   b. Either in container(s) *or* above ground tank(s) within a building or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either; ten (10) percent of the total possible storage capacity of all containers or 110 percent of the largest container's storage capacity, whichever is greater.

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

7. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

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

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

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

    a. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;

    b. Treatment works approved by DEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);and

c. Publicly owned treatment works.

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

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

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

1. Enlargement or alteration of existing uses that do not conform to the Aquifer Protection Overlay District;

2. Any activity that involves the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, if permitted in the underlying district (except as prohibited under Section B above). Such activities shall require a special permit to prevent contamination of groundwater;

3. Any use that will render impervious any lot or parcel more than fifteen (15) percent or 2,500 sq. ft., whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

D. General Exemptions. The following uses and activities shall be exempted from the requirements of Section C above and may be located within an Aquifer Protection Overlay District without a special permit:

1. Continuous Transit. The transportation of hazardous wastes or materials, provided that the transporting motor vehicle is in continuous transit.

2. Vehicular and Lawn Maintenance Fuel and Lubricant Use. The use in a vehicle or lawn maintenance equipment of any hazardous material solely as fuel or lubricant in that vehicle or equipment fuel tank.

3. Retail/Wholesale Sales/Office/Commercial Uses that store or handle hazardous materials or wastes in amounts that do not exceed household quantities.

4. Construction Activities. The activities of constructing, repairing, or maintaining any building or structure on lands located within an Aquifer Protection Overlay District, provided that all contractors, subcontractors, laborers, material men, and their employees use applicable Best Management Practices when using, handling, storing, or producing any hazardous materials or wastes.

5. Household Use. The household use of hazardous materials or wastes in amounts that do not exceed household quantities.

6. Municipal Use. Municipal use by the Town of Ayer of hazardous materials and any materials stored and used for the sole purpose of water supply treatment.

7. Storage of Oil(s). The storage of oil(s) used for heating fuel, provided that the container used for such storage shall be located within an enclosed structure that is sufficient to preclude leakage of oil to the external environment and to afford routine access for visual inspection and shall be sheltered to prevent the intrusion of precipitation.

8.1.5 Special Permit Procedures

A. The Planning Board may grant a special permit under this Section 8.1 only if it determines, in conjunction with the Board of Health, Conservation Commission, and Department of Public Works, that the intent of this Section as well as its specific criteria are met. The Planning Board shall not grant a special permit unless the petitioner's application materials include, in the Planning Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this Section. The Planning Board shall document the basis for any departures from the recommendations of the other boards, departments, or commissions in its decision.

B. Upon receipt of the special permit application, the Planning Board shall transmit one copy to the Board of Health, Conservation Commission, and Department of Public Works. Failure to respond in writing within thirty-five (35) days of receipt shall indicate no opposition. The necessary number of copies of the application shall be furnished by the applicant.

C. The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 8.1.6, and any regulations or guidelines adopted by the Planning Board following consultation with the Board of Health. The proposed use must:

1. In no way, during construction or thereafter, adversely affect the existing or potential quality of quantity of water that is available in the Aquifer Protection Overlay District; and

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

D. The Planning Board may adopt regulations to govern design features of projects. Such regulations shall be consistent with the Planning Board's Subdivision Regulations, where applicable.

E. The applicant shall file a site plan and attachments in accordance with the rules and regulations of the Planning Board. The site plan and attachments shall at a minimum include the following information where pertinent:

1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan shall include:

   a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;

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

   c. Evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.00;19 and

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

F. The special permit public hearing, notification, and decision procedures in the Aquifer Protection Overlay District shall be in accordance with G.L. c. 40A, § 9 and Section 3.4 of this Bylaw.

8.1.6 Design Guidelines and Performance Standards

No special permit shall be granted for development in the Aquifer Protection Overlay District that does not or, after conditions are imposed, will not comply with the requirements of this Bylaw. As a condition of granting a special permit for uses and activities identified in Section 8.1.4(C), the Planning Board may require adherence to any or all of the following design and operation guidelines, where, in its opinion, such adherence would further the purposes of this Section 8.1.

A. Containment of Regulated Substances. Leak-proof trays under containers, floor curbing, or other contaminant systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by the permit-granting authority. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to both above-ground and underground storage areas.

B. Emergency Plan. An emergency plan shall be prepared and filed along with the special permit application that indicates the procedures that will be followed in the event of the spillage of any hazardous material or waste so as to control and collect all such spilled

material in such a manner and prevent it from reaching any storm or sanitary drains or the groundwater.

C. Inspection. Each day of operation, a responsible person designated by the permittee who stores, handles, uses, or produces any hazardous materials or waste shall check for breakage or leakage of any container holding such materials or waste. Electronic sensing devices may be employed as part of the inspection process, if approved by the permit-granting authority and provided that the sensing system is also checked daily for malfunctions. The manner of daily inspection shall not necessarily require the actual physical inspection of each container, provided that the location of the containers can be inspected to a degree which reasonably assures the permit-granting authority that breakage or leakage can be detected by the inspection. Monitoring records shall be kept daily and made available to the permit granting authority on a quarterly basis.

D. Reporting of Spills. Any spill shall be reported by telephone to the Fire Department and [insert additional agency, as necessary] within one hour of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report that includes a description of the steps taken to contain and clean up the spill shall be submitted to the Fire Department within fifteen (15) days of discovery of the spill.

E. Monitoring of Regulated Substances in Groundwater Monitoring Wells. If required by the Planning Board, groundwater monitoring well(s) shall be provided at the expense of the permittee in a manner, number, and location approved by the Planning Board. Except for existing wells found by the Planning Board to be adequate for this provision, the required well(s) shall be installed by a water well contractor. Samples shall be analyzed and analytical reports that describe the quantity of any hazardous material or waste present in each monitoring well shall be prepared by a Massachusetts certified laboratory.

F. Expansions, Alterations and Modifications. The Planning Board shall be notified in writing prior to the expansion, alteration, or modification of a use or activity holding a special permit under this Bylaw. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of hazardous materials or wastes, or changes in types of materials or wastes beyond those square footages, quantities, and types upon which the permit was issued. The introduction of any new hazardous waste or material shall not prevent the revocation or revision of any existing special permit if, in the opinion of the Planning Board, such introduction substantially or materially modifies, alters, or affects the conditions upon which the existing special permit was granted or the ability to remain qualified as a General Exemption under Section 8.1.4(D) above, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special permit, if applicable.

G. Stormwater Management Performance Standards. Land uses and developments within the Aquifer Protection Overlay District that require a special permit pursuant to Section 8.1.4 above, shall conform to the following performance standards for stormwater management. These performance standards shall be considered as criteria for the issuance of a special permit.

1. No development shall result in a direct discharge of untreated stormwater, either on or offsite.

2. Post development discharge rates shall not be greater than predevelopment discharge rates.

3. New development shall maximize recharge to groundwater.

4. New development shall be required to remove, onsite, no less than eighty (80) percent of the annual total suspended solids generated from development runoff.

5. Best management practices shall be maintained for appropriate periods of time.

8.2 Floodplain Overlay District

8.2.1 Purpose

The purposes of the Floodplain Overlay District are to protect the public health safety and general welfare to protect human life and property from the hazards of periodic flooding to preserve the natural flood control characteristics and the flood storage capacity of the floodplain and to preserve and maintain the groundwater table and recharge areas within the flood plain.

8.2.2 Establishment and Delineation of Floodplain Overlay District

The Flood Plain District includes all special flood hazard areas within the Town of Ayer designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Ayer are panel numbers 25017C0203E, 25017C0204E, 25017C0208E, 25017C0209E, 25017C0211E, 25071C0212E, 25017C0216E, and 25017C0217E, dated June 4, 2010. The boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Inspector.

8.2.3 Scope of Authority

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, shall comply with G.L. c. 131, s. 40 and with the following:

A. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");

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

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

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

E. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 5 acres within unnumbered A zones.

8.2.4 Notification of Watercourse Alteration

In a riverine situation, the Ayer Conservation Commission or its agent shall notify the following of any alteration or relocation of a watercourse:

Adjacent Cities and Towns

NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

8.2.5 Use Regulations

A. Prohibited uses. All new construction and encroachments including, grading, filling, excavating, substantial improvements and other development is prohibited unless:

1. A technical evaluation by a Registered Professional Engineer demonstrates that the new construction or encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge; and

2. It is otherwise allowed by a special permit from the Board of Appeals under subsection C below.

B. Permitted Uses. The following uses of low flood-damage potential and no potential to obstruct 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, or horticulture.

2. Forestry and nursery uses.

3. Outdoor recreational uses, including fishing, boating, or play areas.

4. Conservation of water, plants, and wildlife.

5. Wildlife management areas, and foot, bicycle, and/or horse paths.

6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

7. Buildings lawfully existing prior to the adoption of this Section 8.2.

C. Uses Allowed by Special Permit.

1. Buildings and sheds accessory to the uses described in subsection B above, and driveways and roads are permitted subject to the issuance of a special permit from the Board of Appeals. In hearing such applications, the Board of Appeals shall consider the following in addition to the criteria set forth in Section 3.4:

   a. Any such building, structure, driveway or road shall be designed, placed and constructed so as to offer a minimum obstruction to the flow of water; and said building or structure shall be firmly anchored to prevent floating away.

   b. Such structure shall not be used for sustained human occupancy.

   c. Such structure shall be designed to protect against damage from inundation by floodwaters, equipment or materials stored therein.

   d. There shall be no practical alternative means of access, and a registered professional engineer employed at the applicant's expense has certified that the said driveway or road, if constructed, shall not endanger the health, safety or welfare of the public.

   e. The applicant has obtained any existing flood elevation data, and it has been reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or floodproofing requirements of the State Building Code.

2. If any land in the Floodplain Overlay District is proven to the satisfaction of the Board of Appeals as being in fact not subject to flooding or not unsuitable because of drainage conditions for any use which would otherwise be permitted if such land were not, by operation of this section, in the Floodplain Overlay District, and said Board finds that the use of such land for any such use will not interfere with the general purpose for which the Floodplain Overlay District has been established and will not be detrimental to the public health, safety or welfare, the Board of Appeals may, after a public hearing with due notice, issue a special permit for any such use.

8.2.6 Other Requirements

A. No application approval by the Board of Appeals shall be considered to supersede the requirements of G.L. c. 131, § 40.

B. Any other bylaw or regulation to the contrary notwithstanding, no construction shall be permitted within the Floodplain Overlay District unless the Board of Appeals determines that all utilities are located, elevated and constructed so as to minimize or eliminate flood damage and that the methods of disposal for sewage, refuse and other wastes and for providing drainage are adequate to reduce flood hazards.

C. If a special permit is granted, the Board of Appeals shall impose such conditions and safeguards as public safety, welfare and convenience may require. Upon completion of

any authorized work, an as-built plan, prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, of all improvements in the Floodplain Overlay District shall be submitted to the Building Inspector and shall specify the elevation of the lowest floor including basement, the elevation to and method by which any structure has been floodproofed and the finished grades of all disturbed areas.

8.3 Wireless Communications Services Overlay District

8.3.1 Purposes

The purposes of the Wireless Communication Services Overlay District are to minimize adverse impacts of communication structures, monopoles, buildings and appurtenances on adjacent properties and residential neighborhoods; and to protect, to the maximum extent practicable, the aesthetic qualities of the Town of Ayer, the property values of the community and safety of the citizens. This section is promulgated under the authority of G.L. c. 40A, the Home Rule Amendment of the Massachusetts Constitution and the 1996 Telecommunications Act, 47 U.S.C. sec. 332(c)(7)(A). A wireless communication facility (WCF) shall not be placed, constructed or modified except in accordance with the provisions of this Section 8.3.

8.3.2 Delineation of Wireless Communications Services District

The Wireless Communications Services District shall include:

A. Land owned by the Town of Ayer identified on Town of Ayer Assessor's Map 20, Parcel 22.

B. All land located within the Light Industrial or Industrial districts, or

C. Land located within the A-1 Residential District bounded by Willow Road, Snakehill Road, Littleton Road and the railroad, and

D. Land within the Health Care Services District.

8.3.3 Scope of Authority

In the Wireless Communications Services District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that an applicant wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Wireless Communications Services District shall apply, and by filing an application for a special permit, site plan review or building permit under this Section 8.3, the owner shall be deemed to accept and agree to them. Where the provisions of the Wireless Communications Services District are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply. No WCF shall be placed, constructed, or modified in the Town of Ayer except in compliance with this Section 8.3.

8.3.4 Exemptions

A. The following types of WCFs are exempt from the requirements of this Section 8.3 but must comply with all other applicable requirements of this Bylaw:

1. A television antenna or satellite dish which is accessory to a use permitted as of right in a business or residential district, provided such use does not include the provision of wireless communications services for a fee. Such antenna or dish must be:(1.) less than 2 meters in diameter; and (2.) not visible from any neighboring property or public way.

2. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC provided that the tower is not used or licensed for any commercial purposes.

B. The following types of WCFs shall not require a special permit, but shall comply with all other requirements of this Section 8.3 and shall require Planning Board site plan review under Section 3.5.

1. An interior-mounted WCF installed wholly within and not protruding from the interior space of an existing building or structure, excluding buildings used for residential use.

2. A roof-mounted WCF installed on the roof of an existing building, providing no part of the WCF extends more than ten (10) feet above the existing roof and the roof of such building is at a higher elevation than any other building within one thousand (1,000) feet.

3. A side-mounted WCF not projecting above the height of the existing building and not extending by more than eighteen (18) inches out from the face of the building to which it is attached.

4. Notwithstanding any other provision of this Bylaw, wireless communications antenna facilities to be used solely for purposes related to the medical mission of buildings located within the Health Care Services District which antennae shall be limited in height to an elevation not more than twelve (12) feet higher than the highest building located within the District, shall be permitted as of right. In the event that any such antenna facility is to be used by third parties not associated with such medical mission, such use shall be subject to the requirements of the Wireless Communications Services District.

8.3.5 Special Permit

A. General. A special permit application for a WCF shall be filed on the form available from the Board of Appeals. Site plan approval by the Planning Board is also required for all co-locations and all mounted WCFs.

B. Minimum Submission Requirements. The special permit application shall contain, at minimum, the following information prepared by one or more professional engineers:

1. A locus plan at a scale of 1"=100' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings, and all buildings within five hundred (500) feet of the WCF. Such plan shall also include an engineer's certification stating that all property lines of the lot on which the WCF is proposed to be located are not within 1000' of any school property line.

2. A description, including illustrations and photographs, of the monopole and the technical, economic and other reasons for the proposed location, height and design.

3. Eight (8) view lines shown in a one (1) mile radius from the site, beginning at true North and continuing clock-wise at forty-five (45) degree intervals. Said view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five (5) feet above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing said view lines with the WCF in place.

4. A landscape plan that identifies all existing vegetation, and all vegetation to be removed or altered, and all proposed new vegetation and other landscape treatments.

5. Confirmation that the monopole complies with, or is exempt from all applicable Federal and State standards.

6. A description of the capacity of the monopole including the number and type of panels, antennae and/or transmitter receivers that it can accommodate and the basis for these calculations.

7. Material describing a specific plan for a balloon or similar test, including the date and time, as well as a rain date and time shall be submitted with the application. The Planning Board shall approve the plan and specify the manner by which the applicant shall give notice to the public.

8. In addition to the filing fees, the applicant shall pay any additional cost of retaining professional services if such services are deemed necessary by the Planning Board.

C. Procedures. The public hearing, notification, and decision requirements of G.L. c. 40A, § 9 and § 11 and Section 3.4 of this Bylaw shall apply to special permits in the Wireless Communication Services Overlay District.

D. Decision.

1. The Board of Appeals may grant a special permit for a WCF provided that the applicant satisfies the requirements of this Section 8.3 and Section 3.4.

2. The Board of Appeals may deny a special permit if the applicant does not fulfill or address the requirements of this Section 8.3 to the satisfaction of the Board of Appeals.

3. When considering an application for a new WCF, the Board of Appeals shall place great emphasis on the proximity of the WCF to residential dwellings and its impact on such residences.

8.3.6 General Requirements

A. All WCFs shall be co-located, to the maximum extent practicable and technologically feasible, with one or more WCFs for which a special permit has been previously granted and whose height, location and characteristics meet the needs of the proposed new WCF. The applicant shall demonstrate to the Board of Appeals that it has made a reasonable effort to co-locate the proposed WCF upon an existing structure or WCF.

B. All new wireless communication monopoles or support structures shall be designed and constructed, to the maximum extent practicable with existing technology and with height limits set forth in this chapter, for co-location of antennas and other necessary facilities for at least three (3) other wireless communication providers, and shall offer space to all other providers at market rates. Any special permit granted for a new WCF under this Section 8.3 shall be conditioned upon the written agreement of the WCF operator to allow the co-location of at least three other wireless communication providers on commercially reasonable terms. If co-location facilities are not installed at the time of construction of the WCF, then, at the time of any addition of a co-located facility, the holder of the special permit and the new provider shall notify the Board of Appeals and the Building Inspector that the installation has occurred and certify that the installation has been performed in accordance with the special permit for the WCF.

C. No WCF shall contain more than one monopole, tower or other structure for elevating an antenna or dish. No more than one WCF, except co-locators, shall be constructed on one lot. In no event shall any WCF be located closer than one mile to any other such WCF, unless the applicant can show that no existing space on the existing WCF can be leased or procured.

D. Towers with one telecommunication provider shall be limited to one hundred forty (140) feet. Towers with co-located facilities shall be allowed an additional twenty (20) feet for each additional provider up to a maximum of one hundred ninety (190) feet. These height limits shall not apply to towers for government telecommunications.

E. In a residential district, not tower shall be erected nearer to any property line than a distance equal to one hundred ten (110) percent the vertical height of the tower, excluding satellite dishes and/or antennas attached to existing structures, measured at the mean finished grade of the facility base. The Board of Appeals may allow a reduced setback if such reduction provides adequate safety and aesthetics, and the manufacturer or qualified licensed designer certifies that the tower is designed to collapse on itself in the event of failure.

F. Setback from designated wetlands, water bodies and areas with a slope in excess of five (5) percent shall be at least one hundred and fifty (150) feet or one hundred ten (110) percent of the height of the tower, whichever is greater. Conservation Commission review and approval may be necessary.

G. Siting shall be such that the view of the facility from adjacent abutters, residential neighbors, and other areas of Town shall be as limited as possible. Generally, towers shall be a galvanized, corten, or equal, or non-rusting finish unless otherwise required by the FAA. Towers may be required to be painted, when appropriate, to blend in with the landscape.

H. As a condition for any special permit for the placement, construction or modification of a WCF, the applicant shall provide a bond, in a form acceptable to the Planning Board, or shall place into escrow a sum of money sufficient to cover the costs of removing the WCF from the subject property and, furthermore, said funds shall be held by the Town Treasurer or an independent escrow agent to be appointed by the carrier and the Planning Board. The amount of the surety shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. The applicant shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the WCF when the WCF has been abandoned or discontinued.

I. The special permit shall further state that, in the event the amount of surety is insufficient to cover the costs of removal, the Town may place a lien upon the property to cover the difference in cost.

J. The applicant shall provide to the Planning Board a contact for emergencies and said contact person and phone number and the owner of the WCF and phone number shall be posted on the fence surrounding the WCF.

8.3.7 Design Standards

A. No new WCF shall be placed or constructed that uses a lattice-type construction which requires three or more legs or guy wire supports or both.

B. Visibility, Lighting, and Screening

1. All monopoles, antennae, antennae support structures and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures of the surrounding environment. Such structures shall be constructed out of nonreflective materials.

2. Every building mounted WCF shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that match and/or blend with those of the building.

3. WCFs shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.

4. Every WCF shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and structures and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or landscape.

5. Fencing shall be provided to control access to wireless communication facilities and shall be compatible with the scenic character of the Town and designed to be as unobtrusive as possible.

6. Existing on-site trees and vegetation shall be preserved, to the extent possible. Additional landscaping to screen facilities shall be provided as determined by the Board of Appeals.

C. There shall be no signs except a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis; a no trespassing sign; a sign displaying the FCC registration number and, any signs required to warn of danger. All signs shall comply with the requirements of Section 9.5 of this Bylaw.

D. The related unmanned equipment and/or building, per carrier, shall not contain more than 200 sq. ft. of gross floor area or be more than ten (10) feet in height.

E. There shall be a minimum of one (1) parking space for each WCF, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

F. Every WCF shall be protected against unauthorized climbing or other access by the public. The fencing shall be compatible with the scenic character of the Town and shall not be constructed of barbed wire or razor wire.

8.3.8 Environmental Standards

A. No hazardous waste shall be discharged on the site of any WCF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred ten (110) percent of the volume of the hazardous materials stored or used on the site.

B. Ground-mounted equipment for a WCF shall not generate noise in such concentrations and of such duration as to:

1. Be greater than 50 dB at any audible frequency measured at the WCF property line;

2. Be injurious, or be on the basis of current information, potentially injurious to human or animal life, to vegetation, or to property; or

3. Unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business.

8.3.9 Operations, Maintenance, Reporting, and Removal

A. Safety Inspections. A qualified independent structural engineer shall perform a structural safety inspection of the WCF at least every two (2) years and shall deliver a copy of said reports to the Building Inspector on July 1. All structural safety deficiencies noted in any

such report shall be remedied and the Building Inspector notified by the structural engineer within sixty (60) days of the date of the report.

B. RFR Measurement. After the WCF is operational, the applicant shall submit to the Board of Appeals and Building Inspector, within 90 days of beginning operations, and at annual intervals, existing measurements of RFR from the WCF. All annual reports shall be due July 1 of each year. Such measurements shall be performed by an independent consultant and shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC regulations. Testing shall be done for all freestanding facilities and all mounted facilities. The RFR shall not exceed FCC regulations.

C. Noise Measurement. After the WCF is operational, the applicant shall submit to the Board of Appeals and the Building Inspector, within 90 days of beginning of operations, and at annual intervals, existing measurements of noise from the WCF. All annual reports shall be due July 1 of each year. Such measurements shall be performed by an independent consultant and shall be signed by an acoustical engineer, stating that noise measurements are accurate. Testing shall be done for all freestanding facilities and all mounted facilities.

D. Abandonment or Discontinuance. A WCF shall be deemed to be abandoned or discontinued if it has not been used for the purpose for which it was constructed for a period of one (1) year or more. Once abandonment or discontinuance has occurred, the applicant shall remove the WCF from the subject property within ninety (90) days. In the event that the applicant fails to remove the WCF, the Town shall give notice to the applicant and, if appropriate, the independent escrow agent that the WCF shall be removed forthwith and the Town or the escrow agent, after affording written notice seven days in advance to the applicant, shall remove the WCF.

8.4 Adult Entertainment Overlay District

8.4.1 Purposes and Intent

This section is authorized under M.G.L, c. 40A, § 9A in order to serve the compelling interests of the Town in preventing the clustering and concentration of adult entertainment enterprises because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect on generating crime and blight.

8.4.2 Establishment and Delineation of Adult Entertainment Overlay District

The Adult Entertainment Overlay District is established as beginning at the point on the Ayer/Harvard town line at the centerline of Nonacoicus Brook, also known at Bowers Brook or Harvard Stream. The point of beginning lies approximately 640 feet east of at the centerline of Barnum Road when measured along the Ayer/Harvard town line.

Then proceeding westerly along the Ayer/Harvard town line to a point located 200 feet northwest of and perpendicular to the centerline of Barnum Road. Said point lies approximately 280 feet west of the centerline of Barnum road when measured along the Ayer/Harvard town line.

Then proceeding northeasterly along a line 200 feet northwest of and parallel to the centerline of Barnum Road to a point intersecting an imaginary line perpendicular to the intersection of the

southeast sideline of Barnum Road with the property line separating Town of Ayer Assessor's Map 34, Parcel 89 and Town of Ayer Map 34, Parcel 90. Said point lies approximately 1050 feet northwest of the Ayer/Harvard line when measured along a line 200 feet northwest of and parallel to the centerline of Barnum Road.

Then proceeding northerly along a line perpendicular to Barnum to the centerline of Third Street.

Then proceeding northerly along the centerline of Third Street to the centerline of Nonacoicus Brook, also known as Bower Brook or Harvard Stream.

Then proceeding easterly along the centerline of Nonacoicus Brook, also known as Bowers Brook or Harvard Stream, to the centerline of Barnum Road.

Then proceeding southerly along the centerline of Nonacoicus Brook, also known as Bowers Brook or Harvard Stream, to the point of beginning.

8.4.3 Special Permit

The Board of Appeals shall not grant a special permit for an adult bookstore, adult video store, adult paraphernalia store, adult motion picture or mini-motion picture theatre, or adult live entertainment establishment unless all of the following conditions are satisfied:

A. No adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre, adult mini-motion picture theatre, or adult live entertainment establishment shall be located less than one thousand (1,000) feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, or another adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre, or adult live entertainment establishment. The 1,000 feet distance shall be measured from all property lines of the proposed adult use.

B. No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult bookstore, adult video store, adult paraphernalia store, adult motion picture or mini-motion picture theatre, or adult live entertainment establishment merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult bookstore, adult video store, adult paraphernalia store or adult motion picture theatre, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

C. No special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, § 63, or G.L. c. 272, § 28.

D. Signs for adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre and adult live entertainment establishment shall conform to the requirements of Section 9.5 for the General Business District.

E. Any special permit granted under this Section 8.4 shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in G.L. c. 40A, § 17, if substantial use thereof has not sooner commenced

except for good cause, or in the case of permit for construction, if construction has not begun within two years of the date of grant, except for good cause.

8.5 Solar Energy Systems Overlay District

(To be inserted once approved by Town Meeting)

SECTION 9.0 GENERAL REGULATIONS

9.1 Off-Street Parking and Loading

9.1.1 Applicability

A. No building or structure constructed after the effective date of this Section 9.1 shall be used or changed to a greater category of parking demand, as determined by Section 9.1.2, except in accordance with this Section.

B. This Section 9.1 shall not apply to:

1. Any building, structure or use of land that was existing or lawfully begun or for which a permit was issued prior to the effective date of this Bylaw, except that any change in use to a greater category of parking demand shall be subject to this section.

2. Any existing building or structure that has been damaged or destroyed by fire or other disaster, and reconstructed to the same size or lesser size as previously existed, except that any change in use of the reconstructed building to a greater category of parking demand shall be subject to this section.

C. No existing off-street parking spaces shall be eliminated if their removal would cause the total number of spaces provided on a site to be less than the number required by Section 9.1.2, except by special permit.

9.1.2 Off-Street Parking Requirements

Except as provided in Section 9.1.4, the minimum number of off-street parking and loading spaces shall be as set forth below. Where fractional spaces result, the minimum number of spaces shall be the next highest whole number. For certain uses, a maximum number also applies. Off-street parking requirements for a use not specifically listed below shall be as specified by the Building Inspector based on a listed use of similar characteristics of parking demand.

A. Residential Uses

1. Single-family or two-family dwelling: minimum 2 spaces per dwelling unit.

2. Multi-family dwelling: minimum 1 space per studio unit; 1.5 spaces per one-bedroom unit; and 2 spaces per unit with two or more bedrooms; plus five (5) percent additional spaces for visitor parking, or a minimum of one space

3. Assisted living facility: minimum 0.5 spaces per unit, plus 1 space per employee on each shift, rounded up the nearest whole number of spaces.

4. Nursing home: minimum 1 space for each 4 patient beds, plus 1 space for each 2 employees on the largest shift.

5. Accessory apartment: minimum 1 space in addition to spaces required for the principal dwelling.

6. Home occupation: As required for the particular occupation and use, to be determined by the Building Inspector, in addition to required spaces for the dwelling unit.

B. Business Uses. The minimum number of off-street parking spaces listed below shall be in addition to space for storage of trucks or other vehicles used in connection with a business.

1. Clubs, restaurants, taverns, and other eating places: minimum 1 space per four seats, plus 1 space per 300 sq. ft. of gross kitchen floor area.

2. Retail store: minimum 3 spaces per 1,000 sq. ft; maximum 1 space per 200 sq. ft. gross floor area. Where a single parking area contains more than 300 parking spaces intended to serve more than one retail establishment, the total number of off-street parking spaces required in excess of 300 shall be reduced by twenty-five (25) percent.

3. Art gallery: minimum 3 spaces per 1,000 sq. ft.

4. Professional or business office: minimum 1 space per 400 sq. ft. gross floor area.

5. Personal or business service; bank or other financial institution: minimum 1 space per 300 sq. ft. gross floor area.

6. Medical office or medical clinic; minimum 1 space per 200 sq. ft. gross floor area.

7. Hotel or motel: minimum 1 space per sleeping room, and 1 space for every 3 employees on the largest shift. For hotel or motel with conference and/or restaurant space, add 1 per 200 sq. ft. of restaurant and function room floor area combined.

8. Place of assembly with fixed seating, such as a church, stadium, assembly hall: minimum 1 space for every four seats or, when benches are used, 1 space per eight lineal feet of bench.

9. Library, museum: minimum 1 space per 400 sq. ft. of public floor area.

10. All other places of public assembly: minimum 1 space for every five occupants as determined by the State Building Code.

11. Theatre, cinema: minimum 1 space for every three seats for single-screen theatres; for theaters with more than one screen, 1 space for every five seats.

12. Hospital: minimum 1 space for each two beds plus 1 space for each 2 employees on the largest shift.

13. Funeral home: minimum 1 space per 60 sq. ft. of public floor area.

14. Bowling alley: minimum 3 spaces per each alley.

15. Other commercial uses: minimum 1 space per 300 sq. ft. gross floor area.

C. Industrial uses. The minimum number of off-street parking spaces listed below shall be in addition to space for storage of trucks or other vehicles used in connection with a business.

1. Office for administrative, executive, professional, medical sales and other similar uses, the normal operation of which does not involve retailing activities on the premises: minimum 1 space per 300 sq. ft. gross floor area, maximum 1 space per 200 sq. ft. gross floor area.

2. Laboratory for scientific, industrial research, research & development, or biomedical research & technology: minimum 1 space per 400 sq. ft. gross floor area; maximum 1 per 300 sq. ft. gross floor area.

3. Wholesale warehouse, truck freight terminal or storage warehouse: minimum 1 space per 1,500 sq. ft. gross floor area; maximum 1 space per 1,000 sq. ft. gross floor area.

4. Light industrial use, including manufacturing, storage associated with the industrial activities on site, processing, fabrication, packaging and assembly; printing or publishing facility; data processing center; or public utility building or structure: minimum 1 per 500 sq. ft. gross floor area; maximum of 1 per 300 sq. ft. of gross floor area.

D. Mixed uses. For a building with two or more principal uses that fall into different classes of use, i.e., uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except where it can be demonstrated to the Planning Board that the parking need for the uses occurs at different times, in which case the Planning Board may grant a special permit to reduce the number of parking spaces.

9.1.3 Off-Street Loading Spaces

A. Retail store, service establishment: minimum 1 berth for each 5,000 to 10,000 sq. ft. gross floor area; 1 additional berth for each additional 15,000 sq. ft. or nearest multiple thereof.

B. Office buildings, research facilities and similar uses: minimum 1 berth for each 8,000 to 20,000 sq. ft. gross floor area; 1 additional berth for each 40,000 additional sq. ft. or major fraction thereof.

C. Industrial uses. No use of premises shall be permitted and no building or structure shall be erected or enlarged without adequate off-street loading facilities located on the same lot as the building or use to be served. An area of at least 400 sq. ft. of appropriate dimensions, exclusive of drives and maneuvering space, shall be considered one (1) off-street loading bay. One such bay shall be provided for each loading door.

9.1.4 Special Regulations for the Downtown Business District

A. In the Downtown Business District, Section 9.1.2 shall not apply to nonresidential uses.

B. The Planning Board may grant a special permit to locate all or a portion of the required off-street parking on a different lot than the lot with the building or use served by such parking, if the Planning Board determines that proper provision has been made to ensure pedestrian, bicycle and vehicular safety and that such an arrangement is superior to on-site parking and/or furthers the Town of Ayer's downtown planning objectives. All such arrangements shall be presented by the applicant in writing together with written consent of the property owner(s), and reviewed by Town Counsel, approved by the Planning Board, and recorded with the property deed.

C. Off-street loading spaces are not required for uses that do not exceed 3,000 sq. ft. of floor space.

9.1.5 Off-Street Parking Design Standards

A. Dimensional standards.

1. Each off-street parking space shall be an all-weather, surfaced area at least nine (9) feet wide and eighteen (18) feet long for angle parking or twenty-two (22) feet for parallel parking. The required length shall be measured on an axis parallel with the vehicle after it is parked. The required areas, other than those serving one- and two-family dwellings, shall be exclusive of driveways and shall be permanently reserved for the temporary parking of one automobile, and shall be connected with a street or public right-of-way by an all-weather surfaced driveway. In the case of single-family and two-family dwellings, all-weather surfaces shall not be required.

2. In parking lots containing more than fifty (50) parking spaces, ten (10) percent of the required parking spaces may be designed for small-car or motorcycle use. Small-car parking spaces shall be not less than eight feet in width nor less than sixteen (16) feet in length. Motorcycle spaces shall be not less than four (4) feet in width nor less than eight (8) feet in length. Spaces designed for small-car or motorcycle use shall be grouped in one or more contiguous areas and identified by appropriate signage

B. Access driveways and interior circulation.

1. For parking areas containing fewer than five (5) spaces, the minimum width of access drives shall be ten (10) feet wide for one-way use and 18 feet wide for two-way use. For facilities containing five (5) or more spaces, the minimum width of

access drives shall be twelve (12) feet for one-way use and twenty (20) feet for two-way use, and the maximum width shall be sixteen (16) feet for one-way use and twenty-four (24) feet for two-way use. The maximum width of such driveways at the property line shall be twenty-four (24) feet. The minimum curb radius shall be fifteen (15) feet. The Planning Board may approve a modification of these width and radius requirements to facilitate traffic flow and safety or to accommodate the unique needs of industrial facilities that require wider access drives. Each lot may have one access driveway through its frontage. One additional access driveway for one-way traffic may be provided for each two hundred (200) feet of frontage, and all such additional access driveways shall be at least two hundred (200) feet apart measured from the centerline of each access driveway.

2. Access drives shall occupy not more than twenty-five (25) percent of the frontage of a parcel that has one hundred (100) feet or more of frontage nor more than forty (40) percent of the frontage of a parcel that has less than 100 feet of frontage except by special permit from the Planning Board.

3. Access drives shall be located so as to provide for safe access and egress to the parcel being served. No portion of an access drive at the street line shall be closer than seventy-five (75) feet to an intersection, except in the Downtown Business District, where such distance shall be a minimum of thirty-five (35) feet.

4. Wherever feasible, access drives shall be designed to minimize curb cuts on existing public ways. Subject to approval by the Planning Board, shared access to two or more adjoining parcels may be provided through one or more of the following methods: (a) a cul-de-sac or loop road or common driveway shared by adjacent lots or premises, (b) joint and cross access between the lot and adjacent uses, (c) an existing side or rear street, (d) a cul-de-sac or loop road shared by adjacent lots or premises. Shared driveways serving residential lots are allowed and encouraged to reduce pavement and impervious surfaces.

5. Where a curb cut permit is required from the Massachusetts Department of Transportation (DOT) Highway Division, the location, width and number of access driveways and the construction thereof shall conform to DOT Highway Division standards. The applicant shall make every reasonable effort to comply with the above requirements and those of the DOT Highway Division.

C. Location, design and construction of off-street parking.

1. Except in an Industrial District or the Health Care Services District, off-street parking spaces shall be located behind or beside the principal structure on the lot. No parking shall be located closer to the front lot line than the front line of the principal building except by special permit from the Planning Board. In granting a special permit, the Planning Board may impose design, surface treatment, landscaping, lighting and other requirements to mitigate the visual impact of parking areas on views from the road, and may regulate the location of the remaining parking to achieve the purposes of this Section 9.1. In no event shall the Planning Board grant a special permit to locate more than fifteen (15) percent of the required off-street parking spaces in front of a principal building.

2. Except for parking within an enclosed structure, e.g., a parking garage, no parking space shall be located within eight feet of a building wall or ten feet of a lot line. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.

3. Each required off-street parking or loading space shall have adequate access to a street, either directly or via an access drive.

4. All required parking spaces shall be marked by painted lines, curbs or other means to indicate individual spaces. Signs or markers painted or provided and maintained in good condition shall be used as necessary to assure efficient traffic flow within the lot.

5. Required off-street parking spaces shall be located on the same lot as the building or use they serve except by special permit from the Planning Board, except as provided in subsection (6) below for the Health Care Services District.

6. In the Health Care Services District, required off-street parking facilities may be located on any lot within the District, provided that, in the event that of any division or subdivision occurs within the District resulting in the creation of new lots, each lot in the District shall either (i) accommodate the required parking facilities associated with uses on that lot, or (ii) have the benefit of perpetual easement rights to utilize such parking facilities on other lots within the District as may be required for uses on the benefited lot. However the total number of required off-street parking spaces will continue to be based upon calculation of applicable parking requirements for each use existing from time to time on this lot and on each of the lots so benefited. In the Health Care Services District, notwithstanding any other provision of this bylaw, off-street parking facilities may be located in the required front yard, provided that parking spaces are located no closer than thirty (30) feet from the property line adjacent to Groton Road.

D. Shared parking. The Planning Board may grant a special permit for shared parking facilities, i.e., off-street parking serving more than one use or more than one property, subject to the following requirements.

1. A reciprocal agreement shall be executed by all parties in order to ensure the long-term joint use of shared parking, and the agreement shall be acceptable to the special permit granting authority.

2. Uses sharing the parking facility shall be located not more than one thousand (1,000) feet from the closest parking space, unless approved by the Planning Board.

3. The Planning Board shall base its special permit decision on the following criteria:

   a. The hours of operation of the uses involved;

   b. The number of spaces required for each individual use under Section 9.1.2;

c. The degree to which vehicles occupying a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week; and

d. The degree to which the applicant's proposal promotes and accommodates other means of transportation to access the site, such as pedestrian or bicycle facilities.

4. In the event that any shared parking arrangement approved hereunder is discontinued or any associated conditions change, such as but not limited to any change in the use of such property(ies) to a greater category of parking demand, the applicant shall notify the special permit granting authority within fifteen (15) days. It shall be the applicant's responsibility to comply with all applicable provisions of this Section 9.1 within sixty (60) days of the date of notification to the special permit granting authority or the date on which such notification should have occurred, or to request an amendment to the special permit in order to provide for an alternative shared parking arrangement.

5. The Planning Board may require the applicant to provide a parking study with all information deemed necessary to render a decision.

9.1.6 Landscaping and Lighting Requirements

A. Buffer areas

1. Parking facilities with more than five (5) parking spaces shall be bordered on all sides, except for required access drives, with a landscaped buffer of sufficient density and height to provide effective screening for parked vehicles. The width of the landscaped buffer may vary based on site conditions, abutting uses, and the view from the road as long as the average width of the buffer on all sides of the lot is at least ten (10) feet, except that in the Health Care Services District, portions of the perimeter of the District located within fifty (50) feet of any parking area constructed after the effective date of this Bylaw shall be landscaped with medium height shrubs so as to achieve effective screening and buffering as determined by the Planning Board. Where adjacent parcels agree to share a common parking area under Section 9.1.5(D) above, the Planning Board may approve eliminating the minimum buffer on all common property lines.

2. Trees planted in the buffer area shall be at least six (6) feet in height and not less than two (2) inches in trunk diameter immediately after planting, and shall consist of non-invasive, drought-resistant species. Along the side or rear of a lot, a fence, wall or other non-living structure may be used in lieu of plantings if deemed by the Planning Board to be a more effective and suitable buffer than could be provided with living materials.

3. For vegetated swales located within a buffer area, the Planning Board may approve alternative buffer dimensions and buffer design standards than those specified above.

4. Wherever possible, existing natural vegetation and landforms shall be protected and incorporated into the buffer area.

5. The landscaped buffer surrounding a parking facility shall count toward the minimum open space requirement on the lot, subject to the requirements of Section 6.2.

B. Interior landscaping.

1. To separate parking areas from abutting streets, to provide areas for snow disposal, to break up expanses of vehicles and paved areas, and to provide beautification of parking facilities, at least ten (10) percent of the paved area of a parking facility with more than twenty-five (25) parking spaces shall be landscaped open space. Such open space shall consist of the part or parts of a lot designed to improve the visual environment, and shall not include lot area used for parking or access drives or any other impermeable areas.

2. At least one tree shall be provided for every ten (10) parking spaces as follows:

   a. Trees shall be at least two (2) inches in trunk diameter at the time of planting and shall be a non-invasive species characterized by moderate growth.

   b. Every effort should be made to avoid regularity in spacing between trees. Instead, trees shall be grouped wherever possible and located in continuous islands six (6) feet or more in width.

   c. The Planning Board may authorize shrubbery and other plantings instead of trees if it can be shown to the Planning Board's satisfaction that the planting of trees is impractical or that other vegetation will provide more aesthetic and environmental benefits.

   d. To preserve landscaped open space from damage by parking cars and snow removal operations, bumper overhang areas shall be provided with permeable ground cover that will not be damaged by bumpers or vehicle drippings, and all landscaped open space shall be provided with suitable curbing.

3. The Planning Board may approve modifications to the above requirements for any interior landscaped areas or islands that serve as vegetated swales or bioretention cells. The number, dimensions and landscaping specifications for bioretention cells shall be determined by the Planning Board during its review of a proposed drainage plan during site plan review.

C. Lighting. Adequate lighting shall be provided in lots of more than ten (10) spaces if off-street parking spaces are to be used at night. Minimum security lighting must be provided in all lots serving other than single-family and two-family dwellings. All lighting shall be effectively shielded and shall be installed and/or aimed so as to shield nearby public or private streets and neighboring properties from direct glare light radiation, or light pollution which may create a safety hazard or a nuisance.

9.1.7 Pedestrian Accommodation

A. The following requirements shall apply to all new construction or substantial reconstruction of nonresidential uses and mixed-use developments in the Downtown Business, Mixed-Use Transitional, General Business District, and Health Care Services District.

B. Interior Walkways

1. Parking facilities shall incorporate clearly defined pedestrian connections between parking spaces and building entrances. Such connections shall be integrated into the internal landscaping whenever possible.

2. Continuous internal pedestrian walkways shall be provided from the sidewalk, parking lot, public right-of-way or interior access road to the public entrance of all principal buildings on a site. Walkways shall connect focal points of pedestrian activity such as but not limited to building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of their length.

3. Crosswalks shall be clearly recognizable through the use of raised, textured or color treatments in order to aid pedestrians in crossing traffic within the lot.

4. Where there exists along an exterior side or rear wall an entrance or exit normally used by the general public (not limited to fire doors and loading areas), such entrance or exit shall be provided with a paved walk with a seven (7) inch high safety curb extending at least six feet along the building on either side of such entrance or exit.

C. Sidewalks

1. In any location not served with a public sidewalk, any new construction or substantial reconstruction required to provide more than twenty-five (25) off-street parking spaces under Section 9.1.2 or Section 9.1.4 shall provide a sidewalk at least five (5) feet in width along the frontage of the parcel, located between the principal structure facing the street and the right-of-way line of any existing, proposed, paper, public, or private street, or state highway.

2. A continuous landscaped strip not less than four (4) feet wide shall be located between the sidewalk and right-of-way line of the street in order to create a sense of enclosure for pedestrians. The Planning Board may approve a reduction in width of the landscaped strip in order to accommodate both a wide sidewalk and landscaping within the front yard setback.

3. Trees to be planted within the landscaped strip shall be a minimum of 2 1/2 inches in caliper six feet above grade, be a non-invasive species of canopy or shade tree, tolerant of future site conditions and reach an ultimate height of at least 30 feet. There shall be an average of at least one such tree per twenty-five (25) linear feet

of frontage, and shrubs or bushes at a minimum ratio of twelve (12) per tree. Where feasible and appropriate, canopy and ornamental trees, shrubs, planters and groundcover shall be arranged in groupings that reduce the optical width of the road. However, no landscaping treatments shall be permitted to obstruct clear sight distance.

4. Bituminous concrete or concrete paving is prohibited within the landscaped strip except for driveways and sidewalks.

9.1.8 Reserve Parking

The Planning Board may authorize a reduction in the number of off-street parking spaces required under Section 9.1.2, subject to the following conditions:

A. The decrease is not more than thirty (30) percent of the total number of spaces required under Section 9.1.2. The waived parking spaces shall not be used for building area and shall be labeled as "Reserve Parking" on the site plan.

B. The proposed decrease in the number of required spaces will not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood, and does not derogate the intent and purpose of this Bylaw.

C. The reserve parking spaces shall be properly designed as an integral part of the overall parking development

D. In no case shall any reserve parking spaces be located within areas counted as buffer, parking setback or open space.

E. If, after one (1) year from the date of issuance of a certificate of occupancy, the Building Inspector or Planning Board finds that all or any of the increased reserve spaces are needed, the Planning Board may require that all or any portion of the spaces identified as increased reserve spaces on the site plan be constructed within a reasonable time period, as specified by the Planning Board. A written notice shall be sent to the applicant at least seven (7) days before the matter is next discussed at a meeting of the Planning Board.

9.1.9 Bicycle Accommodation

In any zoning district, the following requirements shall apply to all uses except single-family or two-family dwellings unless waived or modified by the Planning Board.

A. Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy of any new building that results in the need for additional vehicular parking facilities, as follows:

1. Multi-family dwelling: minimum of one (1) bicycle parking space or locker for each two (2) dwelling units or portion thereof, for up to ten (10) units; and one (1) bicycle space per four (4) dwelling units thereafter.

2. All other uses: minimum of one (1) bicycle parking space for every ten (10) vehicular parking spaces required under subsection 9.1.2 or 9.1.4, for up to fifty (50) spaces; and one (1) bicycle parking space for every twenty (20) vehicle parking spaces thereafter.

3. In all cases where bicycle parking is required, a minimum of two (2) and a maximum of fifty (50) bicycle parking spaces shall be provided.

B. A maximum of two (2) required vehicle parking spaces may be used for bicycle parking spaces.

C. Minimum design standards.

1. Accessory off-street parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the user may lock a bicycle.

2. Structures that require a user-supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (not just the wheel).

3. All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location.

4. The surfacing of such facilities shall be designed and maintained to be mud and dust free. The use of rock or gravel areas for bicycle parking is permitted provided that edging materials, such as landscape timbers are used so that the bicycle parking area is clearly demarcated and the rock material is contained.

5. Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles. The separation may be accomplished through grade separation, distance or physical barrier, such as curbs, wheel stops, poles or other similar features.

6. Adequate maneuvering space shall be provided.

7. Bicycle parking facilities shall be located in a clearly designated safe and convenient location. Whenever possible, the bicycle parking shall be placed within fifty (50) feet of building entrances and in well-lit areas.

9.1.10 Modifications and Waivers

A. The Planning Board may approve modifications or waivers of the requirements of this Section 9.1 for compelling reasons of safety, aesthetics, site design or environmental impact.

B. Where this Section 9.1 requires a special permit for approval of a requested modification or waiver, the Planning Board's decision shall be consistent with the special permit granting criteria in Section 3.4.

C. Parking space requirements may be modified when one or more of the following conditions are met to the satisfaction of the Planning Board:

1. Peak parking needs generated by on-site uses occur at different times;

2. A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site;

3. A parking management plan approved by the Planning Board is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. The Planning Board may require periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan.

9.2 Open Space and Landscaping Standards

A. The following standards shall apply to open space and landscaped areas in all new construction and substantial reconstruction in the Business and Industrial Districts and in multi-family developments in any district.

1. Open space areas shall be kept free of encroachment by all buildings, structures, storage areas, parking and interior drives, except for a driveway to gain access from the street.

2. At least fifty (50) percent of the minimum required open space under Section 6.2 shall be located in the front or side yards of the lot, visible from the street, unless the Planning Board approves a different configuration in order to accommodate unique site constraints, such as but not limited to the location of existing buildings or wetlands, lot shape, or access. In granting a special permit under this Section 9.2, the Planning Board shall require appropriate mitigation, e.g., the provision of a pedestrian plaza or other pedestrian amenities in front of the principal building on the lot, or additional landscaping, including in off-site locations in the vicinity of the same lot.

3. Landscaped open space shall be designed to enhance the visual impact of the use upon the lot and adjacent properties. Where appropriate, existing vegetation should be retained and used to satisfy the landscaping requirements herein.

4. Open space areas may be used for stormwater management practices not inconsistent with the purposes of this Section 9.2, such as but not limited to bioretention cells, filter strips, wet swales or stormwater wetlands.

   a. Landscaped open space shall be maintained as open planted areas and used to ensure buffers between properties; minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights or signs; and minimize the impact of the use of the property on land and water resources. Landscaping shall be required between abutting uses, excluding multiple uses on one lot. The landscaping shall consist of grass, shrubs, or trees or a combination

thereof, as determined by the Planning Board, and shall comply with the following requirements:

b. Business uses shall be separated from an abutting residential district or abutting residential uses by a landscaped buffer of at least twenty-five (25) feet in width along the full length of the abutting lot line, except that in the Downtown Business District, the landscaped buffer shall be at least ten (10) feet in width. The Planning Board may approve a reduced landscaped buffer if the applicant demonstrates that an alternative landscaping plan will meet the intent of this Section 9.2.

c. Industrial uses shall be separated from an abutting residential district or abutting residential uses by a landscaped buffer of at least fifty (50) feet in width along the full length of the abutting lot line.

d. Multi-family uses shall be separated from an abutting single-family residential district (A-1 or A-2) by a landscaped buffer of at twenty-five (25) feet in width along the full length of the abutting lot line.

e. If there is not an adequate amount of buffer area to landscape, the Planning Board may approve a reduced buffer area or a fence as an alternative, except that a chain link fence is expressly prohibited.

B. In the Health Care Services District, the following open space and landscaping standards shall apply:

1. Structures for residential occupancy shall be set back from other structures by a minimum of fifty (50) feet, and at least fifty percent (50%) of the required setback shall be grassed, landscaped, or wooded land available for active and passive recreation.

2. For any facility constructed to a height of more than three stories after the effective date of this Bylaw, those portions of each yard at any perimeter of the District which does not front on a public way shall be screened from adjacent residential districts with landscaping that effectively reduces the visual impact of buildings, parking, and other uses within the District upon such adjacent residential districts. Such landscaping shall include plantings in the center of the yard not less than three (3) feet in width and six (6) feet in height. Individual shrubs shall be planted not more than five (5) feet on center (except where a tree is planted in between, in which case the shrubs may be no more than ten (10) feet on center), and shade trees having a minimum 2-inch caliper being planted.

3. At least fifty percent (50%) of the plants and trees in the screens required under subsections 1 and 2 above shall consist of evergreens. All such landscaping shall be maintained by the owner so as to maintain effective screening on a year-round basis. Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of completion of the parking or building due to weather conditions, subject to approval from the Planning Board.

C. Landscaping, fencing or other screening shall be maintained in a manner that achieves the purposes of this Section 9.2. In any area designated as open space or landscaping on an approved site plan, the owner of the property shall replace any tree or shrub that dies within one (1) growing season. Replacement trees or shrubs shall be of similar type and size to species approved as part of the original site plan submission. Where fencing is used for screening, the fence shall be maintained in good working order or replaced as necessary.

D. Exposed storage areas, machinery, garbage dumpsters, service areas, truck loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods approved by the Planning Board.

9.3 Commercial Development Standards

Applications for site plan review in the Business Districts and Health Care Services District shall demonstrate compliance with the following standards.

A. Appearance/Architectural Design Standards

1. The front façade of a new building and the building's principal entry shall be oriented toward the street. For a development with more than one building on a single lot or a development with multiple lots, buildings located to the rear of a site shall face the access road that serves them. Where appropriate, however, a building may be oriented around a courtyard or respond in design to a prominent feature, such as a corner location, subject to approval by the Planning Board.

2. Architectural design shall be compatible with the character and scale of buildings in the town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with Ayer's character. For example, exterior materials such as wood clapboards or stone or brick, and treatment compatible on all four sides, are considered consistent with Ayer's character. The Planning Board may consider whether the roofline is peaked or is otherwise consistent with the town's character.

3. The Planning Board may adopt such regulations as may be necessary to further specify these design standards.

B. Signs.

1. Signage shall relate in size, scale, color and overall design to the general character of its location and to the specific context in which it is to be placed.

2. Wherever possible, signs shall be integrated with the building's architecture and aligned to pedestrians on sidewalks, such as blade signs, single signs hung below canopies, or small signs on canopies or awnings.

3. For any building occupied or to be occupied by two or more businesses, the applicant shall submit a master signage plan as part of the application for site plan review.

C. Lighting Standards

1. All applications for site plan review shall include a proposed lighting plan that meets functional security needs of the proposed land use without adversely affecting adjacent properties or the neighborhood. The plan shall show existing and proposed exterior lighting, the location, mounting height and orientation of luminaires, and sufficient technical information from the manufacturer of the lamps and fixtures to determine their type and resulting illumination levels. A photometric plan shall show light levels throughout the property. Light spillover onto adjacent premises shall not exceed 0.5 footcandles in residential districts or 1.0 footcandles in nonresidential districts.

2. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.

3. No light standard shall be taller than fifteen (15) feet except by special permit from the Planning Board.

4. Where wall-pack type luminaries are utilized for outdoor lighting, the fixture shall be equipped with a prismatic lens to reduce glare. Wall-pack lighting shall be designed to a maximum cutoff of seventy (70) degrees from vertical. The location of the wall-pack on the structure shall not exceed twenty (20) feet in height.

D. Traffic Impact Statement. As part of site plan review for developments in the General Business District, the Planning Board may require a traffic impact statement containing the following information:

1. Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred feet of the site.

2. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.

3. Adequate pedestrian and bicycle access shall be provided as follows: Sidewalk shall be provided to provide access to adjacent properties and between individual businesses within a development.

4. An additional traffic impact statement shall be prepared by projects over ten thousand (10,000) sq. ft., which shall contain:

a. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.

b. An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

9.4 Environmental Performance Standards

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or electro-magnetic, or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in any amount as to affect adversely the surrounding environment. The following standards shall apply:

A. Emissions

1. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

2. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, shall be permitted.

3. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a backup safeguard system in the event that the primary systems fail.

B. Erosion Control. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following “best management” practices:

1. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regrading shall be permanently stabilized within six months of occupancy of a structure.

2. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff shall be trapped by using staked hay bales or sedimentation traps.

3. Permanent erosion control and vegetative measures shall be in accordance with erosion/sedimentation vegetative practices recommended by the Soil Conservation Service.

4. All slopes exceeding fifteen (15) percent resulting from the site grading shall be either covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or be stabilized by a retaining wall.

5. Effective dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business or public way. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

C. Discharge. No discharge, at any point, into a private sewer system stream or the ground of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

D. Glare. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond its lot lines onto neighboring properties, or onto any street.

E. Hazardous Activities

1. No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

2. All activities that involve hazardous materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment in accordance with state regulations.

F. Hazardous Materials Storage

1. All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain a volume of liquid kept within the storage area, at least equal to one hundred ten (110) percent of the capacity of the container(s), so that such liquid shall not be able to spill onto or seep into the ground surrounding or under the paved storage area. Storage tanks for “home heating oil” and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement.

2. All storage of hazardous materials, at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

G. Noise. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to the intermittence, beat frequency, shrillness or volume.

H. Stormwater Management. All development shall comply with the Town of Ayer Stormwater Management Bylaw.

I. Vibration. No offensive vibration shall be permitted at any time.

9.5 Signs

9.5.1 Sign Permits

A. No sign shall be erected on the exterior of any building or on any land unless and until the Building Inspector has issued a sign permit. Application for a sign permit shall be on the form prescribed by the Building Inspector and shall include such information and drawings as the Building Inspector requires.

B. All signs erected hereunder shall be erected in the exact location and manner described in the permit.

C. The re-lettering of a sign shall be equivalent to the erecting of a sign, except when the original wording is reproduced.

D. A sign permit shall become null and void if the work for which the permit was issued has not been completed within six months.

9.5.2 Basic Requirements

A. The only signs allowed in the Town of Ayer are signs that advertise, call attention to, or indicate the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or that advertise the property itself or any part thereof as for sale or rent and which contain no other matter.

B. No sign may be illuminated between 12:00 midnight and 6:00 a.m. except for businesses open during those hours, and signs identifying police or fire stations or essential public services, or as otherwise may be approved by special permit from the Planning Board.

C. Construction, erection, and location of all freestanding signs shall be subject to the approval of the Building Inspector. No freestanding signs shall be erected if they create a safety hazard to vehicular or pedestrian traffic, in the opinion of the Building Inspector.

9.5.3 Prohibited Signs

The following signs are expressly prohibited:

A. Billboards and similar signs.

B. Flashing, moving, scrolling and animated signs.

C. Colored (not white or clear) string lights used on commercial premises in connection with commercial purposes.

D. Any sign which:

1. Has any flashing lights visible from the outside;

2. Flashes, rotates, or has motorized moving parts that are visible from a public way;

3. By reason of its size, location, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety in the opinion of the Building Inspector by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads;

4. Obstructs free ingress to or egress from a required door, window, fire escape or other required exit way or which obstructs a window, door or other opening for providing light or air or interferes with property function of the building; all projecting and hanging signs must be installed at a minimum height of 6 feet 6 inches from the ground or sidewalk level;

5. Is structurally unsafe;

6. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment;

7. Is not kept in good repair or is capable of causing electrical shocks to persons likely to come in contact with it;

8. Makes use of words such as STOP, LOOK, or DANGER, or any phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic;

9. Uses spinners, and streamers except as specified under Temporary Signs;

10. Is affixed to a fence, utility pole or structure, or tree, shrub, rock, or other natural object.

E. Any sign that no longer advertises a bona fide business conducted or product sold on the premises.

9.5.4 Permitted Signs

The types of signs permitted in each district shall be as follows:

	Residence A-1, A-2, and General Residence	Downtown Business, Mixed-Use Transitional	General Business, Light Industrial, and Industrial, Health Care Services
PERMANENT SIGNS:			
Canopy	Y	Y	Y
Free standing	Y	Y	Y
Marquee	N	Y	Y
Horizontal Blade	N	Y	N
Projecting	Y	Y	Y
Roof	N	N	N
Wall	Y	Y	Y
TEMPORARY SIGNS:			
Banner	Y	Y	Y
Freestanding	Y	Y	Y
Movable	N	Y	N
Wall	N	Y	Y
Y = Permitted N = Prohibited			

9.5.5 Size of Signs

The maximum dimensions of permitted signs and the maximum number of permitted signs per lot shall be as shown in Appendix C, except that in a Business or an Industrial District, the following additional requirements shall apply

A. The Maximum Sign Area shown in Appendix C shall apply to the combined area of all signs on a lot. For example, in a building with two commercial tenants in the Downtown Business District, the maximum number of signs permitted shall be two, and the sign area of both signs combined shall not exceed one (1) sq. ft. per lineal foot of primary building frontage.

B. For buildings under 50,000 sq. ft. of gross floor area, no wall sign shall exceed ten (10) percent of the building elevation to which it is affixed; for buildings of 50,000 sq. ft. or more, the maximum shall be five (5) percent of wall elevation area. Illuminated portions of the façade, canopy, mansard, or wall elevation shall be included in the calculation of sign area.

C. No wall sign shall exceed twenty percent (20%) of the length of the building elevation to which it is affixed.

9.5.6 Permit Not Required

The following types of signs do not require a permit from the Building Inspector:

A. Residential signs not exceeding one (1) sq. ft. in area and bearing only property numbers, post box numbers, or names of occupants of premises.

B. Other signs not exceeding one (1) sq. ft. in area.

C. Flags and insignia of any government, except when displayed in connection with commercial promotion.

D. Legal notices, identification information or direction signs erected by governmental bodies.

E. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

F. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

9.5.7 Construction and Maintenance of Signs

A. All signs shall be constructed of durable and weatherproof material. They shall be maintained in safe structural condition and good visual appearance at all times, and no sign shall be left in a dangerous or defective state. The Building Inspector shall have the authority to inspect any sign and order the owner to paint, repair or remove a sign which constitutes a hazard or a nuisance due to improper or illegal installation, dilapidation, obsolescence or inadequate maintenance.

B. No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All signs must be painted, posted or otherwise securely affixed to a substantial intermediate removable surface, and such surface shall be securely affixed to the wall of the building. However, the foregoing shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth (1/4) of an inch. The material of the sign and intermediate surface, and the manner of affixing the sign to the intermediate surface and of the intermediate surface to the wall of the building, shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public. Notwithstanding the foregoing, signs may be painted or posted on the interior surface of any wall, including windows and doors.

9.6 Land Clearing and Grading

9.6.1 Purposes

The purposes of this section are to:

A. Protect the health, safety and property of residents of the Town of Ayer by regulating clearing and grading activities associated with land development, preserving existing trees and vegetation, preventing erosion and sedimentation of wetlands, ponds and other water bodies, controlling storm water runoff, minimizing fragmentation of wildlife habitat and loss of vegetation;

B. Limit land clearing and alteration of natural topography prior to development review;

C. Protect specimen trees and significant forest communities from damage or removal during site development;

D. Protect water quality of adjacent wetlands and surface water bodies;

E. Encourage the use of Best Management Practices that prevent and reduce nonpoint source of pollutants;

F. Encourage land development and site planning practices that preserve the Town's scenic features without preventing the reasonable development of land;

G. Protect archaeological and/or historic resources.

9.6.2 Applicability

A. Except as provided in subsection (B) below, this Section 9.6 shall apply to any clearing or grading of more than 10,000 sq. ft. of land, or in increments such that the total land area of abutting property within the control of any person graded in a twelve (12) month period will exceed 10,000 sq. ft. No person shall commence any grading or clearing as defined herein without first obtaining site plan approval by the Planning Board under Section 3.5.

B. Exemptions. The Section 9.6 shall not apply to the following activities:

1. Agricultural uses exempt under G.L. c. 40A, § 3;

2. Clearing and grading in conjunction with construction of residential buildings or accessory structures if the land area to be cleared or graded is less than 10,000 sq. ft.;

3. Removal of hazardous trees, as defined in this Bylaw;

4. Routine maintenance of vegetation and removal of dead or diseased limbs and/or trees necessary to maintain the health of cultivated plants, to contain noxious weeds and/or vines, or to remedy a potential fire or health hazard or threat to public safety, when carried out by the Town of Ayer or by any agency of the Commonwealth or the federal government;

5. Maintenance of public and private streets and utilities within Town-approved roadway layouts and recorded easements;

6. Construction or installation of public utilities;

7. Activities conducted under an earth removal permit under Section 9.7 or an Order of Conditions issued by the Ayer Conservation Commission.

C. Submission requirements. When land clearing and grading requires site plan review, the submission requirements shall be in accordance with the rules and regulations of the Planning Board Site plan submissions shall include sufficient information for the Planning Board to determine that the proposed land clearing and grading complies, or will comply, with the provisions of this Section 9.6.

D. Review standards. The applicant shall demonstrate compliance with the following standards in the clearing or grading of the site:

1. Minimize site alteration and land clearing: site and/or building design shall preserve natural topography outside the development footprint to reduce unnecessary land disturbance and to preserve natural drainage channels on the site. Roots shall be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utility installation shall be utilized wherever feasible to protect root systems of trees.

2. Protect wildlife habitat: Activities covered by this section shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site. This standard shall apply only to a site that the Natural Heritage and Endangered Species Program (NHESP) (a) has determined to include Priority Habitat, as documented in the Natural Heritage Atlas, or (b) has delineated as Significant Habitat, prior to the date of submission to the Planning Board.

3. Protect understory vegetation: Understory vegetation beneath the dripline of preserved trees shall also be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.

4. Employ proper site management techniques during construction:

   a. BMPs shall be employed to avoid detrimental impacts to existing vegetation, soil compaction, and damage to root systems, and

b. The extent of a site exposed at any one time shall be limited through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.

5. Protect the site during construction through adequate erosion and sedimentation controls:

   a. Temporary or permanent diversions, berms, grassed waterways, special culverts, shoulder dikes or such other mechanical measures as are necessary may be required by the Planning Board to intercept and divert surface water runoff. Runoff flow shall not be routed through areas of protected vegetation or revegetated slopes and other areas. Temporary runoff from erosion and sedimentation controls shall be directed to BMPs such as vegetated swales. Retaining walls may be required where side slopes are steeper than a ratio of 2:1.

   b. Erosion and sedimentation controls shall be constructed in accordance with the most current edition of the Department of Environmental Protection's Erosion and Sediment Control Guidelines for Urban and Suburban Areas.

   c. Erosion control measures shall include the use of erosion control matting, mulches and/or temporary or permanent cover crops. Mulch areas damaged from heavy rainfalls, severe storms and construction activity shall be repaired immediately.

   d. Erosion control matting or mulch shall be anchored where plantings are on areas subject to mulch removal by wind or water flows or where side slopes are steeper than 2:1 or exceed 10 feet in height. During the months of October through March when seeding and sodding may be impractical, anchored mulch may be applied with the approval of the Planning Board or applicable special permit granting authority.

   e. Runoff from impervious surfaces shall be recharged on the site by stormwater infiltration basins, vegetated swales, constructed wetlands or similar systems covered with natural vegetation. Runoff shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are not feasible. All such basins and wells shall be preceded by oil, grease, and sediment traps. The inlets of all catch basins shall be fitted with filter fabric during the entire construction process to minimize siltation or such basins shall be designed as temporary siltation basins with provisions made for final cleaning.

   f. The applicant shall be required to conduct weekly inspections of all erosion and sedimentation control measures on the site to ensure that they are properly functioning as well as to conduct inspections after severe storm events.

6. Revegetate the site immediately after grading:

a. Proper revegetation techniques shall be employed using native (non-invasive) plant species, proper seedbed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within seven (7) calendar days of final grading.

b. A minimum of four inches of topsoil shall be placed on all disturbed surfaces that are proposed to be planted unless the Town Engineer recommends a different standard in written comments to the Planning Board or applicable special permit granting authority.

c. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. If a grade change of six inches or more at the base of the tree is proposed, a retaining wall or tree well may be required.

E. Monitoring and inspections.

1. Prior to commencement of construction, the applicant, land owner, contractor and construction crew, Director of Public Works, Town Engineer, Building Inspector and site engineer shall conduct a meeting to review the proposed construction phasing and number and timing of site inspections.

2. Initial site inspection of erosion and sedimentation controls and placement of tree protection measures shall occur after installation of barriers around preserved areas and construction of all structural erosion and sedimentation controls, but before any clearing or grading has begun.

3. Routine inspections of preserved areas and erosion and sedimentation controls shall be made at varying intervals depending on the extent of site alteration and frequency and intensity of rainfall.

4. Effective stabilization of revegetated areas must be approved by the Town Engineer before erosion and sedimentation controls are removed. The Town Engineer shall complete an inspection prior to removal of temporary erosion and sedimentation controls.

F. As-Built Plan. Upon completion of the work, the applicant shall submit an as-built plan to the Building Inspector. The as-built plan shall include, at a minimum and as applicable to the project, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. The drainage system shall also be certified by a Professional Engineer stating the drainage system was built substantially in accordance with the design and will perform as designed. Upon approval by the Building Inspector, one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town of Ayer's GIS system.

9.7 Earth Removal

9.7.1 Non-Commercial Removal of Sod, Loam, Sand, Gravel, and Stone

Removal of sod, loam, sand, gravel or other earth products in connection with construction of buildings, driveways, parking areas or paved surface installations on the premises for which a permit has been issued and is in full force and effect, is permitted anywhere in the Town of Ayer, provided that all sod, loam, and top-soil removed in conjunction with the foregoing shall be stock-piled on the premises until completion of the project and that no less than six (6) inches of top-soil remain over the disturbed area. The transfer of sod, loam, top-soil, sand, gravel, clay or stone from one part of a lot to another in the same ownership is permitted.

9.7.2 Commercial Earth Removal

A. The removal for commercial purposes of sod, loam, sand, gravel, clay, stone, or other earth products from the site and from any location within the Town of Ayer to any other location in the town is allowable by special permit provided that:

1. The removal would not be contrary to the intent and purpose of this Bylaw;

2. The applicant submits a plan, when required by the Board of Appeals, showing the existing grades in the area from which the above material is to be removed, together with finished grades at the conclusion of the operation;

3. The plan provides for proper drainage, and no bank exceeds a slope of one (1) foot of vertical rise to one and one-half (1 1/2) feet of horizontal scale except in ledge rock; and

4. The plan shows the extent of the removal proposed and no removal shall take place within twenty (20) feet of a property line except where such permitted removal will result in unsightly or unusable land in which case appropriate grading shall be provided.

B. Applicants intending to remove more than ten (10) cubic yards in one year must obtain approval of the Board of Selectmen under Article XVIII of the Town of Ayer General Bylaws.

C. At the conclusion of the operation or any substantial portion thereof, the whole area where removal takes place shall be brought up to the grade shown on the plan and seeded. The plan shall show the re-planting required by the Board of Appeals as a condition to the permit.

D. The Board of Appeals shall require the applicant to post a bond with the Town Treasurer in an amount approved by the Board of Appeals, when granting a permit under this Section 9.7 to guarantee conformity with the provisions of the permit issued hereunder.

E. Permits are not needed for removal from a gravel pit which has been in operation within one (1) year prior to the adoption of this Bylaw.

SECTION 10.0 SPECIAL REGULATIONS

10.1 Open Space Residential Development

10.1.1 Purpose

The primary purpose of this Section 10.1 is to preserve the open space resources of the Town of Ayer. This is necessary for the protection of the Town's water resources and other unique environmental assets. This Section 10.1 is also intended to foster compact development patterns using flexible regulations for density and lot dimensions and to promote and encourage creativity in neighborhood design.

The Town encourages the use of Open Space Residential Development (OSRD) because it results in the preservation of contiguous open space and important environmental resources, while allowing design flexibility. OSRD reduces development impacts on farmland, forests, wildlife habitats, large tracts of contiguous open space, environmentally sensitive areas, steep slopes, hilltops, and historically significant areas.

To encourage this type of development, OSRD is allowed by right, subject only to this Section and the requirements of the Planning Board's Regulations Governing the Subdivision of Land. An OSRD that does not require approval as a subdivision is allowed by right subject to Site Plan approval by the Planning Board. In order to encourage small subdivisions to follow OSRD principles, there is no minimum parcel size or number of lots required for an OSRD.

10.1.2 Applicability

A. An OSRD may be proposed in any Residential district. All subdivisions shall comply with the OSRD provisions of this Section unless the Planning Board allows a development that deviates from the requirements of said Section by Special Permit. Such deviations may be approved if the applicant demonstrates that the proposed alternative development configuration provides adequate protection of the site's environmental resources and fulfills the purposes of this Section 9.3 as well as or better than an OSRD.

B. Subsection A above applies only to subdivisions of land as defined in G.L. c. 41, § 81L, and not to construction of homes or businesses on individual lots that existed prior to September 5, 2017 or to lots created through the "Approval Not Required" process with frontage on public ways existing as such as of September 5, 2017 described in the Regulations for the Subdivision of Land (the "Subdivision Regulations"). However, if subdivision approval is not required because a new roadway is not proposed, an applicant may nevertheless apply for OSRD approval under this Section. In such case, the application shall be subject to Site Plan review as described in Section 3.5. If the proposed OSRD also involves one or more common driveways, density bonuses, transfer of development rights, or any other use that requires a Special Permit, the proceedings for all such Special Permits and the Site Plan review for the lot configuration shall occur in one consolidated Special Permit proceeding before the Planning Board.

10.1.3 Development Impact Statement and Conservation Analysis

A. In order to enable the Planning Board to determine whether or not a proposed OSRD (or development by Special Permit that deviates from the requirements for OSRD) satisfies the purposes and standards of this Section 10.1, an applicant must present sufficient information on the environmental and open space resources for the Board to make such determination. The required information shall be provided in the form of a Development Impact Statement as described in the Subdivision Regulations, including a conservation analysis. In the case of an OSRD that is not a subdivision, and that is presented as a Site Plan review application, the applicant shall not be required to submit a full Development Impact Statement. However, the Planning Board may require the submission of all or part of a conservation analysis as described in the Board's rules and regulations.

B. Conservation Analysis and Findings

1. Prior to filing an application, the applicant is encouraged to meet with the Planning Board to discuss the conservation resources on the site. At such meeting, the Planning Board shall indicate to the applicant which land is likely to have the most conservation value and be most important to preserve and where development may be most appropriately located.

2. In the case of a proposed plan that deviates from the requirements of this Section 10.1, if the Planning Board determines that the land with the greatest conservation value cannot be protected except by the use of an OSRD plan, the Planning Board shall deny the Special Permit for the deviation and require that the applicant submit a plan that complies with the requirements for an OSRD.

3. The Planning Board, in consultation with the Conservation Commission, shall study the conservation analysis, may conduct field visits, and shall formally determine which land should be preserved and where development may be located. The Planning Board shall make written findings supporting this determination (the "conservation findings"). The Planning Board shall deny any application that does not include sufficient information to make conservation findings or that does not preserve land that the Planning Board determines should be preserved from development as a result of the conservation analysis and findings.

4. The Planning Board's conservation findings shall be incorporated into its decision to approve, approve with conditions, or deny an application. The conservation findings shall show land to be permanently preserved by a conservation restriction, as well as recommended conservation uses, ownership, and management guidelines for such land. The conservation findings shall also indicate preferred locations for development if the Plan is denied based upon such findings.

C. Minimum Preserved Open Space. The Plan shall show that at least 50 percent of the tract will be preserved by a conservation restriction for a tract of land served by public sewer or 40 percent if the tract of land is not served by sewer.

10.1.4 Maximum Number of Dwelling Units

The maximum number of residential units in an OSRD is calculated by a formula based upon the net acreage of the property. This formula is intended to take into account site-specific development limitations that make some land less developable than other land. This calculation involves two steps, calculating the net acreage and dividing by the base allowed density.

A. Net Acreage Calculation. The factors named below are included in this subsection for net acreage calculation purposes only and do not convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this zoning bylaw. To determine net acreage, subtract the following from the total (gross) acreage of the site:

1. Half of the acreage of land with slopes of 20 percent or greater (2000 square feet or more of contiguous sloped area at least 10 feet in width); and

2. The total acreage of lakes, ponds, land subject to easements or restrictions prohibiting development, FEMA 100-year floodplains, and all freshwater wetlands as defined in G.L. c. 131, § 40, as delineated by an accredited wetlands specialist and approved by the Ayer Conservation Commission.

3. At the Planning Board's discretion, any of the information described above may be taken from current geographic information systems data available from the Massachusetts Department of Environmental Protection, Mass GIS, and other credible sources including delineations registered by the use of global positioning systems.

B. Unit Count Calculation. To determine the base maximum number of allowable residential dwelling units on the site, divide the net acreage by the minimum lot area for the applicable zoning district. Fractional units of less than 0.5 shall be rounded down and 0.5 or more shall be rounded up.

10.1.5 Density Bonus.

A. The unit count determined in Section 10.1.4 may be increased through density bonuses in order to advance important goals of the Ayer Master Plan, Ayer Open Space and Recreation Plan, or other planning document approved by the Planning Board and on file in the Planning Department. Density bonuses are given by Special Permit at the discretion of the Planning Board based upon the expected public benefit. They are calculated by first determining the allowable unit count under Section 10.1.4 without rounding fractional units up or down, and then multiplying that number by 100 percent plus the percentages that follow. Resulting fractional units, if any, shall be rounded up or down as in Section 10.1.4.

1. If the applicant allows deeded public access to the open space portion of the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as access to an important natural area or a trail system): a maximum of 10 percent.

2. If the applicant permanently restricts ownership and occupancy of units allowed by Section 10.1.4 as affordable housing (as defined in this bylaw), and makes a binding commitment to construct such affordable residences: a maximum of 25 percent. For every unit included in the allowable unit count under Section 10.1.4 that is built and dedicated as an affordable unit, two bonus market rate units may be permitted, up to the maximum of 25 percent of the allowable unit count.

3. If the applicant preserves as permanent open space more than the minimum required percentage: a maximum 10 percent density bonus per additional 5 percent of the parcel preserved as open space.

4. If the applicant has designed the development to protect solar access and agrees to provide solar-ready construction for the proposed dwellings: a maximum of 25 percent. For purposes of this section, "protect solar access" shall mean that streets and lots in the OSRD shall be oriented to maximize the solar resource available to each lot or to as many lots as possible as determined by the Planning Board. "Solar-ready construction" shall mean construction of homes in such a way that installing and connecting a solar energy system (whether photovoltaic or solar thermal) does not require additional wiring, plumbing, or building modification.

10.1.6 Permitted Housing Types

The allowable residential units may be developed as single-family, two-family, or multi-family dwellings, provided that applicable Special Permit or Site Plan review requirements for the land use district are satisfied and that the number of dwelling units does not exceed the allowable unit count in Section 10.1.4 above. The subdivision approval and Special Permit/Site Plan requirements shall be fulfilled concurrently in one proceeding to the extent practical. Any OSRD application involving two-family or multi-family dwellings shall include a Site Plan that shows the location, layout, height, and setbacks of such dwellings.

10.1.7 Dimensional and Design Requirements

A. Minimum Lot Sizes in OSRDs. The limiting factor on lot size in OSRDs is the need for adequate water supply and sewage disposal. Therefore, there is no required minimum lot size for zoning purposes. This does not affect the powers of the Board of Health to require areas on a lot for the disposal of sewage and the protection of water supply.

B. Setbacks, Road Frontage, and Road Requirements. The minimum setback shall be 10 feet from any property line. There shall be no numerical requirements for road frontage in an OSRD, provided that each lot has legally and practically adequate vehicular access to a street across its own frontage or via a shared driveway approved by the Planning Board. All dwellings must comply with applicable Board of Health requirements. The Planning Board may modify the applicable road construction requirements for new roads within an OSRD as provided in the Regulations Governing the Subdivision of Land, if it finds that such modifications will be consistent with the purposes of this Section 10.1.

C. Arrangement of Lots

1. Lots shall be located and arranged in a manner that protects: views from roads and other publicly accessible points; farmland; wildlife habitat; large intact forest areas; hilltops; ponds; steep slopes; and other sensitive environmental resources, while facilitating pedestrian circulation. Generally, residential lots shall be located the minimum feasible distance from existing public roadways. The Planning Board shall take into consideration the conservation analysis and findings in approving the arrangement of lots.

2. Lot, roadway, and driveway layouts, land alterations, and placement of structures shall follow any design guidelines for OSRD which may be adopted by the Planning Board.

10.1.8 Permanent Open Space

A. Open space set aside in an OSRD or as a condition of any Special Permit or Site Plan approval shall be permanently preserved from development as required by this Section 10.1. The Planning Board may not require such open space land to be accessible to the public, unless a density bonus is allowed under Section 10.1.5. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land, based upon the conservation findings of the Planning Board.

B. Permanent Preservation of Open Space Land. All land required to be set aside as open space in connection with any OSRD shall be so noted on any approved plans and shall be protected by a permanent conservation restriction to be held by the Town of Ayer, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under G.L. c, 184, § 31. All references to conservation restrictions in these Bylaws shall mean a conservation restriction meeting the requirements of G.L. c.184, § 31. The restriction shall specify the permitted uses of the restricted land which may otherwise constitute development. The restriction may permit, but the Planning Board may not require, public access or access by residents of the development to the protected open space land.

C. Ownership of Open Space Land

1. Protected open space land may be held in private ownership, owned in common by a homeowner's association (HOA), dedicated to the Town or State governments with their consent, transferred to a non-profit organization acceptable to the Planning Board, or held in such other form of ownership as the Planning Board finds appropriate to manage the open space land and protect its conservation value.

2. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:

a. The HOA must be created before final approval of the development, and must comply with all applicable provisions of state law.

b. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.

c. The HOA must be responsible for liability insurance, property taxes, the maintenance of recreational and other facilities, private roads, and any shared driveways.

d. Property owners must pay their pro rata share of the costs in Subsection c above, and the assessment levied by the HOA must be able to become a lien on the property.

e. The HOA must be able to adjust the assessment to meet changed needs.

f. The applicant may make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Board of Selectmen, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

g. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.

h. The HOA documents shall be reviewed by Town Counsel, at the applicant's expense, to assure that they satisfy the conditions in Subsections a through g above, and such other conditions as the Planning Board shall deem necessary.

D. Maintenance Standards

1. Ongoing maintenance standards shall be established as a condition of development approval to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials. Such standards shall be enforceable by the Town against any owner of open space land, including an HOA.

2. If the Board of Selectmen finds that the provisions of Subsection 1 above are being violated to the extent that the condition of the land constitutes a public nuisance, it may, upon 30 days written notice to the owner, seek a court order allowing the Town to enter the premises for necessary maintenance, and to assess the cost of such maintenance by the Town ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and if such costs are not paid, to impose a property tax lien on such property or properties.

10.2 Multi-Family Development Standards

Special permit applications to construct multi-family housing in a development other than an OSRD under Section 10.1 shall incorporate the following standards.

A. Siting and Layout Requirements

1. Multi-family dwellings shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall to the extent feasible: (1) minimize use of wetlands, steep slopes, floodplains, hilltops; (2) minimize obstruction of scenic views from publicly accessible locations; (3) preserve unique natural or historical features; (4) minimize tree, vegetation and soil removal and grade changes; and (5) maximize open space retention and (6) screen objectionable features from neighboring properties and roadways.

2. More than one structure may be placed on a lot, but no residential structures shall be placed closer to each other than ten (10) feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.

B. Design Standards. Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings.

C. Vehicular and Pedestrian Access Requirements

1. The site plan shall maximize the safety and convenience of pedestrian and vehicular movement within the site and in relation to adjacent way.

2. Multi-family structures shall have access on roads having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic generated by the site.

3. Connecting walkways with tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Planning Board's Subdivision Rules and Regulations.

D. Open Space and Buffer Requirements

1. All land not devoted to dwellings, accessory uses, roads or other development shall be permanently preserved as open space. A minimum of fifty (50) percent of the land preserved as open space shall be grassed, landscaped or wooded land available for active and passive recreation. In the Health Care Services District, dwelling structures shall be set back from other structures, whether residential or

not, a minimum of fifty (50) feet, and at least fifty (50) percent of such required setback shall be grassed, landscaped or wooded land available for active and passive recreation.

2. Multifamily dwellings shall be separated from adjacent properties by buffer strips consisting of trees and/or fencing sufficient to minimize the visual and noise impacts of the development. Such a buffer strip shall be at least ten (10) feet in width and it shall contain a screen of plantings. The screen shall not be less than five (5) feet in width and six (6) feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least fifty (50) percent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six (6) feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Planning Board. The strip may be part of the yard.

E. Parking, Loading and Lighting Requirements

1. To the extent feasible, parking areas shall not be located within a required front yard and shall be screened from public ways and adjacent or abutting properties by building location, fencing or planting. No individual parking area shall contain more than fourteen (14) spaces. Parking spaces shall be located not less than eight (8) feet from the front property line and ten (10) feet from the back or side property lines. No parking shall be allowed on interior streets.

2. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.

3. No building shall be floodlit. Drives, parking areas, walkways and entrance ways shall be illuminated only by shielded lights not higher than fifteen (15) feet.

F. Utility Requirements

1. Water supply and waste disposal systems shall not place excessive demands on municipal infrastructure.

2. Electric, telephone, cable TV and other such utilities shall be underground.

G. Affordable Housing. A multi-family development with five (5) or more units shall comply with Section 10.3.

10.3 Affordable Housing

10.3.1 Purposes

The purposes of this section are to create housing that is affordable to low- or moderate-income households; ensure a diverse and balanced community, with housing available for households of all income levels as a matter of basic fairness; and provide reasonable cost offsets to developers who provide new affordable units.

10.3.2 Applicability

A. This Section 10.3 applies in all districts to any development requiring a special permit for five (5) or more townhouse or multi-family dwelling units. Developments shall not be segmented to avoid compliance with this Section 10.3. “Segmentation” shall mean divisions of land that would cumulatively result in an increase by five (5) or more dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four (24) months prior to the date of application. Where such segmentation occurs, it shall be subject to this Section 10.3.

B. This Section 10.3 shall not apply to the rehabilitation or reconstruction of any building or structure that has been substantially destroyed or damaged by fire or other casualty, provided that any such rehabilitation or reconstruction that results in the addition of five (5) or more dwelling units above the number that previously existed on the lot shall be subject to this section.

10.3.3 Basic requirements

A. Minimum affordable housing requirement. In any development subject to this Section 10.3, at least one of every five (5) units shall be affordable housing.

B. Affordability standards. Each affordable unit created under this Section 10.3 shall be sold or rented to and occupied by a household with income at or below eight (80) percent of area median income, as determined by the U.S. Department of Housing and Urban Development (HUD).

C. Methods of providing affordable housing. Any development subject to this Section 10.3 shall provide affordable housing through one or more of the following methods, or any combination thereof:

1. On-site units: affordable housing constructed on the same site as the proposed development. This is the preferred method of complying with the inclusionary housing requirement.

2. Off-site units: affordable housing provided on a different site in the Town of Ayer.

3. Payment of a fee in lieu of units: in lieu of providing on-site or off-site units, the applicant may make a cash contribution to the Ayer Housing Authority or another public, quasi-public, or non-profit housing development organization approved by

the Planning Board. The fee per affordable housing unit shall be 2.5 times the HUD income limit for a qualified household of four persons.

D. Location and comparability of affordable units.

1. On-site units shall be dispersed throughout the buildings and the floors of each building such that no single building or floor therein has a disproportionate percentage of affordable units.

2. Affordable units, whether on-site or off-site, shall be comparable to market-rate units in exterior building materials and finishes, overall construction quality, energy efficiency, and amenities.

E. Development Schedule. On-site and off-site affordable units shall be constructed in proportion to the number of market-rate units in the development. For every five (5) units for which a building permit has been issued, the applicant shall apply for and obtain a building permit for at least one (1) affordable unit, and the affordable unit shall meet the requirements for a certificate of occupancy before any additional building permits shall be issued for market-rate units. For example, if the applicant obtains building permits for four (4) units, the building permit for the fifth unit must be for an affordable unit, and so forth. When the applicant has been approved for a payment in lieu of units, the full payment may be made prior to the issuance of any building permits or paid in equal installments prior to the issuance of each building permit. The Planning Board may approve an alternative production schedule if it determines that such alternative serves the purposes of this Section 10.3.

F. Affirmative Marketing. The selection of eligible homebuyers or renters for the affordable units shall be in accordance with an affirmative marketing plan approved by the Planning Board prior to the issuance of any building permits for the development. The affirmative marketing plan shall comply with DHCD regulations and guidelines that are in effect within six (6) months of the date that the affordable units will be ready for occupancy.

G. DHCD Requirements. The applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD to approve the affordable units for listing on the Chapter 40B Subsidized Housing Inventory.

H. Density bonus.

1. For an OSRD, the density bonus for affordable units shall be as set forth in Section 10.1.

2. For any other development, the Planning Board may approve up to two additional two (2) market-rate units for each affordable unit provided by the applicant. For example, in a development that would normally be allowed to have ten (10) units under the district's dimensional and density requirements, two (2) shall be affordable units, and in exchange for providing two (2) affordable units, the applicant shall be eligible to request four (4) additional market-rate units, for a combined total of fourteen (14) units in the development. In granting a special

permit under this Section 10.3, the Planning Board shall have authority to modify the dimensional and density requirements that apply to the development in order to accommodate the additional units.

I. Procedures.

1. No building permit shall be issued for a development that is subject to this Section 10.3 unless the Planning Board has granted an affordable housing special permit.

2. The special permit application shall include the information necessary to demonstrate compliance with all requirements of this Section 10.3:

   a. Computation of the minimum required number of affordable units;

   b. Computation of the density bonus;

   c. A plan showing the proposed location of the affordable units in the development;

   d. A table showing the proposed unit sizes and configurations of all units in the development, demonstrating substantial comparability between the proposed market-rate and affordable units;

   e. The proposed affirmative marketing plan; and

   f. The proposed affordable housing restriction and, for homeownership units, the proposed affordable housing deed rider, which may be DHCD's model deed rider.

J. The special permit application, review, and decision procedures shall be in accordance with Section 3.4.

K. Preservation of Affordability

1. Affordable housing units shall be subject to an affordable housing restriction, which shall be in force in perpetuity or for the maximum period allowed by law, and shall be enforceable under the provisions of G.L. c. 184, §§ 31-32.

2. No building permit for the development shall be issued unless an affordable housing restriction has been approved by the Planning Board and DHCD.

3. For an affordable homeownership unit, no certificate of occupancy shall be issued until the applicant submits documentation acceptable to the Building Inspector that an affordable housing deed rider has been signed by the homebuyer and recorded at the Registry of Deeds.

10.3.4 Affordable Housing Regulations

The Planning Board may adopt rules and regulations in order to administer this Section 10.3. Such rules and regulations shall be on file in the Ayer Planning Department and the office of the Town Clerk.