Town of Somerset
Zoning By-Law

THIS EDITION OF THE TOWN OF SOMERSET, MA. ZONING BY-LAW

INCLUDES ALL AMENDMENTS THROUGH May 20, 2019

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Table of Contents

SECTION 1.0 – PURPOSE **4**
1.1 Purpose
1.2 Minimum Requirements
1.3 Conflict with Other Laws

SECTION 2.0 – DEFINITIONS **5**
2.0 – Definitions

SECTION 3.0 – DISTRICT AND BOUNDARIES **9**
3.1 Establishment of Districts
3.2 Boundaries of Districts
3.2.1 Zoning Map
3.2.2 Watershed Protection District
3.2.3 Water Resources Protection District
3.2.4 Flood Plain District
3.3 Location of a District Boundary

SECTION 4.0 – USE REGULATONS **10**
4.1 General Requirements
4.2 Table of Use Regulations
4.2.1 Residence and Accessory Uses
4.2.2 Institutional Uses
4.2.3 Agricultural Uses
4.2.4 Business Uses
4.2.5 Business, Open Air and Drive In Use
4.2.6 Industry, Wholesale Business & Storage Uses

SECTION 5.0 – DIMENSIONAL REQUIREMENTS **17**
5.1 General Requirements
5.2 Table of Dimensional Requirements

SECTION 6.0 – GENERAL PROVISIONS **19**
6.1 Existing Building Not Affected
6.2 Existing Lots May Be Built On
6.3 Non-Confirming Uses
6.4 Accessory Uses
6.5 Signs
6.6 Transition Requirements
6.7 Off Street Parking & Loading
6.8 Corner Lots
6.9 Prohibited Uses
6.10 Planned Developments
6.11 Limited Business and Light Industrial Districts

SECTION 7.0 – ADMINISTRATION **35**

7.1 Enforcement
7.2 Violations
7.3 Building Permits
7.4 Board of Appeals
7.5 Special Permits
7.6 Specific Uses by Special Permit
7.7 Variances
7.8 Separability
7.9 Planning Board of Appeals
7.10 Public Hearings
7.11 Bylaw Amendments

SECTION 8.0 – OPEN SPACE COMMUNITY 48
8.1 Purpose
8.2 Definitions
8.3 Special Permit
8.4 Special Permit Uses
8.5 Dimensional Requirements
8.6 General Provisions
8.7 Design Review
8.8 Open Space Requirements
8.9 Rules & Regulations of SPGA

SECTION 9.0 – SPECIAL DISTRICTS 53
9.1 Watershed Protection District
9.2 Water Resources Protection District
9.3 Floodplain District
9.4 Mixed Use Overlay District
9.5 Slades Ferry Crossing District **61**
9.6 Business Industrial Overlay District **74**

SECTION 10.0 – SHARED HOUSING FOR THE ELDERLY 70
10.1 Purpose
10.2 Definitions
10.3 Special Permit Conditions
10.4 Rules of the SPGA

SECTION 11.0 – LARGE-SCALE GROUND MOUNTED SOLAR INSTALLATIONS 71
11.1 Purpose
11.2 Definitions
11.3 Overlay District
11.4 General Requirements
11.5 Site Plan Review
11.6 Utility Notification
11.7 Dimensional Requirements
11.8 Design & Performance Standards
11.9 Safety & Environmental Standards
11.10 Monitoring, Maintenance, & Repair
11.11 Abandonment and Decommissioning

Section One - PURPOSE

1.1 Purpose. The purpose of this bylaw is to promote the health, welfare, safety, morals and convenience of the inhabitants of the Town of Somerset; to lessen congestion in the streets; to conserve health; to secure safety from fire or panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the Town and to preserve and increase amenities; in accordance with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

1.2 Minimum Requirements. The requirements set forth in this bylaw are declared to be the minimum requirements necessary to achieve the purposes set forth.

1.3 Conflict with Other Laws. In any case of conflict between the provisions of this and any other law, bylaw, ordinance, covenant or agreement, the more restrictive provision shall govern.

Section 2.0 - DEFINITIONS

(NOTE: Terms are listed in alphabetical sequence.)

Definitions.
For the purposes of this by-law certain words and terms are hereby defined. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular; the word "lot" includes the words "plot" and "parcel"; the words "used" or "occupied" include the words designed, arranged or intended to be used or occupied"; the word "shall" is mandatory and not directory.

Accessory Building. A building devoted exclusively to a use customarily incidental and subordinate to the principal use.

Accessory Unit. An independent unit within the main dwelling that allows family members to have alternative housing opportunities. Such a unit must be located within or attached to a single-family dwelling and the record owner of the lot must reside in either the principal dwelling or the accessory unit.

Accessory Use. A use customarily and subordinate to the principal use.
Building. Any roofed structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind. Roof shall include awning or other similar covering whether or not permanent in nature.

COASTAL HIGH HAZARD AREA: An area of special flood hazard extending from off-shore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a Flood Insurance Rate Map as Zone V or Zone VE (formerly Zone V1-30).

Common Open Space. Common open space is the portion of the site in an open space community that is to be used for recreation, resource protection or buffers. Open space does not include land occupied by non-recreational buildings, roads, or road rights-of-way; nor does it include the yards or lots of single family or multi-family dwelling units or parking areas as required by this bylaw. Open space should be left in its natural state except in the case of recreation uses. (See 8.1)

Duplex. A freestanding building, exclusively for residential use, containing two dwelling units with only one dwelling unit from ground to roof. Duplexes shall have individual outside access and share only one wall in common with the other dwelling. (See 8.1)

Dwelling. A building used in whole or in part for human habitation, but not a mobile home.

Dwelling Unit. A single independent housekeeping unit physically separated from any other dwelling unit which may be in the same structure and containing independent living, sleeping, eating, cooking, washing and toilet facilities, occupied or intended for occupancy by one separate household. (See 8.1)

Family. A number of individuals living and cooking together on the premises as a single housekeeping unit in a domestic relationship, as distinguished from a group occupying a boarding house, club, fraternity or sorority house, or hotel.

FLOOD INSURANCE RATE MAP (“FIRM”): An official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY ("FIS"): An examination, evaluation, and determination of flood hazard and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of flood-related erosion hazards.

FRONTAGE. That portion of a lot fronting upon and having legal rights of access to a street to be measured continuously along one street line between side lot lines and their intersection with the street line, or in the case of a corner lot, to the point of intersection of street sidelines extended. Frontage requirements for lots, at the end of cul-de-sacs, may be reduced to no less than 75% of the required linear minimum for the district in which it is located as measured in a straight line from side lot lines line where they intersect with the street. (Amended ATM – May 19, 2003)

Gross Floor Area. The area, in square feet, of all horizontal planes within the exterior walls of a building, but not including the area of shaft enclosures, stairs, the attic story immediately below the roof, roof area and cellar storage areas if not used for human habitation or occupancy.

Height of Building. The vertical distance of the highest point of the roof above the mean grade of the ground adjoining the building.

Hotel, Motel or Lodging House. A building where lodgings are let to five or more persons not related within the second degree of kinship.

Individual Lot Area. The individual lot area is the land required for the siting of each residential building in an open space community exclusive of streets, wetlands, water areas, open space and land in common ownership.

Lot. An area of land in one ownership with definite boundaries established by recorded plan or deed.

Lot Area. Area within a lot including land over which easements have been granted but not including any land within the limits of a street upon which such lot abuts even if fee to such lot is in the owner of the lot.

Lot, Corner. A lot at the intersection of and fronting on two or more intersecting streets, the angle of Intersection being 135 degrees or less.

Lot Line, Front. A line which separates the lot from a street.

Lot Line, Rear. A line separating the lot from adjacent lots and terminating at the side lot lines. In case of an odd-shaped lot with more than four sides, the rear lot line shall be the lot boundary most nearly opposite the frontage.

Lot Line, Side. A line separating the lot from adjacent lots and having one terminus at the front lot line.

Lot Width. Lot width is defined as the distance between the sidelines required allowing a circle to be placed between the sidelines. The required circle shall be tangential to the frontage of a given lot and shall be entirely contained within the lot boundaries. For lot frontage requirements of 100 feet, the circle diameter shall be 80 feet.

Mobile Home. A unit designed for transportation, after fabrication, on streets or highways, on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, raised on jacks or other temporary or permanent foundation, connects to utilities and the like.

Multi-Unit Dwelling. A free-standing building, exclusively for residential use containing two or more dwelling units. Individual units may share a common outside access or have individual outside access.

Net Buildable Site Area. The area of the site remaining after deducting from the base site area the portions of the site covered by wetlands, slopes in excess of 15%, flood plains and utility rights-of-way.

Shade Tree. A living tree which is of a type, size, and kind approved by the Town Tree Warden for planting along public ways.

Sign. The word, "sign", shall include any letter, word, symbol, drawing, picture, design, device, article, and object that advertises, calls attention to, or indicates any premise, person, or activity, whatever the nature of the material and manner of composition or construction, provided however that the following shall not be included in the application of the regulations of this by-law:

a. Flags and insignia of any government, except when displayed in the connection with commercial promotion;
b. Legal notices, identification, informational, or directional signs erected or required by government bodies;
c. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
d. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Street. An accepted Town way, or a way shown on an approved subdivision plan, or a way in existence when the subdivision control laws became effective and having in the opinion of the permit granting authority 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 line which separates a street from a lot.

Structure. Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground except a boundary wall, fence, public utility pole, or other such minor incidental improvements.

Townhouse. A free standing building, exclusively for residential use, containing more than two dwelling units with one dwelling unit from ground to roof. Town houses shall have individual outside access and share common side-walls.

Watershed. As defined in this by-law, shall be that area bounding the Somerset Reservoir peripherally by a water parting area that ultimately drains to the reservoir located within Town of Somerset bounds.

Yard. An open space unoccupied and unobstructed by any structure or portion of a structure, provided however that fences, freestanding walls, poles, posts and other customary yard accessories, ornaments and furniture, and customary summer awnings are permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. Yard depth shall be measured from the street or lot line to the nearest point on a building in a line perpendicular or normal to such lot or street line. Eaves, gutters, cornices, and other similar small appendages to permitted structures shall not be regarded in computation to the extent that they do not intrude into the setback area by more than twenty (20) percent.

For purposes of this definition the front edge of the lowest step on a porch stoop or deck will be included within the definition of building.

Yard, Front. The space extending across the full width of a lot and lying between the front lot line and the nearest part of a building.

Yard, Rear. The space extending across the full width of a lot and lying between the rear lot line and the nearest part of a building.

Yard, Side. The space lying between a side lot line and the nearest part of a building.

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

ZONE AE: The 100-year floodplain area where the base flood elevations have been determined. (Formerly Zone A1-30)

ZONE VE: A special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action), where flood elevations have been determined. (Formerly Zone V1-30)

Section Three - Districts and Boundaries

3.1 Establishment of Districts. For the purposes of this bylaw, the Town of Somerset is hereby divided into six classes of use districts, as follows:

Residence
Business
Limited Business
Light Industrial
Open Recreation
Industrial

and into the following special districts, as follows:

Watershed Protection District
Water Resources Protection District
Flood Plain District

Districts are defined by the allowable use of land, buildings and structures specified in Section 4.2, Use Regulations.

3.2 Boundaries of Districts

3.2.1 The boundaries of the said districts are hereby established as shown on the map entitled Official Zoning Map, Town of Somerset, which together with all boundaries, notations and other data shown thereon, is hereby made a part of this bylaw. Said map including revisions, together with such other maps, which may be adopted from time to time, shall be identified by endorsement of the Planning Board, and by the date of the vote of the Town Meeting action, and shall be filed with the Town Clerk.

3.2.2 The Watershed Protection District is identified on a map entitled "Official Watershed Protection & Water Resources Protection Districts, Town of Somerset, Massachusetts" dated April 2, 2008, which is adopted as part of the zoning by-law and on file with the Town Clerk. The district includes all of the land in the Town of Somerset that is tributary to the Somerset Reservoir. (Amended ATM May 2008)

3.2.3 The Water Resources Protection District is considered to be superimposed over the other districts shown on the zoning map, as recognition of the special conditions found in the overlay district. The Water Resources Protection District is identified on the map entitled "Official Watershed Protection & Water Resources Protection Districts, Town of Somerset, Massachusetts", dated April 2, 2008, which is adopted as part of the zoning by-law and on file with the Town Clerk, or take any other action relative thereto. (Amended ATM May 2008)

3.2.4 The Floodplain District includes all special flood hazard areas designated as Zones, AE (formerly A1-30), and VE (formerly V1-30) on the Bristol County Flood Insurance Rate Maps (FIRM) dated July 16, 2014, , on file with the Town Clerk, Planning Board, and Building Inspector. These maps as well as the accompanying Bristol

County Flood Insurance Study dated July 7, 2009, are incorporated herein by reference.(amended ATM May 18, 2009) (amended ATM May 19, 2014)

3.2.5 Where uncertainty exists as to the location of a district boundary, the following rules shall apply:

a. Where the district boundary is a street, the boundary line shall be the centerline of such street.

b. Where the boundary line is indicated approximately parallel to a street, it shall be taken as a parallel thereto and unless otherwise indicated, two hundred feet distant from the nearest street line.

c. Where the district boundary is indicated as a lot line, the boundary line shall be the lot line.

d. Where a district boundary extends to the shoreline of the Taunton River, Mount Hope Bay or Lees River, the district shall be considered to extend beyond the shoreline to include any future land fill.

e. Questions concerning the exact location of a district boundary shall be decided by the Board of Appeals.

Section 4 – USE REGULATIONS

4.1 General Regulations

4.1.1 In each district the use of land, buildings and structures shall be as set forth in Section 4.2, Table of Use Regulations, and as provided elsewhere in this by-law.

4.1.2 A use listed in Section 4.2 is permitted in any district under which it is denoted by the word "Yes". If denoted in the Table by the letters "SP", the use may be permitted in the district only if the Board of Appeals, or such other special permit granting authority as this by-law may provide, so determines and grants a special permit, therefore, as provided in Section 7.5 subject to such restrictions and conditions as said Board may determine.

4.1.3 No building, structure or land in any district may be used, erected or designed to be used, in whole or in part, for any use under which it is denoted by the word "No" in the Table or for any use not specifically listed in the Table except as hereinafter provided.

4.1.4 Any additional use which is substantially similar to one or more of the uses specifically authorized and not more detrimental to the neighborhood may be allowed, if a permit therefore is issued in accordance with the provisions of Section 7.5 of this By-law.

4.1.5 In Residence, Business, Open Recreation and Industrial Districts, the use of land, buildings, and structures shall be as set forth in Section 2 of this Article, Table of Use Regulations, and as provided elsewhere in this by-law. In Limited Business and

Light Industrial Districts, the use of land, buildings and structures shall be as set forth in Section 6.ll of this by-law, and as provided elsewhere in this by-law.

4.1.6 Uses in locations falling within the boundaries of Special Districts as defined by Section 9 are also subject to the specific use requirements specified in Section 9, as applicable.

4.2 Table of Use Regulations

Symbols:

Res. = Residence District
Bus. = Business District
Ltd. Bus. = Limited Business
Open Rec. = Open Recreational District
Ind. = Industrial District
Lt. Ind. = Light Industrial
Yes = a permitted use

SP = a use authorized by special permit
No = a prohibited use
SP1 = a use authorized by special permit through the planning board
(amended ATM 5/18/09)

	DISTRICT					
	Res.	Bus.	Ltd. Bus.	Open Rec.	Ind.	Lt. Ind.
4.2.1 Residence and Accessory Uses						
a. Detached dwelling occupied by not more than one family(amended 5/20/19)	Yes	NO	Yes	Yes	No	No
b. Conversion of a single family dwelling existing at the time of adoption of this by-law for occupancy by not more than two families provided that at least two off street parking spaces are provided.	SP	SP	SP	SP	No	No
c. Transient accommodations: hotel, motel, lodging house. (amended stm 9/25/17 – Art. 1)	No	Yes	Yes	No	No	No
d. Renting of rooms in a dwelling unit, provided not more than three persons are accommodated in addition to the family living in the dwelling unit.	Yes	Yes	Yes	Yes	No	No
e. Open Space Community, Single Family Dwelling (subject to the requirements of Section 8)	SP	No	No	SP	No	No

	Res.	Bus.	Ltd. Bus.	Open Rec.	Ind.	Lt. Ind.
f. Shared Housing for the Elderly (subject to the requirements of Section 10)	SP	SP	SP	SP	No	SP
g. Customary Home Occupations	SP	SP	SP	SP	No	SP
h. Professional Offices (in a dwelling)	SP	SP	SP	SP	No	SP
i. Accessory Unit	SP	SP	SP	SP	No	No
<u>4.2.2 Institutional Uses</u>						
a. Place of worship and assembly adjacent thereto, school convent, library, museum, cemetery, public park or playground	Yes	Yes	Yes	Yes	Yes	Yes
b. Hospital, infirmary, nursing home, convalescent home	No	Yes	Yes	No	No	No
c. Private non-profit club or lodge operated for members only	No	Yes	Yes	SP	No	No
d. Public land or building	Yes	Yes	Yes	Yes	Yes	Yes
e. Essential municipal services, waterworks and pumping stations	Yes	Yes	Yes	Yes	Yes	Yes
<u>4.2.3 Agricultural Uses</u>						
a. Farm or garden, including the care, feeding or shelter of farm animals	Yes	Yes	Yes	Yes	Yes	Yes
b. Sale place for agricultural produce, more than 50% of which is grown or made on the premises	Yes	Yes	Yes	Yes	Yes	Yes
<u>4.2.4 Business Uses</u>						
a. Office building, bank or similar institution.	No	Yes	Yes	No	No	No
b. Telecommunications Facilities (without communication towers)	No	Yes	Yes	No	Yes	Yes

	Res.	Bus	Ltd. Bus.	Open Rec.	Ind.	Lt. Ind
c. Store for retail sale of merchandise where no manufacturing, assembly or packaging of products occurs on the premises, except if at least 50% of such products are sold at retail on the premises, except for adult entertainment establishments	No	Yes	Yes	SP	No	No
d. Consumer service establishment, including beauty parlor, barber shop, laundry or dry-cleaning pickup agency or similar establishment (excluding customary home occupations allowed by special permit).	No	Yes	Yes	No	No	No
e. Lunchroom, restaurant, cafeteria, snack bar	No	Yes	Yes	SP	No	No
f. Theater, bowling alley or other permanent amusement facility operated for a profit, except for adult entertainment establishments	No	Yes	No	No	No	No
g. Club or lodge operated for a profit and open to the public, except for adult entertainment establishments	No	Yes	No	SP	No	No
h. Mortuary, undertaking or funeral establishment	No	Yes	No	No	No	No
i. Printing shop, photographer's shop and studio. For printing operations wherein the gross floor area of the building used for the printing operation exceeds 10,000 square feet, use shall be permitted only in Industrial & Lt. Industrial Districts	No	Yes	Yes	No	Yes	Yes
j. Veterinary establishment, kennel, pet shop	No	Yes	Yes	No	No	No
k. Sale place for new/used cars	No	Yes	Yes	No	No	No
l. Business, professional or medical offices and clinics, including laboratories incidental thereto	No	Yes	Yes	No	No	No
m. Bank, loan agency, financial services institution	No	Yes	Yes	No	No	No

	Res.	Bus.	Ltd. Bus.	Open Rec.	Ind.	Lt. Ind.
n. Duly licensed day care centers (as defined in M.G.L., Chapter 28A, section 9)	Yes	Yes	Yes	No	No	No
o. Private (for profit) non-religious educational facility	No	Yes	Yes	No	No	No
p. Automobile repair garage/auto body repair	No	SP	No	No	SP	SP
q. 1 Medical laboratories and Clinics (Not incidental to a medical office)	No	SP	SP	No	SP	SP
q. 2 Adult Entertainment Establishments, including but not limited to adult bookstores, adult cabaret and dance clubs, adult motion picture theaters and other adult theaters, adult paraphernalia stores, and adult video stores (Note: any existing adult entertainment establishments must apply for a permit within ninety (90) days after the adoption of this by-law by the Town)	No	SP	No	No	No	SP
r. Vertical mixed use that includes commercial use on the first floor with residential and/or office use on second story above	No	SP1	No	No	No	No
<u>4.2.5 Business Open Air or Drive-In Uses</u>						
a. Sale place for flowers, garden supplies or commercial greenhouse	No	Yes	Yes	No	No	No
b. Drive-in restaurant or refreshment stand	No	Yes	Yes	No	No	No
c. Outdoor sports facility conducted for profit	No	Yes	No	Yes	No	Yes
d. Open air or drive-in theater or other open air place of entertainment	No	Yes	No	No	No	Yes
e. Automobile service station or car washing establishment	No	Yes	No	No	Yes	Yes
f. Commercial parking lot for automobiles	No	Yes	Yes	SP	Yes	Yes
	Res.	Bus.	Ltd. Bus.	Open Rec.	Ind.	Lt. Ind.

g. Marina, including sale, storage, rental, repair, refueling of boats and customary accessory uses such as sale of parts and similar activities, except the construction of boats	No	Yes	Yes	SP	Yes	Yes
1. Marine related fabrication and docking facilities on any parcel of land that has direct access to the waterfront and exceeds five acres (5) in area *see note below	No	Yes	Yes	Yes	Yes	Yes

*Provided however that any such marine-related fabrication and docking facilities shall be subject to the following conditions:

1. Gasoline/oil separators shall be installed so as to preclude gasoline/oil from entering the abutting waterway, if any activities on the site involve gasoline or oil.
2. There shall be no manufacturing of building of boats on the site.
3. There shall be no mass manufacturing of products for shipment off-site, provided that a limited number of custom made items may be shipped off-site for installation elsewhere.

Any appropriate environmental measures required by Federal, State or local laws are to be followed which may include air infiltration systems or scrubbers.(Amended STM Feb. 25, 2002)

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h. Storage of boats, except that no boat may be stores in the front or side yards	Yes	Yes	Yes	Yes	Yes	Yes

4.2.6 <u>Industry, Wholesale Business and Storage Uses</u>

a. Wholesale business or storage where all goods are within an enclosed structure	No	Yes	Yes	No	Yes	Yes
b. Wholesale business or storage where part or all of the goods are stored outside a structure, provided that a fence of woven board type, split sapling type, picket type with pickets not more than 3 inches apart, or thick evergreen hedge 6 feet high is erected on any side of the lot directly abutting a residence or open recreation district and further provided that all dust and fumes incident to storage or handling are effectively confined to the premises.	No	Yes	No	No	Yes	Yes
	Res.	Bus.	Ltd. Bus.	Open Rec.	Ind.	Lt. Ind.
c. Telecommunication Facilities (with communication towers)	SP	SP	SP	No	SP	SP

d. Telephone exchange, transformer station or electric sub-station	SP	Yes	Yes	SP	Yes	Yes
e. Storage of radioactive waste	No	No	No	No	No	No
f. Underground storage tanks	SP	SP	SP	SP	SP	SP
g. Manufacturing, processing, fabrication & testing functions which require appropriate segregated locations to ensure that their purpose is not detrimental to the district or Town by reason of corrosive, toxic or noisome fumes; gas; smoke; odors or obnoxious dust; flashing; or fore, explosive & environmental hazards	No	No	No	No	Yes	No
h. Electric Generating Plant	No	No	No	No	Yes	No
i. Research & development laboratories & facilities	No	No	No	No	Yes	Yes
j. Genetic engineering laboratories	No	No	No	No	SP	SP
k. Manufacturing, fabrication, processing, packaging, and/or testing functions of food, textile, medical, electronic, mechanical, wood and plastic products wherein processing is accomplished internal to the structure, and wherein facility or process controls ensure that all dust, fumes, smoke, and vapors are effectively confined to the premises; and noise, vibration, or flashing is not perceptible without instruments beyond the lot on which the use is located	No	No	No	No	Yes	Yes
l. Printing or publishing operations	No	No	No	No	Yes	Yes
m Marijuana Establishment	No	No	No	No	SP	SP

Section 5.0 - DIMENSIONAL REQUIREMENTS

5.1 General Requirements. No building or structure shall be built or enlarged which does not conform to the requirements set forth in Section 5.2, (Dimensional Requirements), including the footnotes thereto, and as provided elsewhere in this By-law, including but not limited to Section 8.0 (Open Space Community) and 9.1 (Watershed Protection District). Dimensional requirements apply to all buildings and structures, including accessory applications and swimming pools.

See chart next page

DISTRICT OR USE DIMENSIONAL CONTROL	One Family House In any District	Other Permitted Uses In Residence District	Other Permitted Uses in Open Recreation District	Other Permitted Uses In Business District	Other Permitted Uses In Limited Business District	Other Permitted Uses in Light Industrial District	Other Permitted Uses in Industrial District	Alteration and Expansion of Residences on Existing Lots	Non-Exempt Governmental Use in any District	Remarks
Minimum Lot Area in Square Feet	20,000[1]	20,000[1]	20,000[1]	Any	Any	20,000	20,000	As Exists	Any	[1] Only one principal permitted building per lot
Minimum Frontage in Feet	100 See Note 6	100 See Note 6	100 See Note 6	Any	Any	Any	Any	As Exists	Any	
Minimum Front Yard in Feet	25	25	25	25	25	50	50	25	25	
Minimum Side Yard in Feet	15' See Note 5	15 See Note 1	15 See Note 1	None, except 20 next to Residence District		25	25	10 **See Note 1**	None Except in an Ind or Lt. Ind. District	
Minimum Rear Yard in Feet	15 See note 1	15 See Note 1	15 See Note 1	25	25	25	25	10 See Note 1	15, See note 1	
Distance Between Buildings in Feet (amended 5/20/19)	12	15	15	10	10	15	10	10	None	
Maximum Percent Lot Coverage	25	25	10	30	30	35	See Note 4	35	35	All buildings in aggregate
Maximum Building Height in Feet	35	35	35	35 See Note 7	35 See Note 7	35	Any	35	35, except any in an Industrial or Light Industrial District	
Maximum Building Height in Stories	2-1/2	3	2-1/2	Any	Any	2	Any	2-1/2	2 ½, except any in an Industrial or Light Industrial District	
Maximum Height, Towers, Water Tanks, Antennae, Spires, Chimneys, Mechanical Equipment, Screening of Mechanical Equipment and similar	35 See Note 2	65' See Note 3	65'	65'	65'	65'	Any		Any	[1]Greater Height by Special Permit Only

structures, in Feet									

SECTION 5.2 TABLE OF DIMENSIONAL REQUIREMENTS

Notes: 1. *A minimum side and rear yard requirement of 5 feet for buildings not exceeding 120 square feet in gross floor area and 12 feet in height.*
2. *Attached chimneys and antennae may be 45 feet.*
3. *Detached chimneys and antennae may not exceed 35 feet.*
4. *To be determined during Planned Development process.*
5. *Steps, fireplaces, and Chimneys shall be permitted within the front, side, and rear set-backs in a Residential District only.*(Amended - Art. 45 ATM 5/18/15)
6. *With regards to lots with a required frontage of 100 feet, see "Lot Width" definition.*
7. *In Business and Limited Business Districts, hotels, motels, and lodging houses are allowed to have a maximum building height of 45 ft. (amended STM 9/25/17 Art. 2)*

Section 6.0 - GENERAL PROVISIONS

6.1 Existing Buildings Not Affected. The use of any building or structure not a non-conforming use, may continue for any use permitted under the provisions of this by-law and may be structurally altered or enlarged for any such use, provided such alteration for enlargement is in accordance with the dimensional requirements set forth in Section 5 of this by-law.

6.2 Existing Lots May Be Built On. Any change in the area, frontage, width, yard or depth requirements of this by-law shall not apply to a lot for single or two-family residential use which was separately recorded at the time of the adoption of such a change, provided that as of the effective date of said change, the lot in question was not held in common ownership with any adjoining land, conformed to the then-existing zoning requirements, and had at least five thousand square feet of area and fifty feet of frontage.

6.2.1 Lots on Subdivision Plans. Notwithstanding any other provision of this by-law and the accompanying Zoning Map, any lot of land laid out for residential use on a definitive subdivision plan, or a preliminary plan followed within seven months by a definitive plan, which has been submitted to the Planning Board for approval under the subdivision control law, and written notice of such submission has been given to the Town Clerk, shall be governed by the applicable provisions of the By-law in effect at the time of the first such submission while such plan is being processed under the subdivision control law, and if such definitive plan or an amendment thereof is finally approved, for eight years from the date of the endorsement of such approval. Said eight year period shall be extended by a period equal to the time which the Town of Somerset imposes or has imposed upon it by a state or federal agency or court, a moratorium on construction, the issuance of permits or utility connections.

When a plan has been submitted to the Planning Board pursuant to General Laws Chapter 41, Section 81P (a so-called "Approval Not Required Plan"), and written notice of such submission has been given to the Town Clerk, the use of the land shown on such plan shall be governed by the applicable provisions of this by-law in effect at the time of the submission of such plan while such plan is being processed under the subdivision control law, including any appeal under said

law, and for a period of three years from the endorsement by the planning board that approval under subdivision law is not required.

(Amended – deleted ATM 5/20/19)

6.3 Non-Conforming Uses. Any lawful building or structure or any lawful use of a building, structure or land which does not conform to the regulations applicable in the district in which it is located by virtue of the adoption or subsequent amendment of this by-law is a non-conforming use and may be continued subject to the following provisions.

No building, structure or land where a non-conforming use has been changed to a conforming use or abandoned for more than two years shall be permitted to continue as or revert to a non-conforming use.

Single-family and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the non-conforming nature of such structure. Exterior walls can be extended at or along the same non-conforming distance within a required yard, provided that the Building Inspector finds that the proposed modification will not be substantially more detrimental to the neighborhood than the existing non-conforming structure. (Amended Art 46 – ATM 5/18/15)

Except as provided elsewhere in this By-law, an alteration or increase in the extent of a non-conforming building or use may only be permitted upon the issuance of a special permit by the Board of Appeals as provided in Section 7.6.

This shall not apply to the replacement or restoration in the same location and manner and approximately to the same dimensions of a lawfully existent non-conforming building or structure (including accessory signs) damaged by fire or other natural or accidental causes.

6.4 Accessory Uses. An accessory use shall be permitted only on the same lot as the building or use to which it is accessory, except as provided in Section 6.7.2.

6.4.1 Within any district, buildings, structures and uses of the land customarily accessory to the principal use shall be permitted except that a dwelling shall not be permitted as a use accessory to a business or industrial establishment, nor shall a trailer, mobile home, quonset hut or quonset type structure be permitted as a principal or accessory use in any district. In the event of a question as to whether a use is a customary accessory use, the Board of Appeals shall make a determination. A mobile home may be used for a period not to exceed twelve (12) months to replace a single family dwelling destroyed by fire or other natural causes as provided by Chapter 860 of the Acts of 1977.

6.4.2 In any district the total area of uses accessory to the principal use shall not occupy more than twenty-five percent of the gross floor area of all buildings on a lot and not more than fifteen percent of the total area of the lot.

6.4.3 Detached accessory buildings and structures are subject to the same minimum yard dimensions and maximum height provisions as are in force for the district in which the lot is located.

6.4.4 Swimming Pool Enclosures. Reference Massachusetts Building Codes (amended ATM 5/20/19)

6.5 SIGNS

6.5.1 Statement of Intent

The provisions of this section establish the comprehensive regulations, conditions and limitations under which signs are permitted in the Town of Somerset. It is intended that these regulations shall be held to be the minimum regulations necessary for the protection of the visual environment of the Town and the public safety, convenience, and welfare and shall be narrowly construed and strictly applied in favor of the public and business interest of the community. In the event any provision of this section of the By-law is found to be unconstitutional or otherwise infirm, such a finding shall not affect the validity of the other provisions herein.

6.5.2 Determination of Area

1) The area of the sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background whether open or enclosed, on which they are displayed.

2) The area of signs painted upon or applied to a building shall include all lettering, wording and accompanying designs or symbols together with any background of a different color than the finish material or the building face.

3) When a sign consists of individual letters or symbols attached to or painted on a surface, wall or window, the area shall be that of the smallest rectangle which encompasses all of the letters and symbols.

4) Only one side of a double-faced signs shall be counted in computing the area of that sign. For multiple faced signs and v-shaped signs each side shall be counted as a separate area.

6.5.3 Signs in Residential Districts

In residential districts, only the following signs are permitted:

1) One sign displaying the house number and identifying the premises not to exceed one (1) square foot in area. The street number must be in conformance with the Town's regulations governing numbering of buildings.
2) One sign no larger than two (2) square feet in area shall be allowed which displays the name of the house or the name of the family residing therein.
3) One sign not to exceed two (2) square feet in area shall be permitted for a professional office, home occupation, or lodging house for which a special permit or variance has been granted by the Board of Appeals.
4) One real estate sign not to exceed four (4) square feet in area advertising property for sale, lease or rent. Such signs must be removed within ten (10) days of transfer of title or signing of a lease or rental agreement. Said sign will only be located on the property which is for sale, lease or rent.
5) Where a legal non-conforming business exists within a residential district, one (1) wall sign may be permitted by the Building Inspector if it is determined that the appearance, placement, size and lighting of the proposed sign will not be

detrimental to the residential character or visual quality of the area. In no instance shall the sign exceed twenty (20) square feet in area.

6) Permits may be posted at construction sites as required by State or Town regulations, except that in no instance shall they be attached to trees or utility poles.
7) One subdivision identification sign not to exceed twelve (12) square feet in area may be permitted at any public entrance to a subdivision or multi-family development.
8) Illuminated signs within residential zones require the approval of the Building Inspector, and may be permitted subject to other provisions of this section if the applicant can demonstrate that the proposed illumination will not intrude upon adjacent residential areas, will not be illuminated except during actual hours of business, and will not cause traffic hazards.
9) In addition to signs of the size which would otherwise be allowed under this section, political signs not exceeding thirty-two (32) square feet in area per sign may be erected on their own posts.

6.5.4 Signs in Business and Industrial Districts

1) Each business with a gross floor area of up to 20,000 square feet will be allowed a total of two (2) wall signs. Each business with more than 20,000 square feet of gross floor area will be allowed three (3) wall signs.

2) The total square footage for all wall or canopy signs of each business shall not exceed 12 percent (12%) of the area of the building wall facing a public way or one hundred twenty (120) square feet, whichever is the lesser amount. In the event more than one building wall faces a public way, the total square footage of the signs on each wall may not exceed twelve percent (12%) of the area of that particular wall.

3) Only one free standing sign is allowed per business located on a separate lot.

4) No part of any free-standing sign shall extend higher than thirty five (35) feet from the ground level, nor shall any part of the free-standing sign other than the post or other support structure be located lower than eight (8) feet above the ground. No Freestanding sign shall be larger than can be fitted within an area of one hundred twenty (120) square feet. In no event shall any part of the sign be less than eight (8) feet from any property line. Signs must not be placed so as to obstruct the view of traffic entering or leaving a premises, as determined by the building inspector.

5) When a business property is located on two or more public ways, a second free standing sign will be permitted so long as the square footage of each sign does not exceed the provisions of this section.

6) When two or more businesses are located on a single lot, only one free standing sign shall be allowed for that lot, except as provided in subsection 5, in addition to the wall or awning signs allowed for each business. One free standing sign can include the names of all businesses on the lot.

7) One projecting overhanging sign may be permitted per business in lieu of either a free standing or wall sign provided that the sign does not exceed six (6) square feet in area, is no lower than eight (8) feet from the ground and is secured and located so

as to preclude its becoming a hazard to the public.

8) One sign displaying the building number and identifying the premises not to exceed one (1) square foot in area. The building number must be in conformance with the Town's regulations governing the numbering of buildings.

9) One sign not to exceed one hundred and twenty (120) square feet in area advertising property for sale, lease or rent. Such signs must be removed within ten (10) days of transfer of title or signing of a lease or rental agreement. Said sign will only be located on the property, which is for sale, lease or rent.

10) Permits may be posted at the construction sites as required by State or Town regulations, except that in no instance shall they be attached to trees or utility poles.

11) In addition to signs of the size which would otherwise be allowed under this section, political signs not exceeding thirty-two (32) square feet per sign may be erected on their own posts.

12) Auxiliary signs and special event signs may be permitted as follows: The total area of all auxiliary signs, window signs, and special event signs allowed in this section shall not exceed thirty three percent (33%) of the area of the building walls facing a public way.

6.5.5 Gasoline & Inspection Station Signs

In addition to the other allowable signs as specified herein, each gas pump may have a signage not to exceed twelve (12) inches by eight (8) inches indicating the name or type of gasoline and its price and other information as may be required by Federal, State or Town regulation. If the business is an approved inspection station, it may additionally have a sign indicating that fact.

6.5.6 Construction Signs

1) When a building permit has been issued for the construction, alteration or repair of a structure, and all other required permits have been obtained, persons participating in the construction may display a sign on the site while approved work is going on.

2) No person or persons participating in the construction shall display more than one (1) sign on any site at any given time.

3) No sign shall be larger than six (6) square feet in area. Said sign shall not extend more than five (5) feet above grade.

4) The total area of all construction signs displayed at a site at any given time shall not exceed twenty-four (24) square feet.

6.5.7 Illumination

The light from any light source in connection with any sign shall be so shaded, shielded or directed or shall be maintained at a sufficiently low level of intensity and brightness so that it shall not adversely affect neighboring premises or the safe vision of operators of vehicles moving on public roads or highways and so that it will not reflect or shine on or into residential structures to an extent that would

constitute a nuisance or a disruption of residential character of the area.

6.5.8 Non-Conforming Signs and Illegal Signs

All signs erected prior to the passage of these regulations are classified into three (3) categories: conforming signs which comply with all the provisions of these regulations; non-conforming signs which do not meet the requirements of these regulations but which were legal under previous sign regulations of the Town; illegal signs which do not comply either with these regulations or with the previous regulations in effect at the time of passage of these regulations.

1) Illegal Signs: Following the procedures described in these regulations for abandoned signs, the Building Inspector can establish an order of removal for illegal signs which may then be removed by the Building Inspector following due procedures of law, with costs assessed to the permit holder or property owner.

2) Non-Conforming Signs: Legally erected signs in existence at the time this amendment becomes effective, may be continued, even though not conforming to the provisions of this section, but shall not be altered or expanded except by a conforming sign or by special permit.

6.5.9 Abandoned Signs

Signs which have been abandoned due to a closing of a business, a change in business name or for any other reason which renders the sign not applicable to the property involved shall be removed by the permit holder or the owner of the building or premises within sixty (60) days from the day of the action that caused the sign to be considered abandoned.

1) A condition of approval for new signs for building or property shall be that the permit holder or owner of the building or property shall, at his or her own expense, remove all abandoned signs.

2) The Building Inspector shall determine when a sign is abandoned. Notice shall be sent to the permit holder and to the property owner prior to administrative action.

6.5.10 Special Permits

The Board of Appeals may, by special permit, allow signs larger or installed in a different manner or location than specified in the preceding paragraphs, but only if the Board of Appeals finds that because of location off an expressway or a major highway, lot shape, or obstruction by other signs or structures, a sign conforming to the preceding paragraphs could not be effective.

6.5.11 Safety and Maintenance

If the Building Inspector finds that a sign is unsafe or otherwise improperly maintained, he shall issue a written notice to that effect to the permit holder and the property owner. If the specified conditions are not corrected, the Building Inspector is authorized to take enforcement action. If public safety is involved, the Building Inspector may take immediate action.

6.5.12 Prohibited Signs

The following signs shall be expressly prohibited in all zoning districts, contrary provisions of this ordinance notwithstanding:

1) Any sign which incorporates any flashing, moving, intermittent, animated or rotating

lighting except those displaying only time and temperature on separate displays.

2) Any display lighting by strings of lights, including lights which outline any part of a building or which are affixed to any ornamental portion thereof, except temporary traditional decorations for religious or other recognized holidays.

3) Any sign which contains the words “Danger” or “Stop” or otherwise presents or implies the need or requirement of stopping or caution or which is an imitation of, or is likely to be confused with any signs customarily displayed by a public authority.

4) Any sign which infringes upon the area necessary for visibility on corner lots as set forth in Section 6.8.

5) Any sign or lighting for a sign which casts direct light or glare upon any property in a residential district.

6) Any portable sign, including any sign displayed on a unregistered vehicle, except by special permit.

7) Any sign which obstructs the reasonable visibility of, or otherwise distracts attention from a sign maintained by a public authority.

8) Any sign or sign structure involving the use of motion pictures or projected photographic scenes or images.

9) Any sign attached to public or private utility poles, trees, signs or other appurtenances located within the right of way of a public way.

10) Roof signs.

11) Signs including banners advertising products, sales, events or activities which are tacked, painted or otherwise attached to poles, benches, barrels, buildings, traffic signal boxes, posts, trees, sidewalks, curbs, and rocks regardless of construction or application, except as otherwise specifically provided herein.

12) Signs on or over Town property, except as authorized by the Building Inspector for temporary signs for non-profit, civic, educational, charitable and municipal agencies.

13) Signs that will obstruct the visibility of another sign which has the required permits and is otherwise in compliance with this ordinance.

14) Off-premise signs except as otherwise provided for herein.

15) All inflatable signs except those permitted in writing by the Building Inspector.

6.5.13 <u>Definitions</u>

1) Abandoned Sign. A sign which no longer identifies or advertises a bona-fide business, lessor, service, owner, product or activity and/or for which no legal owner can be found.

2) Animated Sign. Any sign which uses movement or change or lighting to depict action or to create a special effect or scene.

3) Auxiliary Sign. Auxiliary signs shall be all signs including temporary and special event signs which are not permanent wall, free standing, government required or directional/safety signs.

4) Banner. A sign made of fabric or any non-rigid material with no enclosing framework.

5) Canopy Sign. A wall-mounted sign attached to or constructed on the face of a Permanent roofed structure covering an area customarily used for pedestrian circulation.

6) Changeable Copy Sign. A sign that is designed so that characters, letters or illustrations can be changed or rearranged either manually or automatically without altering the face or the surface of the sign.

7) Construction Sign. A temporary sign identifying an architect, contractor, subcontractor, material supplier or others participating in the construction on the property on which the sign is located.

8) Directional/Safety Sign. An on-premise sign identifying a premise or activity conducted upon such premise, and providing direction for the safe and efficient flow of vehicular or pedestrian traffic to such activity or premises. Directional signs shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premises.

9) Double-Faced Sign. A sign with two faces or panels, neither of which is visible at the same time and are directly back to back as opposed to a V-shaped sign.

10) Flashing Sign. A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. This does not include changeable copy signs.

11) Free Standing Sign. A sign supported upon the ground by poles or braces and not attached to any building.

12) Government Sign. Any temporary or permanent sign erected and maintained by the town, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historic site or public service, property or facility.

13) Height (of a Sign). The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.

14) Inflatable Sign. Any sign which is caused to expand or swell by filling with gas or air or any other filler material.

15) Maintenance (of a sign). The cleaning, painting, repair or replacement of defective parts on a sign in a manner that does not alter the basic copy, design or structure of the sign.

16) Multiple Faced Signs. Signs containing more than two (2) faces or panels.

17) Off-Premise Sign. A sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, provided, manufactured or furnished at the property on which said sign is located, e.g., “Billboards”, “Outdoor Advertising” or “Off-Site Signs”.

18) On Premise Sign. A sign which pertains to the use of the premise on which it is located and maintained.

19) Political Sign. A temporary sign used in connection with a local, state or national election, referendum, or political cause.

20) Portable Sign. Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

21) Projecting Sign. A sign other than a flat wall sign which is attached to and projects from a building wall or other structure not specifically designed to support the sign and is not parallel to the structure to which it is attached.

22) Public Way. Any roadway over which everyone has rights to pass, including town ways and private ways.

23) Real Estate Sign. A temporary sign advertising real estate upon which the sign is located as being for rent, lease or sale.

24) Roof Sign. Any sign erected upon or above a roof or parapet wall of the building on which it is wholly or partially supported by such building.

25) Rotating Sign. Any sign or device which has any visible moving part, visible revolving part, or visible mechanical movement but not including methods of changing copy.

26) Sign. See definition in section 2.0.

27) Special Event Sign. A temporary sign advertising or pertaining to any civic, patriotic or special event of general public interest taking place within the town.

28) Subdivision Identification Sign. A free-standing or wall sign identifying a recognized subdivision, condominium complex or residential development.

29) V-Shaped Sign. A sign with two (2) faces or panels not supported by one common structural member and which faces are not back to back.

30) Wall Sign A sign attached parallel to and extending not more than eighteen inches (18") from the wall of a building, including painted signs, individual lettered signs, cabinet signs and signs on a mansard. This also includes a sign on which is applied with paint or similar substance on the face of a wall.

31) Window Sign. A sign installed inside a window and intended to be viewed from the outside.

6.6 Transition Requirements.

Where part of a lot in a Business or Open Recreation District is directly adjacent to a Residence District Boundary, no building or structure shall be erected closer to an adjacent side or rear line of said lot than would be allowed in the adjacent Residence District.

Where a district boundary divides a lot, the regulations applicable to the less restricted portion of such lot may extend not more than thirty feet into the more restricted portion.

6.7 Off-Street Parking and Loading Space Requirements.

No land shall be used and no building or structure shall be erected, enlarged or used unless the off-street parking and loading space required herein is provided.

Off-street parking and loading space shall be provided in accordance with the provisions of the following table. Where the computation of a required parking or loading space results in a fractional number, only a fraction of one-half or more shall be counted as one.

TABLE OF OFF-STREET PARKING AND LOADING REQUIREMENTS

CLASS OF ALLOWED USE	**MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED**	**MINIMUM NUMBER OF OFF-STREET LOADING SPACES REQUIRED**
Residence having 2 or more bedrooms	Two spaces	None
Residence having fewer than 2 bedrooms	One space	None

CLASS OF ALLOWED USE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED	MINIMUM NUMBER OF OFF-STREET LOADING SPACES REQUIRED
Hotel, Motel, Tourist Home, Guest House, Lodging House, Function Room and other group accommodations	One space per rentable room, plus one space for each 150 square feet of public meeting area	One space per 10 Rental units
Church and place of assembly adjacent thereto, school, convent, hospital, infirmary, nursing home, convalescent home or walk-in medical emergency facility	One space per 250 square feet of gross floor area	None
Retail Business or Office	One space for every three hundred (300) square feet of gross floor area but not fewer than three (3) spaces per separate enterprise (Amended – Art 51 – ATM May 18, 2015)	One space per 25,000 square feet of gross floor area
Industry, Wholesale Business, Storage	One space per 1,000 square feet of gross floor area	One space per 50,000 square feet of gross floor area
Bank	One space per 100 square feet of public floor area devoted to general banking services for public use, plus one space for each 250 square feet devoted to office use. Each drive-up window shall have sufficient stacking room for 4 vehicles and a bypass lane shall be provided	None
Restaurant, Bar	One space per 3 seats plus five spaces for each inside take out station. Each drive-up window shall have sufficient stacking room for 4 vehicles and a bypass lane shall be provided	One space
Light Industrial	One space per 1.3 employees but not less than 1 space per 300 square feet of gross floor area	One space per 50,000 square feet of gross floor area
Bowling alley, Tennis Court	Four spaces per alley or court	None
Marina	One space per boat slip	One space
Laundromat	One space per two washing machines	None
Funeral Home or Mortuary	One space per 50 square feet of floor area in the public rooms or one per five seats whichever provides the greater number of parking spaces,	None

CLASS OF ALLOWED USE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED	MINIMUM NUMBER OF OFF-STREET LOADING SPACES REQUIRED
	plus one for each hearse or company vehicle, plus one space for each employee	
Car Wash	Four spaces per bay/stall for a self-service establishment, or sufficient area for ten stacking spaces per bay/stall for an automated establishment, plus one space per employee for both, plus two drying spaces for each washing stall/bay	***None***
Mixed Use Development Under Section 9.4 (Amended 12/7/09 STM Art 18)	As determined by the Planning Board in granting of a special permit under section 9.4, but no fewer than 2 spaces per dwelling unit	As determined by the Planning Board in Granting a special permit under section 9.4

Notes

(1) Off street parking must be provided to service the net increase in parking demand created by new construction, additions, change of use.

(2) Requirements are cumulative for mixed uses (e.g. both motel room and restaurant requirements would apply to a motel with a restaurant), except the requirements for commercial parking and loading in a Mixed Use Development under Section 9.4 shall be determined by the Planning Board as part of the special permit process under that section.(amended 12/7/09 STM Art. 18)

(3) All parking spaces must be clearly marked and the lines must be maintained to be clearly visible at all times.

(4) The aisle between rows of parking spaces shall be a minimum of twenty-two (22) feet wide.

(5) The foregoing provisions are meant to be read and interpreted in conjunction with applicable local, state, and federal handicapped parking requirements.

6.7.2 Required off-street parking or loading spaces shall be provided on the same lot as the principal use they are designed to serve, except that the Board of Appeals, may by special permit, allow the provision of required off-street parking or loading spaces on another lot but in no event further than two hundred feet from the principal use they are designed to serve. See 7.6.

Required off-street parking or loading spaces may be enclosed in a structure or may be open, provided that if open such facilities shall be graded and drained, to the extent necessary to avoid nuisances.

Each required off-street parking or loading space shall have adequate access to a

street either directly or via a drive. Each off-street parking space shall be not less than eight and one-half feet wide and twenty feet in length, and each off-street loading space shall be twelve feet wide and thirty-five feet in length, exclusive of drives and maneuvering space.

No open parking or loading space shall be located less than five feet from any lot line.

6.8 Corner Lots. A corner lot or a lot opening on two streets shall be subject to the regulations for front yards set forth in the Table of Dimensional Requirements with respect to every street on which it opens.

On a corner lot, no planting, fence, structure or wall shall be an obstruction to vision between three (3) feet and eight (8) feet above the street elevation within the triangle formed by the intersecting street lines and a line between points on the street lines twenty-five (25) feet from their intersection.

6.9 Certain Uses Specifically Prohibited. No building, structure or lot used for dwelling purposes shall also be used for business or industrial purposes, except that customary home occupations and professional offices may be combined with dwelling use, subject to the restrictions set forth elsewhere in this bylaw, or upon the issuance of a Mixed Use Development Special Permit. No loudspeaking, broadcasting or other sound-producing equipment shall be operated in any building or on any lot so as to produce noise or sound which is normally perceptible without instruments beyond the bounds of the lot on which it is located, except that this provision shall not apply to any religious or educational institution.(Amended ATM May 28, 2009)

6.10 Planned Developments.

6.10.1 For the purposes of this By-law, planned development shall mean the following commercial and industrial uses other than in a Light Industrial or Limited Business District:

a. Use of a lot of one acre or more for any commercial purpose;

b. Use of any building or lot for industrial purposes;

c. Use of a building or lot of any size for two or more commercial enterprises. For purposes of this section, the Building Inspector/Zoning Agent shall determine whether there are separate enterprises based on the following factors:

(1) Whether there are separate business entities (e.g. corporations) involved;

(2) Whether the enterprises are operating under separate names;

(3) The nature and purpose of the enterprises;

(4) The quality or character of the enterprises;

(5) Whether due to the addition of another enterprise, there has been a material change in the use or appearance of any structure or of the land, including an increase in the intensity of the use of the land, such as an increase in the number of vehicle trips generated to and from the site;

(6) Whether the enterprises are physically separated.

d. Use of a lot where there is construction, exterior alteration or expansion, or change of use involving more than five hundred square feet;

e. Construction, expansion or relocation of a parking lot, the relocation of existing parking spaces, or the relocation of any site entrance;

f. Any new use that is accessory to the principal use.(Amended STM 11/14/16 – Art. 23)

6.10.2 Planned developments shall be subject to all provisions set forth in this by-law and, in addition, shall be subject to the following provisions.

a. Any lot of a planned development which is adjacent to a Residence or to any building or lot used for dwelling purpose in any district shall be provided with a continuous wall of solid appearance or tight evergreen hedge six feet high along or parallel to said lot line. Such hedge shall not extend within twenty feet of the front lot line. In lieu of this provision a landscaped area at least twenty-five feet in width may be provided, subject to approval of the Board of Appeals. (See Section 7.4)

b. Any street frontage of a planned development shall be planted with one shade tree for every thirty feet of side frontage, except that the Board of Appeals may allow the substitution of other landscaping of a suitable nature. Solid shade trees or landscaping shall be located in a strip five feet wide along the frontage of the lot.

c. No more than one ingress and one egress shall be allowed to and from a planned development for access to off-street parking and loading spaces for each street to which the planned development has access. No ingress or egress shall be more than thirty-five feet wide.

6.10.3 Site Plan. No permit shall be granted for a planned development unless a site plan meeting all of the requirements of this by-law shall have been filed with and approved by the Board of Appeals. The site plan shall indicate the location of principal and accessory buildings and structures, the provision of off-street parking and loading spaces, including provisions for egress and ingress, the location of other open space on the site, the location and design of signs and other advertising devices, the proposed use of any buildings or structures and such other pertinent information as may be required by the Board of Appeals.

a. For the purposes of this section, the Board of Appeals is herewith empowered to adopt such regulations as it deems necessary to ensure that site plans for planned developments are adequate for its review. These regulations may include provisions for size of sheet, scale of drawing, number of copies, manner of presentation and similar pertinent information. Upon receipt of a site plan, the Board of Appeals shall within sixty days, either approve or disapprove it, giving its reasons for disapproval in writing. If the Board of Appeals does not either approve or disapprove of a site within sixty days, the site plan shall be construed to have been approved.

b. Within fifteen days of receiving a site plan in proper order for approval of a planned development, the Board of Appeals shall refer such request to the Planning Board for review. Upon receipt of such site plan, the Planning Board shall, within a period of 30 days, transmit to the Board of Appeals a report accompanied by any material, maps or plans which will aid the Board of Appeals in judging the site plan and in

determining special conditions and safeguards. The Board of Appeals shall not approve or disapprove of said site plan unless it has received the report of the Planning Board or unless thirty days have elapsed from the date of referral of the site plan to the Planning Board, whichever is earlier.

6.10.4 For the purposes of this section, the Building Inspector/Zoning Agent is herewith empowered to make a determination on changes of use to existing Planned Developments on a case by case basis, examining the following factors:

a. Whether there is a difference, in relation to the resources protected by the Zoning by-law, between the proposed use and the use in existence immediately prior to the proposed use. Such a determination may be based upon, but is not limited to the following:

i) the nature and purpose of the use,
ii) the quality or character of use,
iii) a material change in the use or appearance of any structure or in the land,
iv) any change which would increase the intensity of use of the land itself, such as an increase in the vehicle trips generated to and from the site;

b. Whether the proposed use results in different or increased impacts from the immediately prior use in relation to its effect on the surrounding neighborhood and/or resources protected by the Zoning By-laws.

c. In cases where a prior use has been discontinued for a period of time greater than two years, it shall be presumed that any use of the premises is considered a change of use.

6.10.5 All proposed changes in use to existing Planned Developments shall file information including a site plan to the Board of Appeals. The Board of Appeals shall follow the same time requirements and procedures as established in Section 6.10.3b.

6.11 Limited Business and Light Industrial Districts.

6.11.1 The use of all or any part of a Limited Business or Light Industrial District, including any lot or building therein, shall be subject to all applicable provisions of this By-law and in addition shall be subject to the following provisions.

a. To Section 6.10.2.a. (landscaped area/ledge etc.) and Section 6.10.2.b. (landscaped area/shade trees, etc.)

b. No permit shall be granted for the use of any lot or building in either district unless a site plan, meeting all the requirements of this By-law is filed with and approved by the Board of Appeals. The site plan shall indicate the location of all buildings and structures on the site, their height and bulk, their proposed use, the provisions for off-street parking and loading space, including proposed ingress and egress from public or private ways, location and design of signs and other advertising devices, coordination of site with adjoining areas both in its zoning district and in other districts, and such other pertinent information as may be required by the Board of Appeals. In approving a site plan, the Board of Appeals shall have the same authority as provided in Section 7.5, to impose such

conditions and safeguards as are deemed necessary to protect the surrounding neighborhood.

c. For the purposes of this section, the Board of Appeals shall be subject to the same procedure and shall have the same power as provided by Section 6.10.3 (Site Plan) of this Article.

d. The Board of Appeals shall hold a public hearing on site plans submitted under this Section--with notice by publication, and in writing to all abutters, in the manner prescribed by Massachusetts General Laws, Chapter 40A, Section 17 for hearings on appeals and on applications for variances.

e. No use of premises in either district shall be permitted which creates noxious fumes, smoke or odors.

f. No outside storage of equipment, merchandise or stock shall be permitted unless the same be fully screened from view from public ways and all adjoining lots.

g. Dimensional requirements and off-street parking and loading space requirements shall not be less than those provided in Sections 5.0 and 6.7, respectively, except that more strict requirements may be imposed as a condition of site approval by the Board of Appeals if warranted by the circumstances and the purposes of this By-law.

6.11.2 It is the intention that Limited Business and Light Industrial Districts shall be special zoning classifications in the interest of promoting the purposes of encouraging the most appropriate use of land; the regulatory powers granted the Board of Appeals in this Section are to ensure these purposes and the preservation of community values.

No land, except governmentally owned land, shall be rezoned as a Limited Business District or a Light Industrial District except by the unanimous vote of a town meeting if the owner of said land shall file with the Town Clerk a written protest against such change, stating the reasons, prior to action by the town meeting.

Section 7.0 - ADMINISTRATION

7.1 Enforcement by Building Inspector/Zoning Agent. This by-law shall be enforced by the Board of Selectmen of the Town of Somerset through the Building Inspector/Zoning Agent who shall approve no application, plan or permit or the specifications thereof except in conformity with this by-law. Enforcement Procedure. Any person seeking enforcement of this by-law will submit a request for such enforcement to the Building Inspector/Zoning Agent,

who will respond in writing within fourteen (14) days of such request. Any party aggrieved by the Building Inspector/Zoning Agent's decision in response to such a request may appeal that decision to the Zoning Board of Appeals within thirty (30) days.

7.2 Penalty for Violation. Any person, firm or corporation who violates or refuses to comply with any of the provisions of the by-law may, upon conviction or Court finding, be fined or assessed a penalty in a sum not to exceed Three Hundred ($300.00) Dollars for each violation. Each day, or portion of a day, that any violation continues shall constitute a separate offense.

7.3 Building Permits. No building or structure shall hereafter be erected, altered or changed in use nor shall any lot be changed in use unless a building permit authorizing the same has been issued by the Building Inspector.

An application for a building permit shall be accompanied by such appropriate information as the Building Inspector/Zoning Agent may require to indicate conformity with the provisions of this by-law.

Upon finding that all conditions, requirements and provisions set forth in this by-law and any other by-laws of the Town of Somerset have been met in regard to the erection, alteration or use of a building, structure or lot, the Building Inspector/Zoning Agent shall grant a permit for same. If any condition, requirement or provision of this by-law is not met or adhered to, the Building Inspector/Zoning Agent shall refuse to grant a permit, stating clearly in writing the reason for such refusal. The Building Inspector/Zoning Agent shall either grant or refuse a permit within thirty (30) days of receiving an application for said permit.

A record of all applications, plans and permits shall be kept on file by the Building Inspector/Zoning Agent available for public inspection. Construction or operations under a building permit shall conform to any subsequent amendments to this By-law unless use or construction under said permit has commenced within six months after the date of the permit.

7.4 The Board of Appeals. The Board of Appeals shall consist of three members and two associate members, appointed by the Board of Selectmen in accordance with the provisions of Chapter 40A of the General Laws. The Board of Appeals established under the zoning by-law previously in effect shall continue as the Board of Appeals under this by-law and the members and associate members thereof shall continue in office for the duration of their appointed terms.

The Board of Appeals shall have all of the powers and duties of Boards of Appeals under the applicable provisions of the General Laws of the Commonwealth of Massachusetts and of this by-law as set forth herein.

Not in limitation of the foregoing, the Board shall have the following powers and duties.

a. To hear and decide applications for exceptions under Section 4.1 and for special permits on which the Board is required to pass under Section 7.6.

b. To authorize upon appeal or petition with respect to a particular parcel of land a variance from the terms of this by-law, within the limits set forth in Section 7.7.

Any person aggrieved by a decision of the Board of Appeals, whether or not previously a party

to the proceedings, may appeal to the Superior Court.

7.5 Special Permits

7.5.1 General Provisions. A special permit is a permit to use property for the purposes specified and shall not waive, vary, or relax any other provisions of this By-law applicable thereto. Certain specific uses, buildings and structures identified in other sections of this By-law shall be allowed to be located, relocated, altered, substantially expanded, constructed or used in specified districts only upon the issuance of a special permit by the Board of Appeals or such other special permit granting authority as the By-law may provide.

In acting on special permits, the special permit granting authority shall take into account the general purpose and intent of this By-law and in order to preserve community values, may impose conditions and safeguards deemed necessary to protect the surrounding neighborhoods in addition to the applicable requirements of this By-law, including, but not limited to the following:

a. Front, side or rear yards greater than the minimum required by this By-law.

a. Screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.

c. Limitations of size, number of occupants, method or time of operation, or extent of facilities.

d. Regulation of number, design, and location of access drives or other traffic features.

e. Off-street parking or loading spaces beyond the minimum required by this By-law.

f. Control of the number, location, size and lighting of signs.

Special permits shall only be issued for uses, which are in harmony with the general purpose, and intent of this By-law and subject to its general or specific provisions, and only if the special permit granting authority finds that the following conditions are met.

a. The use is not noxious, harmful or hazardous, is socially or economically desirable and will meet an existing or potential need.

b. The advantages of the proposed use outweigh any detrimental effects, and such detrimental effects on the neighborhood and the environment will not be significantly greater than could be expected from development, which could occur if the special permit were denied.

c. The applicant has no reasonable alternative to accomplish this purpose in a manner more compatible with the character of the immediate neighborhood.

One Year Rule. Construction or operations under a special permit shall conform to any subsequent amendment to this By-law unless use or construction under said special permit has commenced within - one year after the date said special permit is issued.(ATM 5/15/17 – Art. 31)

Lapse of Special Permit. The Board of Appeals or other special permit granting authority under this By-law, shall provide as a condition to any special permit, that such permit shall lapse within a stated period

of time, not more than two years, if construction or use has not commenced by such date except for good cause.

Site Plan Review. Whenever special conditions call for a site plan or site plan review and/or approval, a site plan prepared in accordance with the applicable rules and regulations of the Special Permit Granting Authority shall be transmitted to the Planning Board for review regarding access, egress, parking, topography, drainage, buffers or screening and environmental impacts and no special permit shall be issued unless the Planning Board reports its comments in writing or thirty-five days elapse without such report. If a special permit does not incorporate the requirements of such report, or is issued contrary to its recommendations, the Special Permit Granting Authority shall, in its decision, state in writing the reasons for not following the Planning Board's recommendations.

7.6 Specific Uses by Special Permit. No special permit shall be issued for the following specific uses in the listed specific districts, except in accordance with the following conditions and requirements for each specific use.

(Alphabetical listing)

Accessory Uses (in connection with scientific research or development)
SPGA: Board of Appeals
District: Any district.
Special conditions: Determination that use is necessary for the principal permitted use; need not be on the same parcel of land.

Accessory Units for Single Family Dwellings
SPGA: Planning Board
District: Residential; Business; Limited Business; Open Recreational
Special Conditions: The intent of this provision is to provide housing to meet the needs of families who might be on a fixed income and enable them to stay more comfortably and securely in the homes and neighborhoods to which they are accustomed. An accessory unit is not meant to be a rental unit, but only as a convenience for members of the owner's family, and must meet the following requirements:

1. The unit shall not exceed 750 square feet in size.
2. The unit shall have at least two means of egress, with one egress directly to the outdoors and one egress through the main dwelling.
3. All utilities shall be extensions of the existing utilities serving the main dwelling and may not be separately metered. No new meters of any kind shall be installed.
4. Only one accessory unit shall be allowed per single-family dwelling.
5. Adequate off-street parking must be provided.
6. One of the two units must be owner-occupied.
7. The addition of any such unit must maintain the single-family residential character of the dwelling and the neighborhood. (Amended Art. 50 – ATM May 18, 2015)

Alteration, Increase or Change in non-conforming use of a building, structure or land.
SPGA: Board of Appeals
District: Any district.
Special conditions: Not more than 50 percent expansion of original gross floor area, and finding that the change shall not be substantially more detrimental than the existing use.

Automobile Repair Garage/Auto body Repair
SPGA: Board of Appeals
District: Business, Industrial, Light Industrial
Special Conditions: Determination that planned use will:

1. not result in excessive discharge, dispersal, seepage, migration, release or escape of pollutants such as solid, liquid, gaseous or thermal irritants or contaminants, including but not limited to smoke, vapor, soot, oil, fumes, acids, alkalis, chemicals, and waste, including materials to be recycled, reconditioned and/or reclaimed;
2. not allow open-air keeping, dismantling, disposal or abandonment of any unregistered motor vehicles;
3. will comply with all other federal, state and local laws, regulations, and licensing and permit requirements.

Club or Lodge (private, non-profit, operated for members only).
SPGA: Board of Appeals
District: Open Recreation
Special conditions: Subject to licenses required by state and town laws, including annual approval by the Board of Health, subject to review and approval of a site plan, which shall show adequate parking entrances and egresses; subject to conditions as to capacity.

Club or Lodge (operated for profit and open to the public)
SPGA: Board of Appeals
District: Open Recreation
Special conditions: Subject to licenses required by state and town laws, including annual approval by the Board of Health, subject to review and approval of a site plan, which shall show adequate parking entrances and egresses; subject to conditions as to capacity.

Conversion of a single family dwelling (for occupancy by two families).
SPGA: Board of Appeals
Districts: Residence, Business, Open Recreation
Special conditions: Subject to following conditions.

1. Dwelling must have been in existence as of March 11, 1963.
2. Off-street parking must be provided to meet the expected needs of all the occupants. See Section 6.7.
3. No alteration or structural change substantially altering the exterior residential character of the dwelling or increasing its size.
4. If the dwelling has been used for occupancy by more than one family, such use must have occurred before the Town adopted a Zoning By-Law or must have been permissible under the By-law in effect at the time such occupancy began. (Amended STM – Dec 1, 2008 Art. 19)

Customary Home Occupation in a dwelling
SPGA: Board of Appeals
District: Any district except Industrial
Special conditions: For the purposes of this section, a customary home occupation shall be an occupation conducted in a dwelling and may include, but need not be limited to activities such as fine arts studio, insurance or real estate office, dressmaking, catering, teaching of not more than four

pupils simultaneously, or in the case of musical instruction, not more than one pupil at a time, beauty parlor, office of a builder, plumber, electrical or other contractor, but not including parking of trucks or trailers, or storage of equipment or materials in conjunction therewith, except for one commercial vehicle.

The SPGA shall require that:

1. No more than three persons shall be engaged in such activities.
2. The use shall be carried on strictly within the principal building.
3. There shall be no exterior features not customary in buildings for residential use.
4. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use as a dwelling by its occupants and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
5. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than signs permitted under subsection 6.5.l.
6. There shall be no sale of merchandise other than that produced on the premises using equipment customarily found in a home.
7. No traffic shall be generated by such home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking generated by such home occupation shall be met off-street and not in the required front yard.
8. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electric interference detectable to the normal senses off the lot.
9. Not more than one commercial vehicle used in connection with such home occupation shall be stored on the premises, and an off-street parking space shall be provided for such a vehicle. For the purposes of this section, a "commercial vehicle" shall be defined as a vehicle that has a gross weight rating of 26,000 pounds or less and the operation of which does not require a Class A, Class B, Class C, Hoisting or CDL License. (ATM 5/15/17 Art. 30)

Genetic Engineering Laboratories
SPGA: Board of Appeals
District: Industrial, Light Industrial
Special conditions: Determination that planned use will apply process and facility controls necessary to assure the absence of any biological and environmental contamination and will comply with all other federal, state and local laws, regulations, and licensing and permit requirements.

Lunchroom, Restaurant, Cafeteria, Snack Bar
SPGA: Board of Appeals
District: Open Recreation
Special conditions: Subject to conditions as to capacity, parking, annual approval by the Board of Health.

Marina
SPGA: Board of Appeals
District: Open Recreation
Special conditions: Subject to requirement of a site plan and conditions as to capacity, entrance, egress and screening of work areas.

Medical Laboratories and Clinics (not incidental to a medical office)

SPGA: Board of Appeals
District: Business, Limited Business, Industrial, Light Industrial
Special Conditions: Determination that planned use will apply process and facility controls necessary to assure the absence of any biological and environmental contamination and will comply with all other federal, state and local laws, regulations, and licensing and permit requirements.

Mixed Use Development
SPGA: Planning Board
District: Business
Conditions: See Special Permit Granting Authority Rules & Regulations for Mix Used Development Special Permits. (amended ATM May 18, 2009)

Commercial Parking Lot for Automobiles
SPGA: Board of Appeals
District: Open Recreation
Special conditions: Subject to review and approval of a site plan, which plan shall allow adequate and safe means of entrance and egress; subject to conditions as to capacity; limited to one year with renewal without the requirements of a new hearing.

Off-street Parking Lot (not on the same lot as the principal use).
SPGA: Board of Appeals
District: Any district
Special conditions: Not more than two hundred feet from the principal use and subject to conditions as to entrance, egress, and number of spaces consistent with Section 6.7.

Professional Offices in a dwelling (use of rooms in a dwelling as office for a resident architect, dentist, engineer, land surveyor, lawyer or physician)
SPGA: Board of Appeals
District: Any district except Industrial.
Special conditions: Not more than three rooms to be so used, and not more than three persons to engage in such activities on the premises. A minimum of two off-street parking spaces to be provided for each room so used.

Retail Store for sale of merchandise.
SPGA: Board of Appeals
District: Open Recreation
Special conditions: No manufacturing, assembly or packaging of products except where at least 50 percent of such products are sold at retail on the premises.

Signs
SPGA: Board of Appeals
District: Any district except Residence
Special conditions: See Section 6.5.2b.

7.6.1 Adult uses by Special Permit

a. Purpose

These provisions are adopted pursuant to the authority granted the Town of Somerset by

Massachusetts General Law's chapter 40A and pursuant to the Town's home rule authority under the General Laws and Constitution of the Commonwealth of Massachusetts. It is the purpose and intent of this by-law to address and mitigate the secondary effects of sexually oriented businesses, since such secondary effects have been found by the Somerset Board of Selectmen and Somerset Planning Board to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, and adverse impacts on the quality of life in the Town, all of which secondary impacts are adverse to the health, safety, and general welfare of the Town of Somerset and its present and future inhabitants. The provisions of this By-law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually-oriented matter or materials. Similarly, it is not the intent nor effect of this by-law to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitutions of the United States and the Commonwealth of Massachusetts, nor restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute or exhibit such matter or materials. It is also not the intent or effect of this by-law to legalize the distribution of obscene matter or materials as defined in applicable state and federal law. In the event any provision of this section of the By-law is found to be unconstitutional or otherwise infirm, such a finding shall not affect the validity of the other provisions herein.

b. Definitions: As used throughout this By-law the following words shall be defined as indicated.

Adult Bookstore: an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws chapter 272, section 31.

Adult Cabaret or Dance Club: a nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on sexual conduct or sexual excitement as defined in Massachusetts General Laws chapter 272, section 31.

Adult Entertainment Establishment: Any establishment which presents, displays or sells to the public live or pre-recorded entertainment or material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws chapter 272, section 31, including but not limited to adult bookstores, adult cabarets, adult motion picture theaters, other adult theaters, adult paraphernalia stores, and adult video stores, all as further defined herein.

Adult Motion Picture Theater or other Adult Theater: an enclosed building or open-air "drive-in" theater used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws chapter 272, section 31.

Adult Paraphernalia Store: an establishment having as a substantial or significant portion of its stock in trade, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Massachusetts General Laws chapter 272, section 31.

Adult Video Store: an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws chapter 272, section 31.

Substantial or Significant Portion: As used with respect to this section of the By-law shall mean any of the following:
a. Fifteen per cent (15%) or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time; or
b. The stock in trade of an establishment which advertises itself as primarily an adult entertainment establishment.

c. Standards of Issuance of Special Permits to Operate Adult Entertainment

Establishments:
SPGA: Board of Appeals
Districts: Business and Light Industrial
Application: Includes but is not limited to adult bookstores, adult motion picture and other adult theaters, adult paraphernalia stores, adult video stores, and adult dance clubs. Existing adult entertainment establishments must apply for a special permit hereunder within ninety (90) days after the adoption of this section of the By-law by the Town.
Conditions: Determination by the Board of Appeals that the following requirements are met:

(1) The establishment must be set back the following minimum distances from other specified uses; as used in this section, distances shall be measured by following a straight line from the nearest point of the building in which the proposed adult use is located to the nearest point of the property line of the parcel containing the use from which the proposed adult use is to be separated.

(a.) At least two hundred feet (200') from any lot zoned for residential purposes;
(b.) At least five hundred feet (500') from the following: any public or private school or other educational facility; any park, playground, or open space recreational area; any church, synagogue, temple, or other religious facility or institution; any hospital, nursing home, long-term care facility or other medical facility; and
(c) At least one thousand feet (1,000') from any other adult entertainment establishment.

(2) The establishment may not display or sell obscene matter, material or conduct as defined in Massachusetts General Law's chapter 272, section 31, and case law thereunder.

(3) The establishment must erect and maintain a landscaped buffer along the side and rear property lines with a height of six (6') feet and depth of five (5') feet; in the sole discretion of the Board of Appeals, a buffer of man-made materials may be substituted for a landscaped buffer.

(4) The establishment must have and maintain adequate lighting of all parking areas and all areas to which the public will have access, as determined necessary by the Board of Appeals.

(5) The establishment may not maintain any advertisement, sign, display, or other promotional material which contains nudity, sexually explicit graphics, or sexually explicit materials or words, on the exterior or the building or in any interior area visible from outside of the establishment.

(6) In addition to meeting the other requirements of this section, the premises must have a minimum lot size of 20,000 square feet, and the structures thereon must have minimum front yard, side yard and rear yard set-backs of at least fifty (50') feet.

(7) The establishment may not be located in a single structure containing any other, separate public establishment, such as another retail establishment, whether or not under separate ownership or management.

(8) The hours of operation may be no longer than other similar types of uses in the district and are to be set forth by the Board of Appeals in the Special Permit.

(9) The Board of Appeals may impose other reasonable conditions, safeguards, and limitations on time or use of any special permit granted and shall require that any such special permit granted shall be personal to the applicant, shall not run with the land, and shall expire upon sale or transfer of the subject property.

7.6.2 Telecommunication Facilities (with communication towers and/or antennas)

A. These provisions are to ensure that the siting of towers and antennas associated with wireless communications is accomplished in a manner that: conserves health; secures safety; retains the value of land and buildings; and encourages the most appropriate use of land. To achieve these objectives, permitting requirements reflect a preference for:

1.) use of existing towers/buildings and structures;
2.) shared use of towers constructed for the mounting of wireless antennas; and
3.) the use of sites which comply with system design prerequisites for the location of new towers; and where visual and safety impacts are minimized, or can be mitigated.

B. Applicability:
New Towers and Facilities. The requirements set forth in this Section shall govern the location of all new wireless communication towers, antennas, facilities and related equipment, except those excluded below. The height limitations applicable to buildings and structures shall not apply to towers and antennas.

Pre-existing Towers and Antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this Section shall not be required to meet the requirements of this Section. Any proposed extension beyond thirty (30) feet in the height of an existing facility or replacement of a facility shall be subject to the requirements of this Section.

Exclusions. This section shall not govern the installation and maintenance of any tower or antenna which is owned and operated under federal license for any amateur radio, private Land Mobile, General Mobile and/or Public Safety applications.

C. General Conditions:
Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation

of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.

Federal Regulations. All Wireless Communications Links shall be erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including radio frequency emission regulations as set forth in Section 704 of the 1996 Federal Telecommunications Act, and any amendments thereto.

Co-Location of Wireless Communications Equipment. All owners and operators of land used in whole or in part for a Wireless Communications Link and all owners and operators of such Wireless Communications Link shall, as a continuing condition of installing, constructing, erecting and using a Wireless Communications Link, permit other public utilities or FCC licensed commercial entities seeking to operate a Wireless Communications Link to install, erect, mount and use compatible Wireless Communications equipment and fixtures on the equipment mounting structure on reasonable commercial terms provided that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing Wireless Communications Link as defined by meeting or exceeding FCC Standards, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional Wireless Communications equipment or fixtures.

Building Permits/Site Plan Review. Building permits are required for all wireless communications towers, antennas and related structures.

Licensed Carriers. All applications must be submitted with a licensed carrier and/or user as an applicant or co-applicant.

Liability Coverage. Insurance in a reasonable amount shall be in force to cover damage from the structure and other site liabilities. Annual proof of said insurance shall be filed with the Town Clerk by tower owner and/or land owner.

D. Standards for Issuance of Special Permits:
SPGA: Board of Appeals
Districts: All Districts
Conditions: Determination by the Board of Appeals that the following conditions apply:

1. The antenna is installed on an existing structure other than a tower (such as a building, sign, utility pole, water tower, or other free-standing non-residential structure) that is fifty (50) feet in height or greater so long as said additional antenna adds no more than thirty (30) feet to the height of said existing structure.
2. The antenna is installed on any existing communication tower of any height, so long as the addition of said antenna adds no more than thirty (30) feet to the height of said tower. The Building Inspector has the option to require a structural analysis of the tower be submitted by a registered Professional Engineer, prior to approval of a building permit.
3. Facilities requiring the siting of a tower and/or the installation of antenna(s) not meeting the conditions of paragraphs 7.6.2.D1 and 7.6.2.D2 above, shall be subject to the following application process, need determination, and design standards:
   a. Applications. All applications for wireless communications facilities shall be filed with appropriate application form and fee. The following information is required to be submitted with the application:

1. A scaled drawing which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, all buildings and their use within three hundred (300) feet of the facility, and distances at grade from the proposed tower to each building within the three hundred (300) foot radius of the facility.
2. Master siting plan for the carrier that includes a Town-wide map showing the location and coverage areas for all existing and future facilities in the Town covered by this by-law section. (In the event that a portion of the Town is serviced by a facility located out of the Town's boundaries, the coverage area shall be indicated on the Town wide map with a note on the location of the facility.) Also indicate location within the Town of wireless communication facilities of other carriers.
3. A color photograph or rendition of the proposed tower with its antenna and/or panels. A minimum of two (2) renditions shall also be prepared illustrating the views of the tower or antenna from the nearest street, or from the view requested by the Zoning Board of Appeals.
4. The following information prepared by a professional engineer:
    a. Description of the tower and the technical, economic and other reasons for the proposed location, height and design.
    b. Confirmation that the tower complies with all applicable Federal and State standards.
    c. A description of the capacity of the tower including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.
    d. An analysis that demonstrates that it is not feasible to locate on an existing structure within a ½ mile radius of the proposed tower, including but not limited to, buildings, water towers, existing communications facilities, utility poles and towers.

       The applicant shall have the burden of proving that there are no feasible existing structures or previously approved facilities that can accommodate the proposed use.
5. Between submittal and the date of the advertisement of the public hearing a balloon shall be put in place at the height of the proposed tower on dates arranged with the Zoning Board of Appeals. The balloon shall be of a size and color that can be seen from every direction for a distance of one (1) mile.
6. The applicant shall submit documentation of the legal right to use the proposed site, at the time of application.

b. Design Standards: The following design standards shall apply:

1. Setbacks and Separation.
    a. In order to ensure public safety, the minimum distance from the base of a wireless communication tower to any property line, building, active recreation or parking area shall be fifty percent (50%) of the height of the tower including any antennas or other appurtenances.
    b. All towers shall be located a minimum of three hundred (300) feet from the nearest residential property line.
    c. Guy wires and accessory facilities must satisfy the minimum zoning district setback requirements for accessory structures.
2. Aesthetics and Lighting.
    a. Towers shall either maintain a galvanized steel finish or be painted to meet FAA and FCC standards.
    b. At a tower site the design of the buildings and related structures shall, to the extent possible, use materials,

colors, textures, screening and landscaping that will blend the tower facilities into the natural setting and built environment, inclusive of use of disguised antenna concepts. Preference will be given to facility designs that best fit into the proposed location.

c. There shall be no signs except for those required by FCC Regulations.
d. Towers shall not be artificially lighted except as required by the FAA or other applicable authority.
e. Towers shall not be higher than 190 feet, inclusive of antenna.

3. Landscaping and Fencing.
   a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent property. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient landscaping.
   b. Towers and equipment shall be enclosed by security fencing not less than six (6) feet in height, with appropriate anti-climbing devices.

4. Other.
   a. There shall be a minimum of one (1) parking space for each tower facility to be used in connection with the maintenance of the site and not to be used for permanent storage of vehicles or equipment.
   b. Wireless communication facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
   c. In granting a Special Permit the Board of Appeals may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effects of the proposed tower or antenna on adjoining properties.

c. **Maintenance and Discontinuance of Use**.

1. The applicant and co-applicant shall maintain the wireless communication facility in good condition. Such maintenance shall include, but shall not be limited to painting, structural integrity, security barrier and maintenance of the buffer areas and landscaping.
2. Any telecommunications antenna tower for which a ground lease has expired for a period of one (1) year and for which all F.C.C user licenses have lapsed or expired for a period of one (1) year shall be considered abandoned and must be disassembled and removed from its site within ninety (90) days of receipt of notice to do so from Building Inspector, unless during the 90-day notification period a new ground lease is obtained or the necessary F.C.C. licenses are reinstated or obtained.
3. The tower owner(s) shall post a bond in an amount to be determined by the Board of Appeals in order to cover the cost of removing the tower if abandoned. The amount of said bond shall be reevaluated every two (2) years.

4. If upon the expiration of the aforementioned 90-day notification period, the owner of record of an abandoned telecommunications tower has failed to remove the tower or to obtain the necessary lease or licenses as provided above, the Town may contract with a certified tower erection company to remove and dispose of the tower and may use the proceeds of the bond to pay all costs incurred in doing so, including storage fees and legal fees. The owner(s) shall be responsible to reimburse the Town for any costs incurred by the Town not covered by the bond.

7.6.3 Marijuana Establishments by Special Permit

A. Purpose: These provisions are adopted pursuant to the authority granted the Town of Somerset by Massachusetts General Laws chapter 40A and pursuant to the Town's home rule authority under the General Laws and Constitution of the Commonwealth of Massachusetts. It is the purpose and intent of this by-law provision to address the operation of marijuana establishments as that term is defined in M.G.L. c. 94G, sec. 1, and 935 C.M.R. 500, et seq., including registered medical marijuana dispensaries and medical marijuana treatment centers as those terms are defined in 105 C.M.R. 725.004, (together referred to as "Marijuana Establishments") in order to provide for the location of such facilities in appropriate places and under strict conditions in accordance with the provisions of M.G.L. c. 94C and c. 94G and regulations adopted thereunder, as they may be amended from time to time. In addition, it is the purpose and intent of these provisions to minimize impacts that may be adverse to the health, safety, and general welfare of the Town of Somerset and its present and future inhabitants, including impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, traffic patterns, and other land uses incompatible with such facilities, as well as to limit the overall number of facilities to that which is necessary to serve the Town and the immediate region. The provisions of this By-law have neither the purpose nor intent of restricting or denying access by adults to medical or non- medically-prescribed marijuana as permitted under the laws of the Commonwealth of Massachusetts, nor restricting or denying rights that properly licensed, permitted, and registered distributors of marijuana may have to sell, distribute or exhibit such products. It is also not the intent or effect of this by-law to legalize the illegal distribution of any drugs or substances forbidden by applicable law or regulation. In the event any provision of this section of the By-law is found to be unconstitutional or otherwise infirm, such a finding shall not affect the validity of the other provisions herein.

B. Applicability: The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use and marijuana not medically prescribed is prohibited in the Town of Somerset unless permitted under this section and no marijuana facility or establishment shall be established except in compliance with this section.

C. Definitions: As used throughout this By-law the following words shall be defined as indicated.

Marijuana: shall be as defined under chapters 94C and 94G of the Massachusetts General Laws, 105 Code of Massachusetts Regulations 725.004, and 935 Code of Massachusetts Regulations 500.002.

Medical Marijuana: Marijuana that is designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions.

Marijuana Establishment: this term shall include licensed marijuana establishments as defined in M.G.L. c. 94G, sec, 1, and other applicable law, which include a marijuana cultivator, craft marijuana cooperative, marijuana testing laboratory, marijuana product manufacturer, marijuana retailer (store-front or delivery-only), marijuana social consumption establishment (primary or mixed use), marijuana

transporter (third party or existing licensee), marijuana micro-business, or any other type of licensed marijuana- related business, as well as registered medical marijuana dispensaries and medical marijuana treatment centers as those terms are defined herein and in 105 C.M.R. 725.004.

Medical Marijuana Treatment Center or Registered Marijuana Dispensary: shall mean a not-for-profit entity as defined by Massachusetts law only, registered with and licensed by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal care-givers.

D. Standards of Granting of Special Permits to Operate a Marijuana Establishment:

SPGA: Board of Appeals
Districts: Industrial and Light Industrial
Application: Existing marijuana establishments, if any, must apply for a special permit hereunder within ninety (90) days after the adoption of this section of the Bylaw by the Town.
Conditions: Determination by the Board of Appeals that the following requirements are met:

(1) The establishment must be set back the following minimum distances from other specified uses (as used in this section, distances shall be measured by following a straight line from the nearest point of the building in which the proposed facility is located to the nearest point of the property line of the parcel containing the use from which the proposed marijuana establishment use is to be separated):

(a) At least two hundred feet (200') from any lot zoned for residential purposes;

(b) At least five hundred feet (500') from the following: any public or private school, day care facility for children, or other educational facility; any park, playground, or open space recreational area; any church, synagogue, temple, or other religious facility or institution; any hospital, nursing home, long-term care facility or other medical facility; and,

(c) At least one thousand feet (1,000') from any other marijuana establishment.

(2) The marijuana establishment must comply with all applicable Massachusetts laws and regulations regarding the licensing, siting, construction, and operation of such establishments and may not display or sell materials or substances that are illegal, unlicensed, or unpermitted under said laws and regulations.

(3) The establishment must erect and maintain a landscaped buffer along any side and rear property lines that abut properties used for residential purpose, said buffer to have a height of at least six (6') feet and depth of at least five (5') feet; in the sole discretion of the Board of Appeals, a buffer of man-made materials may be substituted for a landscaped buffer. Said buffers shall be in addition to any fencing required by applicable state laws and regulations.

(4) The establishment must have and maintain adequate security, alarm systems, on-site parking and lighting in compliance with applicable regulations and as determined necessary by the Board of Appeals.

(5) Solid waste generated by the marijuana establishment shall not be commingled with that of any other uses on the site and shall be stored in secured receptacles contained within a fenced and locked enclosure with visibility slats in a location that is visible from the street. Storage and disposal of all waste must be in strict accordance with state regulations.

(6) Except as otherwise permitted by the Board of Appeals and licensed by the appropriate state authorities, the establishment shall be contained within a single building or structure. The establishment may not be located in a single structure containing any residence or any other separate establishment open to the public, such as a retail establishment, whether or not under separate ownership or management. The building and parking areas shall be clearly visible from the street. All entrances and exits shall be clear of obstructions at all times and clearly visible from the street.

(7) In addition to meeting the other requirements of this section, the lot on which the facility is located must have a minimum lot size of twenty thousand (20,000) square feet, and all structures thereon must have minimum front yard, side yard and rear yard set-backs of at least fifty (50') feet.

(8) The hours of operation are to be established by the Board of Appeals in the Special Permit, but in no event shall said facility be open or operating between the hours of 9:00 P.M. and 8:00 A.M.

(9) The applicant must supply the Board of Appeals and the Somerset Police Department with the names, addresses, phone numbers, e-mail addresses, and positions of each owner, shareholder, member, officer, manager, and employee of the proposed establishment. The Police Department shall review the list to ensure compliance with paragraph (10) below and shall provide a letter to the Board of Appeals indicating whether the individuals in question meet the requirements of the law. In addition, a permitted applicant must thereafter supply the Police Department, Building Inspector, and Board of Health Agent with a current list of the names, telephone numbers, and e-mail addresses of all management, staff and keyholders, which must be kept updated at all times.

(10) No special permit for a marijuana establishment may be issued to a person who has been convicted of a crime or violation that would prevent him or her from being properly licensed by the Commonwealth of Massachusetts pursuant to the laws and regulations governing the type of establishment seeking to be permitted. In addition, no special permit shall be issued or remain issued to a business or non-profit corporation in which any owner, shareholder, member, officer, manager, or employee has been convicted of such crimes or violations.

(11) A special permit shall automatically expire if the applicant's registration with and/or licensing by the Commonwealth of Massachusetts has been revoked or suspended, expires, is terminated, is transferred to another entity, or is relocated to a new site.

(12) A site plan shall be submitted by the applicant. The site plan shall be drawn to scale (no smaller than 1 inch = 40 feet) and shall include a north arrow. The site plan shall accurately show the location and dimensions of the marijuana establishment building and all other buildings and accessory structures on the property, the proposed use or uses of all buildings or structures, the dimensions and precise locations of areas within a building to be used in connection with the marijuana establishment and those to be used for any other purposes, the set-backs of all structures or any other areas in use by the marijuana establishment from the lot lines, access and egress routes from the site, the location of all required on-site off- street parking and loading spaces, the location of other open space on the site, a table showing the Zoning By-law parking and loading space requirements for the site and the number of parking and loading spaces provided, the location and design of all signs and advertising devices, the location of the solid waste disposal enclosure and dumpsters required herein, compliance with other applicable laws and regulations regarding siting and security, and such other pertinent information as may be required by the Board of Appeals.

(13) The applicant must supply the Zoning Board with copies of all required registrations, licenses and permits issued to the applicant by the Commonwealth of Massachusetts for the facility, along with a copy of the applicant's Articles of Organization or Articles of Incorporation, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and its most recent annual report. Copies of all such licenses and permits issued by the Commonwealth shall be posted at the facility, along with all other signage required under applicable laws and regulations and, in the case of a medical marijuana establishment, including but not limited

to clearly visible signage indicating "Registration card issued by the Massachusetts Department of Health required".

(14) The Board of Appeals shall require that any such special permit granted hereunder shall be valid only for the entity permitted and non-transferable, shall be limited to the site permitted, shall not run with the land and shall be limited to the applicant's ownership or control of the premises permitted as a marijuana establishment, and shall expire upon sale or transfer of the subject property or cessation of operations by the permitted entity.

(15) The Board of Appeals may impose other reasonable conditions, safeguards, and limitations on time or use in any special permit granted. (Amended STM 3/19/18 – Art. 2)

7.7 **Variances.** A variance from the specific requirements of this by-law may be authorized by the Board of Appeals only for reasons of demonstrable and substantial hardship to the petitioner or appellant, and only where the Board finds that:

a. There are special circumstances relating to the soil conditions, shape or topography of the land or structures for which the variance is sought, especially affecting such land or structures but not affecting generally the zoning district in which it is located;

b. Due to such special circumstances, a literal application of the provisions of this by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;

c. The specific variance granted by the board is the minimum variance that will grant reasonable relief to the petitioner or appellant, and is necessary for a reasonable use of the land or structure; and

d. The granting of the variance will be in harmony with the general purpose and intent of this by-law, and will not be injurious to the neighborhood or otherwise detrimental to the public good. In addition to considering the character and use of nearby buildings and land, the Board, in determining its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

e. Use variances shall not be granted. (amended ATM 5/20/19)

7.7.1 In approving a variance the Board of Appeals may attach such conditions, safeguards and limitations both of time and use as are deemed necessary to protect the surrounding neighborhood and the public good, including the continued existence of any particular structure, but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the petitioner or any owner.

7.8 Separability of Provisions. The invalidity of any article, section or provision of this By-law shall not invalidate any other article, section or provision thereof.

7.9 Planning Board of Appeal. Any person aggrieved by a decision of the Planning Board concerning a subdivision plan when it appears that the Subdivision Control Law, so far as applicable, has been complied with and the enforcement of all the specific provisions of the Subdivision Control Law would entail practical difficulty or unnecessary hardship and if all the circumstances of the case

do not require that the building or structure be related to a way shown on such plan, may appeal to the Planning Board of Appeal, in accordance with the provisions of Chapter 41 of the General Laws, for the issuance of a permit for the erection of such building.

The Planning Board of Appeal shall consist of three members and two associate members appointed by the Board of Selectmen, in accordance with the provisions of Chapter 41 of the General Laws.

The Planning Board of Appeals shall have all the powers and duties of Planning Boards of Appeal under the applicable provisions of Chapter 41 of the General Laws.

Any person aggrieved by a decision of the Planning Board of Appeals may appeal to the Superior Court.

7.10 Public Hearings. The Board of Appeals and the special permit granting authority shall exercise the powers authorized by this by-law only after public hearings held in conformity with the provisions of Chapter 40A including due notice to parties in interest, the petitioners, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as shown on the most recent applicable tax list (including any such owner of property in another city or town), the planning board of the City of Fall River and the planning boards of the towns of Freetown, Berkley, Dighton and Swansea.

7.11 Amendment of By-Law and Map. This by-law or any portion thereof may be amended by act of Town Meeting in conformity with the provisions of Chapter 40A of the General Laws.

Section 8 – Open Space Community

8.1 **Purpose.** The purpose of the Open Space Community By-law is to provide permanent open space for the use and enjoyment of the Town's residents and to protect unique, natural and man-made features from development.

8.2 **Definitions. (Applicable only to Section 8.0 of the Somerset Zoning By-Law).**

Family. A number of individuals living and cooking together on the premises as a single housekeeping unit in a domestic relationship, as distinguished from a group occupying a boarding house, club, fraternity or sorority house, or hotel.

Dwelling Unit. A single independent housekeeping unit physically separated from any other dwelling unit which may be in the same structure and containing independent living, sleeping, eating, cooking, washing and toilet facilities, occupied or intended for occupancy by one separate household.

Townhouse. A free-standing building, exclusively for residential use, containing not more than three (3) dwelling units per townhouse with each dwelling unit being from ground to roof. Townhouses shall have individual outside access and share common sidewalls. (Amended ATM May 2008 Article 38)

Multi-Unit Dwelling. A freestanding building, exclusively for residential use, containing not more than three (3) dwelling units per multi-unit dwelling. Individual units may share a common outside access or have individual outside access. (Amended ATM May 2008 Article 38)

Individual Lot Area. The individual lot area is the land required for the siting of each single family dwelling in an Open Space Community exclusive of streets, wetlands, water areas, open space and land in common ownership, and not applicable to Townhouses and Multi-Unit Dwellings.

Base Site Area. All land area within the boundaries of the site as defined in the deed.

8.3. **Special Permit.** An open space community is a special permit use in the following districts: Residence and Open Recreation.

The Somerset Planning Board is the Special Permit Granting Authority (SPGA) for open space communities.

8.4. **Special Permit Uses.** The following uses may be authorized by the SPGA in an Open Space Community subject to the general provisions of this bylaw applicable to special permits and to the special conditions imposed by the SPGA:

a. Residence District; Single Family Dwelling; Townhouse (maximum of three (3) dwelling units per Town house); and Multi-Unit dwelling (maximum of three (3) dwelling units per multi-unit dwelling) (Amended ATM May 2008 – Article 38)

b. Open Recreation District: Single Family Dwelling; Townhouse (maximum of three (3) dwelling units per Townhouse); and Multi-Unit dwelling (maximum of three (3) dwelling units per multi-unit dwelling) (Amended ATM May 2008 – Article 38)

Uses deemed by the SPGA to be accessory to uses allowed by special permit may be authorized as a condition of the special permit.

8.5 **Dimensional Requirements.**

8.5.1 **Residential District**
Open Recreation District

a. No special permit shall be granted unless the Base Site area consists of at least five (5) acres of contiguous land and has a minimum of 300 feet of frontage on an existing publicly accepted street or, alternatively, access to a private way, from a publicly accepted street, which private way is approved by the SPGA for the purposes of the Open Space Community.

b. The overall site density for an Open Space Community shall not be less than 4,000 square feet of the Net Buildable Site Area per dwelling unit for Townhouses and Multi-Unit Dwellings. The overall site density for an Open Space Community shall not be less than 20,000 square feet of the Net Buildable Site Area for Single Family Dwellings.

c. Each Open Space Community shall meet the dimensional requirements of Section 5.2 Table of Dimensional Requirements, except as modified in Table 1, Dimensional Requirements for Individual Lots and, Table 2, Dimensional Requirements for Townhouses and Multi-Dwelling Units.

Dimensional Requirements for Individual Lots
Table 1

Single Family Dwelling (per Dwelling Unit) in Residence District and Open Residential District

Minimum Individual Lot Area	8,000 square feet
Minimum Street Frontage	75 feet
Minimum Front Yard Depth	25 feet
Minimum Side Yard Depth	15 feet
Minimum Rear Yard Depth	15 feet
Minimum Distance Between Building	30 feet
Maximum Percentage Lot Coverage	30 percent
Maximum Dwelling Units Per Buildings	1
Maximum Building Height	35 feet

Dimensional Requirements for Townhouses and Multi-Dwelling Units
Table 2

Townhouses and Multi-Dwelling Units in Residence District and Open Residential District

Net Buildable Site Area per dwelling unit	4,000 square ft.
Minimum Street Frontage per dwelling unit For Townhouses and Multi-Dwelling (see Note 1)	20 feet
Minimum Front Yard Depth	To be Determined by SPGA
Minimum Side Yard Depth	To be Determined by SPGA
Minimum Rear Yard Depth	To be Determined by SPGA
Minimum Distance Between Buildings	15 feet
Maximum Percentage Lot Coverage	35 percent
Maximum Dwelling Units Per Building	3 (Amended ATM May 2008 Art 38)
Maximum Building Height	35 feet
Minimum living area per Dwelling unit	1,200 square feet

Note No. 1 – Frontage on internal access private roadways as distinguished from frontage of a publicly accepted street.

8.5.2 **Site Capacity Calculation.** In determining the maximum number of dwelling units to be permitted in an Open Space Community, the area of the site covered by wetlands (based on a vegetative analysis as prescribed by Mass. General Law Chapter 131, S. 40), slopes greater than 15 percent, utility rights of way and roads shall be calculated and deducted from the Base Site Area. Construction shall be allowed by special permit on the remaining Net Buildable Site Area. Notwithstanding anything herein to the contrary, when constructing Townhouses, Multi-Unit dwellings, the overall site density shall not be more than three (3) dwelling units per acre.

8.6 **General Provisions**

8.6.1 **Buffer Yards**. A 10-foot wide buffer yard shall be provided along all abutting property lines in an Open Space Community. The buffer yard shall be planted with a dense screen planting of a type and size acceptable to the SPGA. The buffer yard shall remain free of all parking areas and structures.

8.6.2 **Streets, Drainage and Utilities.** Streets, drainage and utilities shall be constructed pursuant to a special permit and shall be designed and installed in accordance with the standards of the Subdivision Regulations of the Planning Board in effect at the time of the filing of an application for a special permit or revision authorization as the case may be.

The SPGA shall not grant a special permit unless it determines that water, sewage and drainage facilities will be adequate to service the proposed development without a detrimental effect upon municipal services in any other area of the Town, and the SPGA shall not grant a special permit unless the Board of Water & Sewer Commissioners determines that water and sewage facilities will be adequate to service the proposed development without detrimental effect upon municipal services in any area of Town.

8.6.3 **Parking.** Parking areas shall conform to Section 6.7 of the Somerset Zoning By-law, except that a minimum of two off-street parking spaces shall be required per dwelling unit.

8.6.4 **Site Plan Requirements**.

a. The applicant for a special permit shall submit a site plan prepared by a registered professional engineer or land surveyor, oriented to true north, showing the boundaries of the overall site, the lot lines of individual building sites, and showing the location of all proposed structures, parking areas, means of access, roadways, buffer yards, landscaped areas, common open areas, and recreation areas. The site plan shall also include a locus map.

b. The applicant shall also submit a map prepared by a registered professional engineer or land surveyor of existing natural and manmade features including public utility rights-of-way, wetlands (based on a vegetative analysis as prescribed by Mass. General Laws Chapter 131, S.40), forested areas, and archeological sites.

c. A map prepared by a registered professional engineer or land surveyor showing existing and proposed topographic contours at two foot intervals.

d. The applicant shall also submit a draft of the documents of the organization which will own and maintain the common open land and roadways including the substance of any restrictions and covenants to be imposed on the land and/or structures and recorded with the deeds to individual owners and to the home owners association.

8.7.1 **Design Review**. In its review of an Open Space Community, the SPGA may impose reasonable conditions for the purpose of achieving the following objectives:

a. Minimizing the number of curb cuts onto existing roads and highways,
b. Maximizing the amount of usable open space,
c. Protecting and preserving existing, unique, natural and man-made features,
d. Minimizing the disruptive influence of the development on surrounding neighborhoods,

e. Minimizing impervious surface and stormwater runoff,
f. Protecting the public health, safety and welfare.

8.8 **Open Space Requirements**

a. At least 30 percent of the Base Site Area shall be reserved as Common Open Space, inclusive of wetlands (based on vegetative analysis as prescribed by Mass. General Laws Chapter 131, S.40), slopes greater than 15 percent, floodplains, and utility rights-of-way, however, exclusive of roads as shown on the site plan.

b. All Common Open Space shall have a point of adequate dry access to a street suitable for maintenance and use by emergency vehicles.

c. Parking areas and streets shall not be computed into the area requirement for Common Open Space.

d. Such Common Open Space shall be conveyed to the Town of Somerset and accepted by the Town for park or common open space use or conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, or a trust or corporation owned or to be owned by the owners of the residential units within the open space community as provided in MGL Chapter 40A or a combination of the above alternatives for separate tracts within the Base Site Area. In any case, where the Common Open Space is not conveyed to the Town of Somerset, a restriction (enforceable by the Town of Somerset) providing for keeping Common Open Space permanently in a common open state, shall be a condition to the special permit and shall be recorded with the appropriate registry of deeds.

   Where such land is not conveyed to the Town, a perpetual restriction of the type described in MGL Chapter 184, Section 31 through 34 (including future amendments thereto and corresponding provisions of future laws) or some alternative legal instrument, recorded in the Registry of Deeds and providing for a permanent restriction against future developments, shall be made running to or enforceable by the Town.

e. Common Open Space shall be maintained at all times by the owner thereof. In the event this Common Open Space is conveyed to a trust or corporation owned or to be owned by the owners of the residential units within the Open Space Community, in addition to the requirements of paragraph (d) above and to insure that the trust or corporation will properly maintain the Common Open Space deeded to it, the SPGA shall require as a condition to the granting of the special permit, the recording in the appropriate Registry of Deeds a Declaration of Covenants and Restrictions which shall, at minimum:

   1. impose upon each residential unit owner an obligation to pay all maintenance assessments imposed by the corporation or trust to ensure that the Common Open Space is maintained in a condition suitable for the uses approved by the corporation or trust and required by the Special Permit; create a lien enforceable by the corporation or trust upon any residential unit assessed for failure to pay any such maintenance assessment imposed by the corporation or trust; and provide that upon recording by the corporation or trust of a notice of lien for delinquent assessment in the appropriate Registry of Deeds, such lien shall have preference over subsequent encumbrances not otherwise entitled to priority as a matter of law.

f. The applicant for a special permit under this Article shall give evidence that a reasonable functional relationship exists between the Common Open Space and the proposed residential units.

g. Such Common Open Space shall be restricted to open space recreational uses such as lots, parks, playgrounds, play fields, golf courses, or conservation areas and shall not be built upon except as needed for the above open space recreational uses.

8.9 **Rules and Regulations of the SPGA**. The SPGA shall adopt rules and regulations relative to the procedures to be followed, criteria and performance standards for the evaluation of permits, and may provide for informal pre-application hearings for the consideration of preliminary plans. The rules and regulations shall specify any additional information the SPGA deems necessary to make its review, including the quantities, content, and scale of maps to be presented. Applications and site plans shall be submitted to the Conservation Commission and other such officials or boards deemed appropriate by the SPGA for review and recommendation.

9.0 - SPECIAL DISTRICTS

9.1 Watershed Protection District
(Special Town Meeting, November 3, 1986)

9.1.1 Purpose and Application. The purpose of this bylaw is to protect and conserve natural resources including ground and surface water within the Town of Somerset (See Section 1.1).

9.1.2. District Designations and Map. The Watershed Protection District is identified on the map entitled "Official Watershed Protection & Water Resources Protection Districts, Town of Somerset, Massachusetts" dated April 2, 2008, which is adopted as part of the zoning by-law and on file with the Town Clerk.
(Amended ATM May 2008)

9.1.3 Watershed Defined (See Section 2.0)

9.1.4 Uses

a. Permitted Uses. Farming, forestry, essential municipal services such as water works and pumping stations, open space, recreation and conservation uses and other such uses that do not involve excavation, paved parking areas (See Table of Uses, Section 4.0).

b. Special Permit Uses. The Planning Board, acting as Special Permit Granting Authority, may grant a special permit for the following uses:
single family dwellings on lots of 50,000 square feet subject to the following dimensional requirements:

frontage - 200 feet
front yard depth - 50 feet
side and rear yard depth - 30 feet
maximum lot average - 10 percent
maximum building height - 35 feet
(attached chimneys and antennae may be 45 feet) (See Section 7.6)

c. Prohibited Uses **(amended May 21, 2012 – Art. 46)**

1. Outdoor storage of the following substances: salt, snow melting chemicals, or hazardous substances such as pesticides, herbicides, and water soluble and volatile chemical compounds. This prohibition shall include, without limitation, outdoor storage or materials containing or coated with such chemicals susceptible to being carried into surface or groundwater;
2. Storage of radioactive waste;
3. Underground storage tanks. Such uses where lawfully existing, may be continued but may not be expanded or altered without a special permit from the Zoning Board of Appeals, acting as the SPGA with respect to alterations of non-conforming uses (see sections 6.3 and 7.6);
4. Any animal feed lot, pasture or confinement area, or storage of manure, or drainage of such areas within 25 feet of the seasonal high water line of all water bodies and courses within the Watershed Protection District.

In accordance with 310 CMR 22.20C (1), the siting of the following new land uses within the Watershed Protection District shall be prohibited:

5. Land uses described in 310 CMR 22.20B(2);
6. Facilities that, through their acts or processes, generate, treat, store or dispose of hazardous wastes that are subject to M.G.L. c. 21C and 310 CMR 30.000, except for the following:
   a. Very small quantity generators, as defined by 310 CMR 30.000;
   b. Treatment works approved by the Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of ground or surface waters;
7. Sand and gravel excavation operations;
8. Uncovered or uncontained storage of fertilizers;
9. Uncovered or uncontained storage of road or parking lot de-icing and sanding materials;
10. Storage or disposal of snow or ice removed from highways and streets outside the Watershed Protection District that contains deicing chemicals;
11. Uncovered or uncontained storage of manure;
12. Junk and salvage operations;
13. Motor vehicle repair operations;
14. Cemeteries (human and animal) and mausoleums;
15. Solid waste combustion facilities or handling facilities as defined in 310 CMR 16.00;
16. Land uses that result in rendering impervious of more than 15%, or more than 20% with artificial recharge, or 2500 square feet of any lot, whichever is greater; and
17. Commercial outdoor washing of vehicles, commercial car washes.

Storage of radioactive waste.

Underground storage tanks. Such uses where lawfully existing, may be continued, but may not be expanded or altered without a special permit from the Zoning Board of Appeals acting as the SPGA with respect to alterations of non-conforming uses. (See Section 6.3).

Any animal feed lot, pasture, or confinement area, or storage of manure, or drainage of such areas, within 25 feet of the seasonal high water line of all water bodies and courses within the Watershed Protection District.

9.1.5 Special Permit Conditions

a. Streets and Utilities. Streets and utilities shall be constructed pursuant to a special permit and shall be designed and installed in accordance with the standards of the Subdivision Regulations of the Planning Board in effect at the time of the filing of the special permit application.

b. Storm water runoff from the site shall not exceed that which occurred when the site was in its natural state.

c. Site Plan. Site plan showing the boundaries of the overall site, the lot lines of individual buildings, the extent of impervious surface areas, water supply, and drainage facilities, and the layout and design of disposal facilities.

A calculation of the amount of storm water runoff before and after any building(s) or dwelling unit(s) are constructed.

9.1.6 Rules and Regulations. The SPGA shall adopt rules and regulations relative to the procedures to be followed, and the criteria and performance standards for the evaluation of special permits, and may provide for informal pre-application hearings for the consideration of preliminary plans. The rules and regulations shall specify any additional information the SPGA deems necessary to make its review, including the quantities, content, and scale of maps to be presented.

Such rules shall provide for notice to and review by the following local boards; Board of Selectmen, Conservation Commission, and Board of Health, and shall include requirements for:

a. Provisions and conditions designed to prevent or correct conditions detrimental to water resources, health, safety and welfare.

b. Provisions and conditions to prevent pollution to ground and surface waters.

9.2 Water Resources Protection District
(Special Town Meeting, November 3, 1986)

9.2.1 Purpose. The purpose of this bylaw is:

a. To insure that development and use of land within the district will not endanger the health, safety or welfare of the occupants of such land as well as of the general public.
b. To preserve and protect the groundwater resources, streams, ponds, marshes and other watercourses and their adjourning land in the Town of Somerset from encroachment and degradation.
c. To retain the natural storage capacity of the watershed.

9.22 The Water Resources Protection District is considered to be superimposed over the other districts shown on the zoning map, as recognition of the special conditions found in the overlay district. The Water Resources Protection District is identified on the map entitled "Official Watershed Protection & Water Resources Protection Districts, Town of Somerset, Massachusetts" dated April 2, 2008, which is adopted as part of the zoning by-law and on file with the Town Clerk.
(Amended ATM May 2008)

9.2.3 Use Regulations.

a. Permitted Uses. In the Water Resources Protection District the following uses shall be permitted by right if so permitted in the underlying districts: farming, forestry, essential municipal uses such as waterworks and pumping stations, open space and recreational uses and other such uses provided they do not involve, paved parking areas, dumping or disposal of waste, or excavation, with the
Exception of excavations incidental to the construction of decks, above ground pools, fences, and sheds. (Amended ATM May 19, 2003)

b. Special Permit Uses. All uses and buildings allowed in the underlying district, including such uses requiring a special permit, will be allowed in the Water Resources Protection District only upon issuance of a special permit by the Planning Board acting as the Special Permit Granting Authority (See Section 7.6).

9.2.4 Findings by the SPGA. Prior to issuing a special permit, the Planning Board, acting as the Special Permit Granting Authority, shall make the following findings: The granting of a special permit shall not adversely affect water quality or water storage capacity, increase the hazard of flooding or inundation, significantly reduce property values by damage to the environment, or pose a threat to the public health, safety or welfare.

9.2.5 Site Plan Requirements. All special permit applications shall be accompanied by a site plan drawn to scale and prepared by a registered professional engineer or land surveyor containing the following information.

a. The location of all wetland areas based on a vegetative analysis as prescribed by Massachusetts General Laws, Chap. 131, S.40.

b. The location, boundaries and dimension of each lot in question.

c. Two foot contours of the existing and proposed land surfaces.

d. The location of existing and proposed structures, water courses and drainage easements, means of access, drainage and sewage disposal facilities.

e. A calculation of the amount of stormwater runoff before and after any building(s) or dwelling unit(s) are constructed.

9.2.6 Conditional Requirements. The following conditions shall apply to all development in the Water Resources Protection District unless otherwise permitted by special permit issued by the Planning Board. (amended STM – Dec 1, 2008 Art 20)

a. The use of on-site septic systems to meet sewage disposal needs shall be prohibited.

b. No building or dwelling unit shall contain a basement, cellar or any living area below ground level.

c. The amount of stormwater runoff after a building or dwelling unit has been constructed shall not exceed the amount of runoff that occurred when the site is in its natural state.

d. All identified wetland areas (as prescribed by Section 9.2.5.a) shall be excluded from the lot area for the purpose of calculating the minimum square footage required for the construction of a building or dwelling unit.

9.2.7 Rules and Regulations. The SPGA shall adopt rules and regulations relative to the procedures to be followed, and the criteria and performance standards for the evaluation of special permits, and may provide for informal pre-application hearings for the consideration of preliminary plans. The rules and regulations shall specify any additional information the SPGA deemed necessary to make its review, including the quantities, content, and scale of maps to be presented; and shall provide for the referral of said plans and applications to the Conservation Commission, and Board of Health for advisory review and comment.

9.2.8 If the property owner believes that a parcel located within the Water Resources Protection District, as shown on the official map of the Watershed Protection &Water Resources Districts adopted under Article 36 of the May 19, 2008, Annual Town Meeting, does not have characteristics warranting the application of the By-law to that parcel or that conditions could be imposed which would permit construction on the parcel consistent with the purposes of this By-law, the property owner in applying to the Planning Board for a Special Permit may seek a waiver of all or certain portions of the requirements in the Water Resources Protection provisions of the By-law, notwithstanding the fact that the parcel appears on the official map to be within the Water Resource Protection District. The Planning Board, in deciding whether to grant such waivers in a Special Permit, shall consider, among other factors, the characteristics of the soil conditions of the lot in question. The Planning Board may impose such conditions as it deems necessary and appropriate to address the purposes of the By-law. (amended STM - Dec 1, 2008 Art. 20)

9.3 Floodplain District
(Annual Town Meeting, May 20, 1985)

9.3.1 District Map
The Floodplain District is herein established as an overlay district. The underlying permitted uses are allowed, provided they meet the following additional requirements, as well as those of the Massachusetts State Building Code dealing with construction in flood plains and coastal high hazard areas. The District includes all special flood hazard areas within the Town of Somerset designated as , AE (formerly A1-30), or VE (formerly V1-30) on the Bristol 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 Bristol County FIRM that are wholly or partially within the Town of Somerset are panel numbers 25005C0242G, 25005C0244G, 25005C0261G, 25005C0263G, 25005C0327G, 25005C0329G, 25005C0331G, 25005C0332G, 25005C0333G, 25005C0337G, dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Inspector. (Amended ATM May 18, 2009) [The Town reserves any rights it or its citizens might have to challenge said maps and report.] (Amended ATM May 19, 2014)

9.3.2 Development Regulations. The following requirements apply in the Flood Plain District.

a. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector/Zoning Agent for its reasonable utilization toward meeting the elevation of flood-proofing requirements, as appropriate, of the State Building Code.

b. Located within the Flood Plain District are areas designated as coastal high hazard areas (Zone V). Since these areas are extremely hazardous due to high velocity waters from tidal surges and hurricane wave wash, the following provision shall apply.

1. All new construction shall be located landward of the reach of the mean high tide.
2. Man-made alterations of sand dunes with Zones V and VE (formerly V1-30) which would increase potential flood damage are prohibited. (amended ATM May 18, 2009)

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

d. In a riverine situation, the Building Inspector shall notify the following of any alterations or relocation of a watercourse:

1) Adjacent communities;
2) The NFIP State Coordinator, care of the Massachusetts Department of Conservation and Recreation; and,
3) The NFIP Program Specialist, care of the Federal Emergency Management Agency, Region 1.

e. All subdivision proposals must be designed to ensure that:

1) such proposals minimize flood damage;
2) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and,
3) adequate drainage is provided to reduce exposure to flood hazards.

(Amended ATM May 19, 2014)

9.3.3 Conflicting Laws. The provisions of this zoning by-law amendment shall in no way be interpreted to abrogate the powers and obligations delegated to the Commissioner of Environmental Management pursuant to the provisions under General Laws, Chapter 131, Section 40A, as it pertains to floodplain areas, nor shall this zoning by-law amendment be deemed to conflict with zoning by-law restrictions as contained in General Laws, Chapter 40A, Section 3.

9.4 Mixed Use Overlay District

(Adopted ATM May 18, 2009)

9.4.1 Purpose:

The purposes of this Mixed Use Development Overlay District (MUDOD) By-law are: to encourage a mix of commercial and residential uses in Business Districts as shown on the Official Zoning Map Town Somerset Massachusetts, adopted May 19, 2008; to encourage redevelopment and infill development in the areas zoned for business in a manner that establishes controls that will facilitate development while protecting the public interest; to protect and enhance the value of land and buildings and provide for a variety of business and residential uses; and, toward these ends, to allow greater utilization of commercial developments.

9.4.2 Overlay District:

The Mixed Use Development Overlay District is hereby established as an overlay district. As such, all rules of the underlying district shall remain in full force and effect, except where the requirements of the MUDOD vary uses or dimensional requirements otherwise set forth in the Zoning By-Law, the terms and conditions of the MUDOD shall control.

9.4.3 Approving Authority:

A. The Planning Board shall act as the Special Permit Granting Authority for applications submitted under this By-law and may adopt and from time to time amend reasonable regulations for the administration of this By-law. The regulations shall contain detailed requirements governing applications for review, which shall include, but need not be limited to, the following:

1. The content of plans;
2. The designation of proposed building locations;
3. Location and design characteristics of proposed roads, driveways, and parking area;
4. Existing and proposed site grades;
5. Identification of wetlands affected by or adjoining the proposed project;
6. Utility service to the proposed project and drainage plans and calculations;
7. Traffic studies relating to the proposed project;
8. Screening plans for the proposed project; and,
9. Performance and Design Guidelines.

B. The Planning Board shall act on a special permit application according to the procedures set forth in M.G.L. Chapter 40A, section 11, and the provisions of section 7.5 (Special Permits) of this By-law.

9.4.4 Definitions.

The following definitions are for use with this section of the By-law:

Floor Area, Net: The usable or leasable floor area of a building, excluding halls, stairways, vents, elevator shafts, mechanical equipment rooms, inner courts, attached garages, porches, balconies, basement or attic storage areas, and other common space or uninhabitable space.

Infill Development: The development of existing vacant lots or lots produced by resubdivision, or the addition of secondary uses.

Mixed Use Development: The development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, office, retail, institutional, or entertainment, in a compact village form with vehicular access to an accepted public way.

Mixed Use Infill Development: The development of existing vacant lots or lots produced by re-subdivision, or the addition of secondary uses or buildings, for two (2) or more different uses such as, but not limited to, residential, office, retail, institutional, or entertainment, in a compact village form. The proposed Mixed Use Infill Development shall demonstrate that the project shall be served by town water and sewer service upon completion of the proposed development.

Mixed-Use Development, Vertical: A single building in which the ground floor facing the street is used primarily for retail/commercial or service uses, and other ground floor and upper floor space is used for residential or office uses.

Mixed-Use Development, Horizontal: Two or more principal uses in separate structures on one lot, which provide retail/commercial or service uses in building(s) facing the street and residential or office uses above the ground floor or in separate building(s) behind or to the side.

Open Space: The portion of a lot that is not covered with structures, access roads or driveways, sidewalks, patios, off-street parking, or any other material placed on or above the earth which substantially reduces or prevents the natural percolation of water. The open space shall be suitably landscaped with noninvasive, drought-resistant plantings, which may include trees, flowers, shrubs, succulents or ornamental or other grasses.

9.4.5 Use Regulations:

The Mixed Use Development Overlay District is an overlay district superimposed over the underlying Business Districts set forth in this Zoning By-law. Within the Mixed Use Development Overlay District, the requirements of the underlying Business District continue to apply, except in uses as follows:

Permitted Uses.

The following are uses allowed in Mixed Use Development and Mixed Use Infill Development with a Mixed Use Development Special Permit:

Vertical and Horizontal mixed-use development, each use complying with the standards below:

a. Residential uses with a minimum of 350 square feet per dwelling unit and an additional 100 square feet for each additional bedroom over one and at least 2 parking spaces for each dwelling unit:
   i. Single family;
   ii. Townhouse/Rowhouse with a maximum of 3 dwelling units per acre; Multi-family.
b. Commercial uses. A building or buildings containing one or more of the following uses:
   i. Retail store for the sale of food, drug and proprietary goods, up to a maximum of 7,500 square feet of net floor area for an individual retail establishment;
   ii. Restaurant or other place serving food, where food service is located entirely within the building or on a patio or outdoor seating area operated in connection with an indoor-service restaurant, up to a maximum of 3,500 square feet of net floor area for an individual restaurant establishment where there is no drive-through or window service;
   iii. Bakery, deli, coffee shop, ice cream shop, sandwich shop, or similar establishment in which all or a majority of the food service is food to be consumed off the premises, but not including drive-through food service;
   iv. Business or professional office;
   v. Post office;
   vi. Governmental services;
   vii. Personal service, such as a beauty salon or barbershop, which includes the sale of related goods; or dressmaking, dry-cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere;
   viii. Laundromat;
   ix. Inn or bed-and-breakfast facility;
   x. Bank, including manned or automated drive-up facilities that are attached to the rear or side of a full-service banking office with no vehicles queing on the street;
   xi. Automated teller machine (ATM), not attached to a full-service banking office, provided that public access is available only from within a building and is operated in connection with other uses in the same building;
   xii. Printing or copying shop;

xiii. Repair shop, such as shoe repair, appliance or electronic repair, jewelry repair, with a maximum gross floor area of 2,000 square feet;
xiv. Artist studios and galleries.

Accessory uses incidental to a permitted use.
Uses exempt under M.G.L. c. 40A, sec. 3.
Remodeling an existing commercial structure to accommodate one (1) or more dwelling units, provided that:
The building was in existence on or before May 18, 2009;
The lot is in compliance with Section 5.0 (Dimensional Regulations) of this By-law;
No more than forty-five percent (45%) of the lot area is covered by structures;
There are at least two (2) off-street parking space for each dwelling unit contained in the structure;
Outside storage areas shall be screened by fencing or landscaping;
The principal structure to be converted shall contain at least six hundred square feet (600 s.f.) on the ground level;
No dwelling unit shall have a gross floor area of less than three hundred fifty square feet (350 s.f.) plus one hundred square feet (100 s.f.) for each bedroom in excess of one (1);
If the secondary unit is in an accessory building, approval of the Planning Board shall be obtained in accordance with Section 81-O of Chapter 41 of the General Laws and with the Planning Board Subdivision Regulations;
If the dwelling unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings in writing;
If there is an existing drive-through facility, the Planning Board may deem it necessary to limit the hours of operation.
New drive-through service for a commercial establishment, such as a pharmacy, located in the rear or side of the building, but not a drive-through bakery or food service establishment. Commercial establishments shall not provide drive-through service if there is a residential use in the same structure.

Prohibited Uses.
Any uses not specifically permitted herein are prohibited, including any adult entertainment uses.

9.4.6 Density and Dimensional Regulations.
Where a Mixed Use Development project involves an entire parcel or multiple contiguous parcels, densities shall be calculated on the development of the area as a whole.

To promote increased density where utility and transportation infrastructure already exist and to better accommodate future growth and the clustering of buildings and mixing of uses in exchange for some portion of land to be set aside as public area or green space, the following shall guide the design of a development:

Densities
Mixed-use developments within this District shall provide dwelling units as follows:

Minimum: 1 dwelling units per acre

Maximum: 3 dwelling units per acre

B. Dimensional Regulations
To produce variety and visual interest in site planning, developers are encouraged to provide a range of

lot sizes, frontage widths, setbacks, and heights, within these parameters:

Minimum Lot Area:	New Construction: 20,000 sq.ft. Addition to Existing Structure: existing as long as there is the capacity to accommodate required parking for each use.

9.5 Slade's Ferry Crossing District (STM – May 20, 2013 – Article 4)

9.5.1 Purpose:

The purpose of these Slade's Ferry Crossing District (SFCD) provisions is to allow for a development, redevelopment and infill mix of compatible commercial and residential uses and open space more varied than is generally available under conventional zoning. They are further intended to promote and encourage redevelopment of the Slade's Ferry/ Old Route 6 business area and transform it into a vibrant, attractive, livable mixed-use location with a sense of place, as well as support and strengthen the development of a riverfront park. A primary component of redevelopment in this area is integrating pedestrian and bicycle friendly connections within the mixed-use area and to the Riverfront Park and adjacent residential areas.

9.5.2 Overlay District:

The Slade's Ferry Crossing District is hereby established as an overlay district. As such, all rules of the underlying districts shall remain in full force and effect, except where the requirements of these provisions (SFCD) vary uses or dimensional requirements otherwise set forth in the Zoning By-Law, the terms and conditions of the SFCD shall control.

9.5.3 Approving Authority:

A. The Planning Board shall act as the Special Permit Granting Authority for applications submitted under these provisions and may adopt, and from time to time amend, reasonable regulations for the administration of this Bylaw. Until such time that the Planning Board adopts reasonable regulations, the Rules and Regulations governing Special Permits for Mixed Use Development shall pertain. The regulations shall contain detailed requirements governing applications for review, which shall include, but need not be limited to, the following:

10. The content of plans;
11. The designation of proposed building locations;
12. Location and design characteristics of proposed roads, driveways, and parking areas;
13. Existing and proposed site grades;
14. Identification of wetlands affected by or adjoining the proposed project;
15. Utility service to the proposed project and drainage plans and calculations;
16. Traffic studies relating to the proposed project;
17. Screening plans for the proposed project; and,
18. Performance and Design Guidelines.

C. The Planning Board shall act on a special permit application according to the procedures set forth in M.G.L. Chapter 40A, section 9, the provisions of section 7.5.(Special Permits) of the Somerset Zoning By-law and the rules and regulations governing the issuance of a special permit under the SFCD provisions.

9.5.4 Definitions.

In addition to the definitions found in section 9.4 Mixed Use Overlay District, the following definitions are for use with this section of the bylaw:

Story: A space in a building between the surface of any floor and the surface of the next floor above, or if there is no floor above, then the space between such floor and the ceiling or roof above; provided, however, that where the floor level of the first story is at least five feet below the adjoining finished grade, the space shall be considered a basement and not counted as a story.

Fenestration: Refers to the design and/or disposition of openings in a building or wall envelope. Fenestration products typically include: windows, doors, louvers, vents, wall panels, skylights, storefronts, curtain walls, and slope glazed systems.

Esplanade: Waterfront area devoted to public use; includes both upland walkways and open space.

9.5.5 Use Regulations:

The SFCD is an overlay district superimposed over the underlying Districts as shown on the map entitled Official Zoning Map, Town of Somerset. Within the SFCD, the requirements of the underlying district apply, except in uses as follows:

A. Permitted Uses.

The following are uses allowed in the SFCD:

1. Vertical and Horizontal mixed-use development, each use complying with the standards below:
   a. Residential uses with a minimum of 350 s.f. per dwelling unit and an additional 100 s.f. for each additional bedroom over one and a minimum of 1.25 parking spaces for one bedroom units and 1.50 for two bedroom units.
      i. Single family.
      ii. Townhouse/Rowhouse with a maximum of 8 dwelling units per acre; Multi-family, Condominium and apartment building.
   b. Commercial uses. A building or buildings containing one or more of the following uses:
      i. Retail store for the sale of food, drug and proprietary goods, up to a maximum of 5,500 square feet of net floor area for an individual retail establishment; hardware store; florist.
      ii. Restaurant or other place serving food, where food service is located entirely within the building or on a patio or outdoor seating area operated in connection with an indoor-service restaurant, up to but not to exceed a maximum of 5,000 square feet of net floor area for an individual restaurant establishment where there is no drive-through or window service.
      iii. Bakery, delicatessen, café, coffee shop, ice cream shop, pastry shop, sandwich shop, or similar establishment but not including drive-through food service.
      iv. Offices for business or professional uses, including, but not limited to accountants, architects, attorneys, engineers, insurance agents, medical practitioners, real estate sales and similar uses.
      v. Post office; Governmental services.
      vi. Personal care service, such as a beauty salon or barbershop, which includes the sale of related goods; or dressmaking, dry-cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere; exercise studio.
      vii. Laundromat.
      viii. Specialty shopping facilities such as art studios, galleries, gift shops and antique shops.
      ix. Inn or bed-and-breakfast facility.
      x. Bank with no drive-thru.
      xi. Automated teller machine (ATM), not attached to a full-service banking office, provided that public access is available only from within a building and is operated in connection with other uses in the same building.
      xii. Printing or copying shop.

xiii. Repair shop, such as shoe repair, jewelry appliance or electronic repair, area of repair, with a maximum gross floor 1,500 square feet.
xiv. Parking garage.
xv. Mini-Transit Center (bus connection/kiosk).
xvi. Farmers market.
xvii. Child care (licensed).

c. Proposed water/riverfront park uses;
   i. Sculpture/artwork; Public Memorial; Information center.
   ii. Public boat, canoe, kayak launch.
   iii. Bike paths, walking trails. boardwalk/esplanade.
   iv. Public restrooms or portable toilets.
   v. Park, playground.
   vi. Amphitheatre, bandstand.
   vii. Maintenance building/accessory.
   viii. Public pier or dock.
   ix. Marina, public and private.
   x. Municipal building (takeout hamburger/ hotdog/ice cream leased to private vendor).
   xi. Easements and access (deeded).

2. Accessory uses incidental to a permitted use.
3. Uses exempt under M.G.L. c. 40A, sec. 3.
4. Remodeling an existing commercial structure to accommodate one (1) or more dwelling units, provided that:
   a) The building was in existence on, or before, the date of adoption of these provisions.
   b) The lot is in compliance with Section 5.0 (Dimensional Regulations), of this bylaw.
   c) No more than fifty-five percent (55%) of the lot area is covered by structures.
   d) There are a minimum of 1.25 parking spaces for each one bedroom unit and 1.50 spaces for each two bedroom unit.
   e) Outside storage areas shall be screened by fencing or landscaping.
   f) The principal structure to be converted shall contain at least six hundred square feet (600 s.f.) on the ground level.
   g) No dwelling unit shall have a gross floor area of less than three hundred fifty square feet (350 s.f.) plus one hundred square feet (100 s.f.) for each bedroom in excess of one (1).
   h) If the secondary unit is in an accessory building, approval of the Planning Board shall be obtained in accordance with Section 81-O of Chapter 41 of the General Laws and with the Planning Board Subdivision Regulations.
   i) If the dwelling unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings in writing.
   j) If there is an existing drive-through facility, the Planning Board may deem it necessary to limit the hours of operation.

B. Prohibited Uses:

Any uses not specifically permitted herein are prohibited.

9.5.6 Density and Dimensional Regulations.

Where a project involves an entire parcel or multiple contiguous parcels, densities shall be calculated on the development of the area as a whole.

To promote increased density where utility and transportation infrastructure already exist and to better accommodate future growth and the clustering of buildings and mixing of uses in exchange for some portion of land to be set aside as public area or green space, the following shall guide the design of a development:

Densities

Mixed-use developments within this District shall provide dwelling units as follows:

Minimum: 4 dwelling units per acre

Maximum: 8 dwelling units per acre

Dimensional Regulations

To produce variety and visual interest in site planning, developers are encouraged to provide a range of lot sizes, frontage widths, setbacks, and heights, within these parameters:

Minimum Lot Area:	New Construction: 20,000 sq. ft. Addition to Existing structure: existing as long as there is the capacity to accommodate required parking for each use.
Minimum Lot Frontage:	Any
Building Height:	
Minimum	All Uses: 1.5 stories (18 ft.)
Maximum	All Uses: 4 stories (45 ft.)
Minimum Setbacks:	
Front Yard	10’
Side Yard	All Uses: None, except 20’ next to Residence District.
Rear Yard	All Uses: 15 ft.
Maximum Setbacks:	
Front Yard	All Uses: 15 ft.
Distance Between Buildings:	Attached, or if unattached structures, 10’
Maximum Lot Coverage:	55%

C. Provisions:

1. The maximum coverage of the lot by buildings and structures shall be fifty-five percent (55%) of the total lot area and the minimum landscaped area shall not be less than twenty-five percent (25%) of the lot area.
2. The majority of the parking shall be located to the rear and sides of the buildings. Residential parking shall be clearly marked or separated from the commercial or public

parking and located within two hundred feet (200') of the residential building entrance. Bicycle racks shall be provided.

a) When parking is provided within the ground floor it may be one hundred percent (100%) of the ground floor or the ground floor may include a commercial use to the front of the ground floor with a maximum of 60% of the gross floor area at the rear of the first floor of the interior of a building provided for parking serving the residential units of upper stories.
b) When one hundred percent (100%) of the ground floor is used for parking the street side façade shall include fenestration to maintain the character of the structure.
c) Appropriately designed view corridors of buildings from the roadways within the overlay district shall be allowed.
d) If shared parking is proposed, the applicant shall provided parking information to the Planning Board that shall include data on peak parking times by use. On street parking within one hundred feet (100') of the property may be counted towards the commercial parking requirement. Off street parking within three hundred feet (300') of the property may be counted towards the commercial parking requirement.

3. Elevations and floor plans shall be submitted in addition to all other requirements for a site plan.
4. Not more than fifty per cent (50%) of the total gross square footage of all buildings and structures can be in residential use as part of a mixed-use building.

9.5.7 Application Plans

The applicant for a special permit shall submit an application plan prepared by a registered professional engineer or land surveyor, oriented to true north, showing the boundaries of the overall site, the lot lines of individual building sites, and the locations of all proposed structures, parking areas, means of access, roadways, buffer yards, landscaped areas, common open areas, and recreation areas. The application plan shall also include a locus map and a photometric plan showing illumination levels as required per lighting illumination requirements.

The application plan shall demonstrate compliance with the density and dimensional requirements and the performance and development standards of these provisions and detailed in the Planning Board's Rules and Regulations for Slade's Ferry Crossing.

9.5.8 Performance and Development Standards

Standards for the enhancement and improvement of existing properties and/or structures relative to Access and Traffic Impacts, Noise, Vibration, Smoke, Heat, Glare and Odor, Lighting, Storage, Waste Disposal, Loading/Unloading, Walkways, Signs, Landscaping, and Appearance/Architectural Design shall be incorporated in the development or re-use proposals within the Slade's Ferry Crossing District.

No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes, odor, noise, vibration or excessive light under standards set forth in the performance criteria in the Rules and Regulations for Slade's Ferry Crossing. Any other applicable performance standards of the town shall apply to the Mixed Use Development in addition to these standards.

Existing buildings shall be used before new construction; new construction design shall be consistent with the character of the Town and/ or other structures in the district.

A <u>Development Design Standards</u>

These standards are intended to provide a framework within which a variety of options may be designed and proposed and are intended to result in a more cohesive physical environment and a higher aesthetic quality. Applicants shall also refer to the Rules and Regulations for Slade's Ferry Crossing **(**or the Rules and

Regulations for Mixed Use Development until such Rules have been adopted) for additional Design Guidelines.

1. Lighting.
   For the provision of safe and attractive illumination, lighting shall be designed at a pedestrian scale to illuminate the sidewalk area and buildings without creating excessive light impacts.
   a) Lighting shall be in a style that is compatible and complementary to the surrounding architectural style and character.
   b) Lighting fixtures shall not exceed 15 feet in height in smaller parking lots (fewer than 40 spaces), along pedestrian paths, and at building entrances. Elsewhere, fixtures shall not exceed 24 feet in height.
2. Signs.
   Signs in the Slade's Ferry Overlay District shall enhance the physical appearance of the area and individual developments and shall be permitted as follows:
   a) Signs associated with residential uses shall conform to Zoning By-law section 6.5.3 Signs in Residential Districts, subject to the other provisions herein.
   b) Signs for commercial uses shall conform to Zoning By-law section 6.5.4 Signs in Business and Industrial Districts, subject to the other provisions herein.
   c) Mixed-Use Developments are subject to the provisions of Zoning By-law section 6.5.12 Prohibited Signs.
   d) Residential signs shall be illuminated per Zoning By-law section 6.5.3.8.
   e) Illumination shall conform to Zoning By-law section 6.5.7.
   f) When more than one sign is provided, their designs shall be coordinated in terms of graphic style, color and materials.
   g) Wall signs shall be designed to fit within the architectural features of the building façade, such as cornices, horizontal trim, storefront bays, etc. A wall sign should not cover architectural features of the building.
3. Open Space and Landscaping Guidelines.

   Meaningful open space shall be integrated into all developments and parking areas at a minimum of 25% of the lot and contribute to the pedestrian experience over the long term and on a year-round basis. Landscaped areas shall be properly maintained and shall not encroach on the public walkways or roadways or impede pedestrian or vehicular traffic.
   a) Landscaped areas shall be provided along and against all buildings.
   b) Parking areas shall be screened from adjacent residential uses, streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the American Standard for Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005, and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.
   c) Service and utility areas shall be screened from public view with architectural treatments or dense landscaping to enhance the appearance of buildings and sites.
5. Circulation and Parking.
   a) To maximize pedestrian and vehicular safety, parking areas shall be located behind or to the side of the principal building, with the exception that parking areas shall not be located on a street corner.
   b) Provide clearly defined pedestrian connections between parking lots and building entrances.
   c) Each lot may have one access drive through its frontage, located not less than five (5) feet from a lot line, that has a maximum width of 35 feet.
   d) Shared driveways or connections among adjacent developments are encouraged.
6. Appearance/Architectural Design.
   To keep structures attractive, varied and interesting, minimize

Apartment Over Commercial

unreasonable departure from the scale of buildings in the vicinity, as viewed from public ways and places, reduce the apparent bulk of larger buildings so as to emphasize pedestrian scale.

a) Divide a larger building into smaller scale horizontal or vertical components through a variation in detail, form and siting.
b) A building more than 45 feet in width shall be divided into increments no more than 45 feet wide through articulation of the façade.

Commercial Buildings should be designed to allow apartments or offices on the second story, with appropriate exterior materials, proportion and scale.

7. <u>Facades and Storefronts.</u>
   a) Building Materials used in traditional New England architecture, including brick, wood clapboard, and shingles are encouraged for the front facades of buildings and the main features of the architectural treatment of the building front façade should be continued around all sides visible from a street or pedestrian plaza.
   b) To promote maximum transparency of storefronts, at least 35% of any ground floor commercial building façade that is visible from the primary frontage should be comprised of windows with clear glass allowing views into the interior and at least 15% of any ground floor façade that is visible from and fronting on any other street, not the primary frontage, should be comprised of windows with clear glass allowing views into the interior.
   c) Facades of commercial and mixed-use buildings shall provide ground level detail that provides visual interest to passersby.

   d) Enhance the pedestrian environment in parking areas by creating inviting rear entrances using signage, canopies or awnings, paved paths, display windows.
   e) Chains and Franchises.
      Objective: To ensure that chains and franchise stores conform to the character of the Mixed Use Development rather than importing distinguishing styles, colors or signage.
      i. Chains and franchise stores should not impose their standard architecture, signage and colors. Instead, they should adapt these to fit in with Somerset's character and guidelines.
      ii. Signage should be compatible with the historic character of the building.

8. <u>Erosion and Sedimentation.</u>
   All applications for a Slade's Ferry Crossing Special Permit shall include erosion and sedimentation analysis and an erosion and sedimentation control plan as detailed in the rules and regulations. In addition, projects that disturb one acre of land or more are required to obtain coverage under the NPDES Construction General Permit issued by EPA and prepare a <u>Stormwater Pollution Plan</u> (SWPP).

9. <u>Drainage</u>
   Design Standards. Stormwater runoff management shall be designed according to the Massachusetts Stormwater Handbook (Massachusetts Department of Environmental Protection,) as well

as according to requirements outlined in the rules and regulations. Prior to issuing a Slade's Ferry Crossing Special Permit, the Planning Board, as SPGA, shall make the following findings:

- The granting of a special permit shall not adversely affect water quality or water storage capacity;
- The design and layout of the requested use shall not increase the hazard of flooding or inundation;
- The design and layout of the requested use shall not significantly reduce property values by damage to the environment;
- The design and layout of the requested use shall not pose a threat to the public health, safety or welfare;
- The design and layout of the requested use protects adjacent wetlands and water bodies;
- The design provides adequate erosion and sediment protection;
- The design and construction of the requested use provides for the protection of surface and groundwater quality, and;
- The design, construction and maintenance of the on-site infiltration methods shall approximate the parcel's pre-development recharge.

9.5.9 Decision

The Planning Board shall approve, approve with conditions, or deny an application after considering whether the Project meets the criteria set forth below and elsewhere in these provisions, in addition to the criteria of Somerset Zoning Bylaw sections 7.5 and 7.6:

A. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the replacement of trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
B. Maximize pedestrian and vehicular safety both on the site and egressing from it;
C. Minimize obstruction of scenic views from publicly accessible locations;
D. Minimize visual intrusion by controlling the visibility of parking, storage, HVAC or other outdoor service areas viewed from public ways or premises residentially used or zoned;
E. Minimize glare from headlights and lighting intrusion and light overspill into the night sky;
F. Provide adequate access to each structure for fire and other emergency service equipment;
G. Provide adequate stormwater management and drainage design consistent with the functional design standards as specified in the Rules and Regulations of the Somerset Planning Board as Special Permits Granting Authority and the Rules and Regulations of the Somerset Planning Board governing Special Permits for Slade's Ferry Development;
H. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places; and,
I. Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances.

9.5.10 Issuance of Occupancy Permits.

The Building Inspector may not issue an occupancy permit to an applicant without prior receipt of a copy of the special permit decision and proof of recording at the Bristol County Registry of Deeds.

9.5.11 Relation to Other Requirements.

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-law.

9.5.12 Appeals.

Any person aggrieved by a decision of the Planning Board under this bylaw may appeal said decision in accordance with M.G.L. Chapter 40A, Section 17.

9.6 Business Industrial Overlay District

9.6.1 Purpose:

The purposes of this Business Industrial Overlay District (BIOD) By-law are: to encourage a mix of commercial and industrial uses in certain areas of the Industrial District as shown on the Official Zoning Map Town Somerset Massachusetts, adopted May 19, 2008; to encourage redevelopment and infill development in the areas zoned for industrial uses in a manner that establishes controls that will facilitate development while protecting the public interest; to protect and enhance the value of land and buildings and provide for a variety of business and residential uses in areas that are currently zoned for industrial uses, but abut areas used for business and residential uses; and, toward these ends, to allow greater utilization of commercial developments.

9.6.2 Overlay District:

The Business Industrial Overlay District is hereby established as an overlay district. As such, all rules of the underlying district shall remain in full force and effect. Except where the requirements of the BIOD vary uses or dimensional requirements, the requirements otherwise set forth in the Zoning By-Law shall control. Where the requirements of the BIOD vary the uses or dimensional requirements otherwise set forth in the Zoning By-Law, the terms and conditions of the BIOD shall control.

9.6.3 Approving Authority:

A. A Special Permit under Section 7.5 of this By-Law shall be required for a BIOD Development (a "BIOD Development Special Permit"). The Planning Board shall act as the Special Permit Granting Authority for applications submitted under this Section of the By-Law and may adopt and from time to time amend reasonable regulations for the administration of this By-Law. The regulations shall contain detailed requirements governing applications for review, which shall include, but need not be limited to, the following:

1. The content of plans;
2. The designation of proposed building locations;
3. Location and design characteristics of proposed roads, driveways, and parking area;
4. Existing and proposed site grades;
5. Identification of wetlands affected by or adjoining the proposed project;
6. Utility service to the proposed project and drainage plans and calculations;
7. Traffic studies relating to the proposed project;
8. Screening plans for the proposed project; and,
9. Performance and Design Guidelines.

B. The Planning Board shall act on a special permit application according to the procedures set forth in M.G.L. Chapter 40A, section 11, and the provisions of section 7.5 (Special Permits) of this By-Law.

9.6.4 Definitions.

The terms used in this section of the By-Law shall have the meanings set forth in Section 2.0 hereinabove.

9.6.5 Use Regulations:

The Business Industrial Overlay District is an overlay district superimposed over the underlying Industrial District set forth in this Zoning By-Law. Within the Business Industrial Overlay District, the requirements of the underlying Industrial District continue to apply, except in uses as follows:

Permitted Uses.

The following are uses allowed in a qualifying BIOD Development (defined below) with a BIOD Development Special Permit:

i. All uses allowed in the Business Districts in Section 4.2 hereinabove.

ii. All accessory uses which are allowed as incidental to an allowed use in the Business Districts, provided the prerequisites and conditions for such accessory uses meet all of the requirements for allowed incidental uses in Business Districts as set forth in this By-Law.

Prohibited Uses.

Any uses not specifically permitted herein are prohibited. In addition, adult entertainment uses and medical marijuana facilities are prohibited in the BIOD notwithstanding any other provision in this By-law.

9.6.6 Density and Dimensional Regulations.

Where a BIOD Development project involves an entire parcel or multiple contiguous parcels, densities shall be calculated on the development of the area as a whole.

The following shall guide the design of a development within the Business Industrial Overlay District (a "BIOD Development"):

Densities. The density of a BIOD development must comply with the density requirements of Section 5.0 hereinabove.

Dimensional Regulations BIOD Developments shall comply with these parameters:

Minimum Lot Area: 20,000 sq.ft.

All other dimensional requirements set forth in Section 5.0 shall apply to any BIOD Development.
(Amended Art. 52, ATM May 18, 2015)

Section 10.0 - SHARED HOUSING FOR THE ELDERLY

10.1 Purpose. To provide an opportunity for unrelated elderly persons to live together in a shared environment under the responsible supervision of an agency or group deemed adequate by the Special Permit Granting Authority.

10.2 District Designation and SPGA. Shared elderly households shall be a special permit use in all districts, except the Industrial District and Business Development District. The Zoning Board of Appeals shall serve as the special permit granting authority (See Section 7.6).

10.3 Special Permit Conditions. Shared households shall be detached single family dwellings in full compliance with the lot dimension requirements of its district.

Parking. Off-street parking shall be provided in an amount deemed adequate by the SPGA, except that each Shared Elderly Household shall provide a minimum of three off-street parking spaces.

The site plan shall reserve sufficient area on the lot to provide one off-street parking space per resident. When the number of automobiles exceeds the number of available parking spaces, additional parking spaces shall be provided as needed.

Site Plan Requirements. Each special permit application shall include a site plan showing the lot boundaries and areas, the proposed floor layout of the building, any proposed exterior changes to the building, the location of off-street parking spaces and means of access, and the location of reserve parking areas.

Occupants shall not be less than sixty years old.

The special permit shall specify the number of occupants (not to exceed six).

Except for safety features required by State regulations, there shall be no significant changes to the building exterior.

The applicant shall present a plan that demonstrates its ability to provide for the management and supervision of the Shared Elderly Household.

Applications and site plan shall be submitted to the Board of Health for review and recommendations.

10.4 Rules and Regulations of the SPGA. The SPGA shall adopt rules and regulations relative to the procedure to be followed, and the criteria and performance standards for the evaluation of special permit applications, and may provide for informal pre-application hearings for the consideration of preliminary plans. The rules and regulations shall specify any additional information the SPGA deems necessary to make its review, including the quantities, contents and scale of the maps to be presented.

SECTION 11.0 – LARGE-SCALE GROUND MOUNTED SOLAR PHTOVOLTAIC INSTALLATIONS
(Article 47 – ATM – May 21, 2012)

11.1 Purpose and Applicability
The purpose of this bylaw is to facilitate the creation of new Large-Scale Ground-Mounted Solar Photovoltaic Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, repair, and/or removal of Large-Scale Ground-Mounted Solar Photovoltaic Installations greater than 250 kW on at least five (5) acres of land. Any installation qualifying as a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall require Site Plan Review in accordance with Section 6.10 of the Zoning Bylaws of the Town of Somerset.

11.2 Definitions

Building Inspector:
The Inspector of Buildings charged with the enforcement of the zoning ordinance.

Building Permit:
A construction permit issued by the Building Inspector which provides evidence that the project is consistent with the state and federal building codes as well as local Zoning Bylaws, including those governing ground-mounted large-scale solar installations.

Designated Locations:
The locations designated by Town Meeting, in accordance with Massachusetts General Law chapter 40A, section 5, where ground–mounted large scale solar photovoltaic installations may be sited. Said locations are situated in the Large-Scale Ground-Mounted Solar Photovoltaic Overlay District, as hereinafter defined. The "underlying" districts are the Business District, Limited Business District, Industrial District, Light Industrial District and Residential District as shown on the Official Zoning Map, Town of Somerset, Massachusetts, adopted May 19, 2008.

Large-Scale Ground-Mounted Solar Photovoltaic Installation:
A solar system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity greater than 250 kW and occupies at least five (5) acres of land.

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

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

Site Plan Review:
Review by the Zoning Board of Appeals to determine conformance with Section 6.10 of the Zoning Bylaw.

Site Plan Review Authority:

For purposes of this bylaw, the Zoning Board of Appeals is the Site Plan Review Authority.

Solar Photovoltaic Array:
An arrangement of solar photovoltaic panels.

Zoning Enforcement Authority:
The Building Inspector is charged with enforcing the zoning ordinances or bylaws.

11.3 Overlay District

11.3.1 Establishment
The Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District, hereinafter referred to as the "SPOD", is an overlay district that is superimposed over the following underlying zoning districts as shown on the Official Zoning Map, Town of Somerset, Massachusetts, adopted May 19, 2008: Business District; Limited Business District; Industrial District; Light Industrial District; and, Residential District. As an overlay district, all rules of the underline district shall remain in full force and effect, except where the requirements of this section vary use or dimensional requirements otherwise set forth in the Zoning By-law, the terms and conditions of this section shall control.

11.3.2 Applicability
a. This section applies to Large-Scale Ground-Mounted Solar Photovoltaic Installations greater than 250 kW that occupy at least 5 acres of land proposed to be constructed in Somerset. This Section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. Such facilities located in the SPOD are subject to Site Plan Review and the Standards and Requirements contained herein. Site Plan Review will also be required if there are any physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

b. Municipal facilities owned, operated by, or developed for and on behalf of the Town of Somerset are allowed as-of-right without Site Plan Review, but must meet the other requirements of this Section.

c. Smaller scale ground- or building-mounted solar electric installations which are an accessory structure to an existing residential or non-residential use do not need to comply with this Section, but require a building permit and must comply with the other provisions of Somerset's Zoning Bylaws as applicable.

11.4 General Requirements for all Large-Scale Ground-Mounted Solar Photovoltaic Installations

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

11.4.1 Compliance with Laws, Ordinances and Regulations
The construction and operation of all Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar installation shall be constructed in accordance with the State Building Code.

11.4.2 Building Permit and Building Inspection
No Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

11.4.3 Fees

An application for review hereunder by the Zoning Board of Appeals shall be accompanied by the fee required for Planned Development Review. Also, the application for Building Permit shall be accompanied by the applicable fee required for such permit.

11.5 Site Plan Review

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall undergo Site Plan Review in accordance herewith by the Zoning Board of Appeals prior to construction, installation or modification as provided in this Section and shall also meet the requirements of this section. Municipal facilities are not subject to Site Plan Review, but must meet other requirements of this Section including but not limited to the Design and Performance Standards.

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

11.5.2 Required Documents
The project applicant shall provide the following documents in addition to or in coordination with those required for Site Plan Review.
a. Site Plan. The Site Plan must include the following:
(i) Property lines and physical features, including roads and topography, for the project site;
(ii) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;
(iii) Locations of wetlands, Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP);
(iv) Locations of Floodplains or inundation areas for moderate or high hazard dams;
(v) Locations of Priority Heritage Landscapes and local or National Historic Districts;
(vi) A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate;
(vii) Blueprints or drawings of the solar installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
(viii) One or three line electrical diagram detailing the solar installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
(ix) Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;
(x) Name, address, and contact information for proposed system installer;
(xi) Name, address, phone number and signature of the project applicant, as well as all co-applicants or property owners, if any;
(xii) The name, contact information and signature of any agents representing the project applicant;
(xiii) Fire protection measures;
(xiv) Storm drainage, including means of ultimate disposal and calculations;
(xv) Existing trees 10” caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening.

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

c. Operation and Maintenance Plan. The project applicant shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, which shall include measures for

maintaining safe access to the installation, storm water management (consistent with DEP's Storm water Regulations and the Town of Somerset's Storm water Regulations) and vegetation controls, as well as general procedures for operational maintenance of the installation.

d. Zoning. Zoning District designation for the parcel(s) of land comprising the project site.

e. Insurance. The project applicant shall provide proof of liability insurance.

f. Financial Surety. Description of financial surety that satisfies Section 11.11.3.

11.6 Utility Notification

No Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed until evidence has been given to the Zoning Board of Appeals that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

11.7 Dimensional Requirements

11.7.1 Setbacks

For Large-Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks shall be as follows:

a. Front yard: The front yard depth shall be at least 50 feet.

b. Side yard: Each side yard shall have a depth of at least 50 feet; provided, however, that where the lot abuts or is in a Residential district, the side yard shall not be less than 75 feet.

c. Rear yard: The rear yard depth shall not be less than 50 feet; provided, however, that where the lot abuts or is in a Residential district, the rear yard shall not be less than 75 feet.

Every abutting property shall be visually screened from the project through any one or combination of the following: location; distance; plantings; existing vegetation; and/or fencing. Said screening is not required to exceed 6 feet in height and the Applicant shall demonstrate that the proposal provides visual screening.

11.7.2 Appurtenant Structures
All structures appurtenant to Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be subject to reasonable regulations adopted by the Zoning Board after a public hearing concerning the bulk and height of structures, lot area, parking and building coverage requirements. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever
reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

11.8 Design and Performance Standards

11.8.1 Lighting
Lighting of Large-Scale Ground-Mounted Solar Installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required

for safety and operational purposes, and shall be shielded from abutting properties. Lighting of the Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

11.8.2 Signage
Signs on Large-Scale Ground-Mounted Solar Photovoltaic Installations shall comply with Section 6.5 of the Zoning Bylaws. A sign consistent with the Town's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Large-Scale Ground-Mounted Solar Photovoltaic Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar installation.

11.8.3 Utility Connections
Electrical transformers or other utility interconnections shall be constructed as required by the utility provider and may be above ground only if necessary. Reasonable efforts shall be made to place all utility connections from the Large-Scale Ground-Mounted Solar Photovoltaic Installation underground (if feasible), depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.

11.8.4 Roads
Access roads shall be constructed to minimize grading, removal of stone walls or trees and to minimize impacts to environmental or historic resources.

11.8.5 Control of Vegetation
Herbicides may not be used to control vegetation at the Large-Scale Ground-Mounted Solar Photovoltaic Installation. Mowing or the use of pervious pavers or geotextile materials underneath the solar array is a possible alternative.

11.8.6 Hazardous Materials
Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to Mass DEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

11.9 Safety and Environmental Standards

11.9.1 Emergency Services
The Large-Scale Ground-Mounted Solar Photovoltaic Installation owner or operator shall provide a copy of the project summary, electrical schematic, and Site Plan to the Fire Chief and Police Chief. Upon request of the Fire Chief or Police Chief the owner or operator shall cooperate with local emergency services in developing an emergency response plan including the training of any municipal first responders. All means of shutting down the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

11.9.2 Land Clearing, Soil Erosion and Habitat Impacts
Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation or as otherwise prescribed by applicable laws, regulations, and bylaws.

11.10 Monitoring, Maintenance and Reporting

11.10.1 Solar Installation Conditions
The Large-Scale Ground-Mounted Solar Photovoltaic Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and ensuring the integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Police Chief. The owner or operator shall be responsible for the cost of maintaining the solar installation and any access road(s), unless accepted as a public way.

11.10.2 Modifications
All material modifications to a Large-Scale Ground-Mounted Solar Photovoltaic Installation made after issuance of the required building permit shall require approval by the Zoning Board of Appeals.

11.10.3 Annual Reporting
The owner or operator of the installation shall submit an Annual Report on the anniversary date of the issuance of the Building Permit demonstrating and certifying compliance with the submissions hereunder as approved or modified by the Zoning Board of Appeals and the requirements of the Zoning Bylaw. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The report shall be submitted to the Zoning Board of Appeals, Fire Chief, Police Chief and Building Inspector.

11.11 Abandonment or Decommissioning

11.11.1 Removal Requirements
Any Large-Scale Ground-Mounted Solar Photovoltaic Installation which has reached the end of its useful life or has been abandoned consistent with Section 11.11.2 shall be removed. The owner or operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Zoning Board of Appeals by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

a. Physical removal of all Large-Scale Ground-Mounted Solar Photovoltaic Installations, structures, equipment, security barriers and transmission lines from the site.

b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

11.11.2 Abandonment
Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Zoning Board of Appeals. If the owner or operator of the Large-Scale Ground-Mounted Solar Photovoltaic Installation fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation at the owner’s expense.

11.11.3 Financial Surety

Proponents of Large-Scale Ground-Mounted Solar Photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable to the Site Plan Review Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally-or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.