Town of Charlton
Massachusetts

ZONING BYLAW

July 2017

This edition of the Charlton Zoning Bylaw represents the original bylaw as adopted by the annual Town Meeting of April 4, 1987, and all amendments through the May 15, 2017 Town Meeting. For a complete listing of amendments to the Charlton Zoning Bylaw, please see APPENDIX A.

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CHARLTON ZONING BYLAW

SECTION 1

Intent and Application

§ 200-1.1. Title.

This bylaw shall be known as the "Charlton Zoning Bylaw."

§ 200-1.2. Purpose.

The purpose of this bylaw is to promote the health, safety, convenience, amenity and general welfare of the inhabitants of the Town of Charlton, through encouraging the most appropriate use of the land as authorized by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, as amended, with the objective as follows:

To preserve health; to secure safety from fire, flood, panic and other dangers; to lessen congestion in the streets and ways; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to recognize the need for housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, schools, parks, open space, and other public requirements; to preserve the value of land and buildings, including the conservation of natural resources, protection of aquifers, and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of Town plans and programs, and to preserve and increase amenities.

§ 200-1.3. Applicability.

When the application of this bylaw imposes greater restrictions than those imposed by any other bylaws, regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this bylaw shall control.

§ 200-1.4. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision herein.

§ 200-1.5. Amendments.

This bylaw may from time to time be changed by amendments, additions, or repeal by the Town Meeting in the manner provided in Chapters 40A and 808 of the Massachusetts General Laws, and any amendment therein.

§ 200-1.6. Effective Date.

Upon its effective date, this bylaw shall repeal and be substituted for the following bylaws of the Town of Charlton: 1) the bylaw adopted under Article 17 of the warrant for the July 24, 1965 Special Town Meeting and amended under Article 27 of the warrant for the May 31, 1979 Annual Town Meeting, 2) Sections 1, 2, 3, 4 and 5 of the bylaw adopted under Article 19 of the warrant for the April 4, 1981 Annual Town Meeting, 3) Sections 1, 2, 3, 4, 5, 6, and 7 of the bylaw adopted under Article 18 of the warrant for the April 2, 1983 Annual Town Meeting, and Section 2 of the bylaw adopted under Article 30 of the warrant for the April 5, 1986 Annual Town Meeting.

§ 200-1.7. Previous Rights.

This bylaw, upon its effective date, shall not affect such rights or duties that have matured, penalties that were incurred, proceedings that were begun or appointments made before its effective date, pursuant to the previously effective bylaws, except as provided by Chapter 40A of the General Laws of Massachusetts.

SECTION 2
Definitions

§ 200-2.1. Uses and structures.

ACCESSORY APARTMENT

A. An accessory apartment is a dwelling unit constructed within and/or added onto an existing, one-family dwelling or attached garage. An accessory apartment contains a full bathroom, kitchen, living room, and bedroom. An accessory apartment shall not have more than one (1) bedroom. Only one (1) accessory apartment will be allowed within or added onto a one-family dwelling or its attached garage. The owner(s) of the residence in which or for which the accessory apartment is created shall occupy at least one (1) of the dwelling units on the premises, except for bona fide, temporary absences. The owner's dwelling unit shall not be rented during any such temporary absence.

B. An accessory apartment shall be designed to maintain the appearance of a single-family residence as to the one-family dwelling of which it is a part, and shall be clearly subordinate to the one-family dwelling. Any exterior entrance to the apartment shall be located on the side or rear of the one-family dwelling, or of its garage, and any additions containing the apartment, in whole or in part, shall not increase the square footage of the original structure of the one-family dwelling by a maximum size limitation of one thousand two hundred-fifty (1,250) square feet.

Accessory apartments may not be added to or expanded, and must be complete, separate housekeeping units that can be isolated from the original unit of the one-family dwelling. No more than two (2) persons may occupy an accessory apartment. For dwellings to be served by an on-site septic system, the owner must obtain written approval from the Board of Health before a building permit can be obtained for construction of the accessory apartment. This is to ensure that the existing sewage disposal system and water supply are adequate for the proposed accessory apartment.

ACCESSORY BUILDING — An accessory building is one which is subordinate or incidental to the main use of a building on a lot. Accessory buildings on lots 80,000 square feet or larger shall not be limited in size with the exception to maximum building coverage requirements in each zone as required in section 200-3.2-D. Intensity of Use Schedule. The term "accessory building" when used in connection with a farm shall include all structures customarily used for farm purposes and they shall not be limited in size. [Amended 5-16-2016 ATM by Art. 22]

ACCESSORY USE — A land use which is subordinate and incidental to a predominant or main use. See § 200-3.2, Use regulations, Subsection B(8), Accessory uses, for accessory use listing per zoning districts. [Amended 5-21-2012 ATM by Art. 28]

ANIMAL OR VETERINARY HOSPITAL — Commercial facilities for keeping animals to be treated, in treatment or recovering from treatment in accord with normal veterinary practice as established by the Massachusetts Board of Registration, Veterinary Medicine. This definition shall not apply to educational institutions of veterinary science.

BOARDINGHOUSE — A building with not more than five (5) guest rooms where lodging and meals are provided by the proprietor for compensation.

BUILDING — A structure enclosed within exterior walls or firewalls built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

BUILDING AREA — Building area is the aggregate or the maximum horizontal cross-section area of the main building on the lot, excluding cornices, eaves, gutters or chimneys projecting not more than thirty (30) inches. Also excluded from building area are steps and one-story porches, decks, balconies and terraces.

DAY-CARE CENTER — A facility engaged in the regular daily care for remuneration of more than six (6) children who do not reside at the facility, and who are less than seven (7) years of age, or less than sixteen (16) years of age with special educational needs.

DISPOSAL AREA — The use of any area of land, whether inside or outside of a building, for the storage, keeping or abandonment of junk, scrap or discarded materials made or used by human beings, or the demolition or abandonment of automobiles or other vehicles, boats or machinery or parts thereof.

DORMITORY — A building or group of buildings designed or altered for the purpose of accommodating students or members of religious orders with sleeping quarters, with or without communal kitchen facilities, and administered by bonafide educational or religious institutions as defined by MGL c. 40A, § 3, and the cases thereunder. Dormitories include fraternity or sorority houses, convents, priories or monasteries, but do not include clubs and lodges. [Amended 5-21-

2012 ATM by Art. 28]

DWELLING — A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multifamily dwellings, but not including hotels or boardinghouses.

DWELLING UNIT — One (1) or more rooms, whether or not containing an interior door in common with another dwelling unit, and containing cooking, sanitary, eating and sleeping facilities arranged for the use of one (1) or more persons; as distinguished from and not including boardinghouses, communes, dormitories, hotels, lodging houses and similar transient living accommodations; or trailer homes, mobile homes or trailer coaches or recreational vehicles outfitted with living accommodations.

DWELLING, MULTIFAMILY — A building designed for and occupied exclusively as a home or residence and containing three (3) or more dwelling units.

DWELLING, ONE-FAMILY — A detached building designed for and occupied exclusively as a home or residence and containing no more than one (1) dwelling unit.

DWELLING, TWO-FAMILY — A detached building designed for and occupied exclusively as a home or residence and containing two (2) dwelling units.

EXPOSURE — An exterior wall which faces a yard or courtyard whose minimum dimension shall be not less than fifty (50) feet.

FAMILY — An individual, two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be so related, living as a single housekeeping unit.

FAMILY DAY-CARE HOME — A facility engaged in the regular daily care for remuneration of (6) six or fewer children who do not reside at the facility, and who are less than seven (7) years of age, or less than sixteen (16) years of age with special educational needs.

FARM — A tract of land in separate ownership devoted primarily to agricultural use, including the raising of livestock.

FAST-FOOD RESTAURANTS — Establishments selling food prepared for immediate consumption which is distributed to consumers in whole or in part, by means of automobile drive-up windows, counters or by employees delivering such food to automobiles. [Added 5-12- 2012 ATM by Art. 28]

FIBER-OPTICS FACILITY — Manufacture or production of fiber-optic goods or products.

FLOOR AREA — The total area of the several floors of a building measured from the exterior building faces.

FRONTAGE — The continuous linear extent of a lot measured along the public street right-of-way from the intersection of one (1) side lot line to the intersection of the other side lot line of the same lot.

GARAGE, PRIVATE — A detached or attached accessory building for the parking or storage of vehicles belonging to the occupants of the premises.

GARAGE, PUBLIC — A building other than a private garage used for maintenance, repair or

storage of automobiles or other vehicles for compensation.

HEAVY INDUSTRIAL USES — Uses of land whose primary products or activities are:

Ordnance and accessories	Petroleum refining
Meat packing and/or slaughtering	Paving materials
Textile dyeing and finishing	Processing of reclaimed rubber
Wool scouring	Fertilizer plant
Tannery	Sawmills
Ready-mix concrete	Stone quarry
Refractory concrete block and brick	Sand or gravel pits
Metal fabrication requiring the use of drop hammers or other similar noise-producing heavy equipment	Paper or pulp mills

HEIGHT OF BUILDING — The vertical distance from grade, which is the average ground level, to the top of the highest roof beams of a flat roof, or to the mean level of the highest gables or slope of a hip, pitch or sloped roof. When a building faces on more than one (1) street, the height shall be measured from the average of the grades at the center of each street front.

HOME OCCUPATION — An accessory use which is carried on by the permanent resident of a dwelling unit, with not more than two (2) nonresident employees, and only inside the dwelling with only customary home equipment used therein; further subject to the provisions that all materials and products of the occupation be stored only within the dwelling and accessory structures, no external alterations or structural changes not customary to a residential building are required; the home occupation is clearly incidental and secondary to the residential use, no products may be sold that are not incidental to the home occupation, and the occupation does not result in the production of offensive noise, vibration, heat, dust or other objectionable conditions such as on-street parking.

HOTEL/MOTEL — A building designed as the more or less temporary abiding place for more than twelve (12) persons or providing six (6) or more sleeping rooms in which lodging is provided with or without meals.

INSTITUTIONAL AND PHILANTHROPIC USES

A. Institutional and philanthropic uses are nonprofit social and educational activities, facilities and organizations which include the following:

   Parish halls and other religious or semi-religious places

   Museums

   Agricultural and Horticultural Societies

   Historic Societies

Literary Societies, including Libraries

Scientific Societies

Fraternal Societies

Charitable Societies

Civic Societies

B. Institutional and philanthropic uses shall not include:

Profit-making businesses and government or nonprofit institutions engaged in the treatment of physical and mental illnesses, diseases and disabilities

Profit-making business and government or nonprofit institutions engaged in psychological or social counseling or therapy

Residential quarters for groups or individuals in which psychological or social counseling or therapy is administered

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

LIGHT MANUFACTURING — Warehousing, assembly, fabrication, processing and reprocessing of materials, and food products, excepting that meat packing, pet food plants, tanneries and slaughterhouses are prohibited. Also prohibited are establishments that treat and/or process hazardous waste or hazardous materials. Light manufacturing may include the production of medical devices and pharmaceuticals. Further provided that storage of goods or materials shall not be permitted on any lot except in an appropriate enclosure and also in compliance with § 200-4.1E hereof.

LODGING HOUSE — A dwelling in which living space without cooking facilities is let for compensation to twelve (12) or fewer persons and provides not more than five (5) guest rooms for persons who are not within the second degree of kinship to the owner or operator as defined by civil law.

LONG-TERM CARE FACILITY — Any institution, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of providing three (3) or more individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facility shall include convalescent or nursing homes, rest homes, infirmaries maintained in towns and charitable homes for the aged. (Massachusetts Department of Public Health Regulations 105 CMR 151.000, effective February 6, 1980) [Amended 5-21-2012 ATM by Art. 28]

LOT — An area of land in one (1) ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one (1) or more buildings or for any other definite purpose.

LOT LINE — The property line bounding the lot.

LOT WIDTH — The linear distance from side lot line to side lot line measured along the front yard setback line. At no point, between the front lot line and the rear of the principal structure located on the lot, shall the lot have a width less than two-thirds (2/3) of the minimum lot frontage required.

MAJOR RESIDENTIAL DEVELOPMENT — Five (5) or more dwelling units developed on a lot in single ownership, or on lots that were in single ownership in a five-year period prior to filing of an application for a building permit for any of the dwelling units.

MANUFACTURING — A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

MOBILE HOME — A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and capable of being installed on a temporary or permanent foundation for use as temporary or permanent living quarters.

MOBILE HOME PARK — Any lot upon which two (2) or more mobile homes occupied for dwelling purposes are located.

NONCONFORMING USE OF STRUCTURE — A lawfully existing use of structure which conformed to the provisions of the zoning bylaw, if any, at the time it was established or constructed, but does not conform to the presently applicable requirements for the district in which it is located.

NURSING AND/OR CONVALESCENT HOME — Any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for the purpose of nursing or convalescent care.

PARKING AREA — An area other than a street used for temporary parking of more than four (4) automobiles or other types of vehicles.

PARKING SPACE — A space designed to be occupied by, and adequate to park a motor vehicle plus access thereto. Within a parking area, each parking space shall not be less than eight and one-half (8 1/2) by eighteen (18) feet in width and length.

PROFESSIONAL OFFICE — An office of recognized professions such as doctors, dentists, lawyers, engineers, artists, musicians, architects, designers, and others, who through training are qualified to perform services of a professional nature.

RESTAURANT — An establishment for the sale of prepared food, more than half (1/2) the dollar sales of which are for consumption on the premises and within a building.

RIDING STABLE — A riding stable, also sometimes called boarding stables, riding trails and riding academies, is a facility for the boarding and/or riding of horses and ponies. [See Use Regulation Schedule, § 200-3.2B(4), Recreational Use No. 7.]

SINGLE OWNERSHIP — An individual person, two (2) or more individuals, a group or

association of individuals or a partnership or corporation, including an organization of unit owners under MGL c. 183A, having common individual interests in a tract of land and improvements thereon.

STREET — Any public way laid out for vehicular traffic or used as a public way for such traffic.

STRUCTURE — Any combination of materials assembled at a fixed location and requiring attachment to the land through pilings, footings, foundations and the like, to give support or shelter and/or provide for human habitation or use, such as a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, swimming pool, or the like.

STRUCTURE ALTERATIONS — Any change in, or additions to, the structural or supporting members of a building or other structure as bearing walls, columns, beams or girders.

SUBSTANTIAL IMPROVEMENT

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

   (1) Before the improvement or repair is started; or

   (2) If the structure has been damaged and is being restored, before the damage occurred.

B. The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

TEMPORARY CONSTRUCTION OFFICE — A structure, building or trailer built on, or towed to, a site for the purpose of providing an on-site office in which to manage the construction of one (1) or more permanent structures or buildings.

TRAILER — A wheeled, roofed vehicle, without motor power, designed to be drawn by a motor vehicle and to be used for habitation, business or recreational use.

VARIANCE — A grant of relief from the requirements of this bylaw which use and construction in a manner that would otherwise be prohibited by the bylaw.

WAREHOUSE — A building used primarily for the storage of goods and materials or for distribution, but not for sale on the premises.

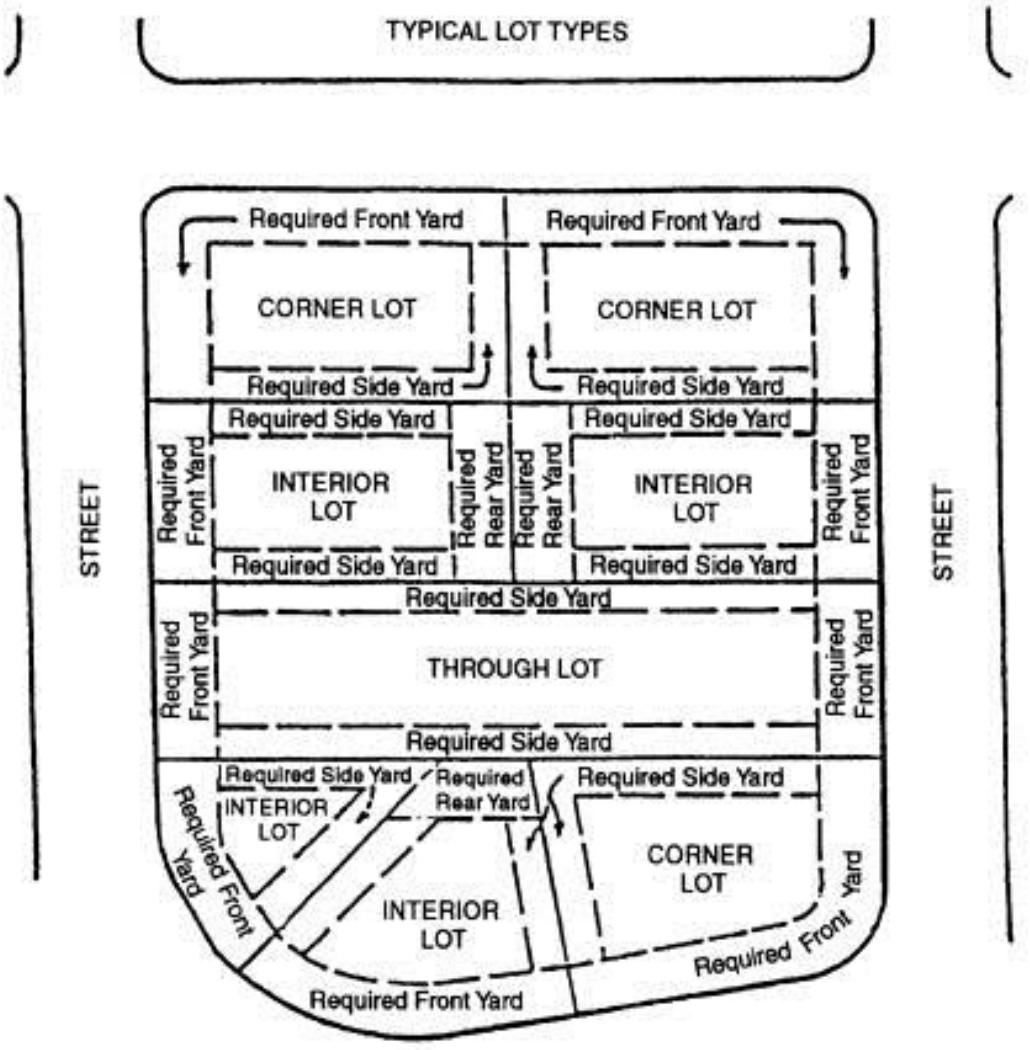
WIND ENERGY CONVERSION SYSTEM — Any device, such as a wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy.

YARD, FRONT — An open, unoccupied space extending across the full width of the lot between the front most main building and the front lot line. The depth of the required front yard shall be measured perpendicular from the nearest point of the front lot line to the required front building set back line. (See diagram.)

YARD, REAR — An open unoccupied space extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured perpendicularly from the nearest point of the rear lot line to the required rear building setback line. (See diagram.)

YARD, SIDE — An open, unoccupied space between the main building and side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured perpendicularly from the nearest point of the side lot line to the required side building setback line. (See diagram.)

DIAGRAM SHOWING REQUIRED YARDS



§ 200-2.2. Floodplain.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain subject to a one-percent or greater chance of flooding in any given year.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

DEVELOPMENT — Any human-made or -caused change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving excavation or drilling operations located within the special flood hazard.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land area from:

A. The overflow of inland water; and/or

B. The unusual and rapid accumulation of runoff of surface waters from any source.

C.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town of Charlton.

FLOOD INSURANCE STUDY — The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the establishment of the Floodplain District provisions contained in Section 6 of this bylaw.

SECTION 3
Use and Intensity Regulations

§ 200-3.1. Zoning Districts.

A. Establishment. The Town of Charlton is hereby divided into the following zoning districts.

Title	Short Name
Agricultural	A
Low Density Residential	R-40
Residential - Small Enterprise	R-SE
Neighborhood Business	NB
Village	V
Community Business	CB
Industrial – General	IG
Business Enterprise Park	BEP
Floodplain	FP
Adult Entertainment	AE
Wireless Telecommunication Facilities	WCF
Medical Research and Development Overlay Dist.	MRDOD

B. Zoning Map. The boundaries of the districts are defined and bounded on the map entitled "Town of Charlton Zoning Map" dated March 3, 1987, on file with the Town Clerk. That map and all explanatory matter thereon is hereby made a part of this bylaw, together with any amendments adopted by vote of the Town Meeting. Upon adoption the Zoning Map shall also be the Official Town Map.

C. District boundaries. Boundaries of zoning districts indicated on the Zoning Map as approximately following or terminating at a Town limit or lot line, or street, railroad, or stream center lines shall be construed to be actually at those lines. Boundaries indicated as at a numerically noted distance from a street line shall be construed to be actually parallel to, and located such distance in feet from such street line. When not locatable in any other way, boundaries shall be determined by scale from the map.

D. Divided lots. Where boundary of a zoning district divides a lot having frontage on a street in a less restricted district, the provisions of this bylaw covering the less restricted portion of the lot may extend not more than twenty-five (25) feet within the lot beyond the district boundary. Where the boundary of a district divides a lot having frontage on a street in a more restricted district, the provisions of this bylaw covering the more restricted portion of the lot shall extend to the entire lot. For the purposes of this section, the districts in descending order from more restricted to less restricted are: Floodplain, Agricultural, Low Density Residential, Residential - Small Enterprise, Neighborhood Business, Community Business, Business Enterprise Park and Industrial General.

E. District intents and purposes.

(1) Agricultural (A): to provide for agricultural and lowest density residential sites

while at the same time encouraging open space, preserving or enhancing views, protecting the character of the historic rural and agricultural environs, preserving or enhancing visual landscapes, recognizing site and area limitations for on-site wastewater disposal systems in terms of drainage, soil suitability, proximity to surface and aquifer and other subsurface water resources, and slope.

(2) Low Density Residential (R-40): to provide sites for low-density residential development with respect to the existing character of the neighboring homes and properties, including compatible related home-oriented activities and pursuits in a rural environment.

(3) Residential - Small Enterprise (R-SE): to provide sites for a mixture of medium- and low-density residential uses and small-scale commercial and light industrial uses appropriate to an existing mill village.

(4) Neighborhood Business (NB): to provide sites for small-scale business development for local and transient services compatible with low- and medium-density residential development within village settings which, through landscaping and design or through preservation, enhance the natural landscaping and historic environs; at the same time protecting any existing views, minimizing the visibility of parked cars, avoiding the appearance of commercial strips as well as congestion in the abutting streets and ways, and retaining the character and the quality of life in the rural New England village.

(5) Community Business (CB): to provides sites for businesses that serve the entire Town and people and traffic passing through the Town, and which, through proper siting, landscaping and design, create amenities and avoid, to the maximum extent possible, the appearance of commercial strips, and adverse impacts on abutting streets and

uses.

(6) Industrial - General (IG): to provide sites for industry which create employment opportunities and capitalizes on the use of Charlton's access and environmental conditions and labor force, while recognizing the limitations of Charlton to handle traffic, water runoff, sewage, and other environmental and neighborhood impacts.

(7) Business Enterprise Park (BEP) (replaced IP May 2003): to provide parcels of land zoned as industrial parks, where "compatible industries" are encouraged to locate in a parklike setting. Such industries shall be "abutter friendly"; that is, they shall impact abutting lands minimally as to sight, sound, odor and traffic. Allowed uses include a mix of manufacturing, research and development, office, distribution, and other compatible uses which offer an opportunity for employment growth and an expansion of the tax base in the Town of Charlton.

(8) Floodplain (FP): to insure the minimization of flood damage and to minimize any impediment to the natural flow of flood waters. This applies to all zones.

(9) Adult Entertainment (AE): to provide an area where adult entertainment uses are allowed and regulated.

(10) Wireless Telecommunication Facilities (WCF): to provide locations where wireless communication facilities are allowed, but regulated to minimize their aesthetic impacts as much as practicable.

(11) Village (V): to promote mixed-use development consistent with traditional New England villages, to provide pedestrian-scale amenities to encourage small-scale retail uses commercial services in harmony with a residential environment, and to offer flexibility in design standards that recognizes strict adherence to well-intended regulations can inhibit the originality needed to preserve and create vigorous village environments.

(12) Medical Research and Development Overlay District (MRDOD): an overlay district having approximately 79.78 acres, Assessors Map 43-A-1.1,43-A-1.2 and 43-A-1.10.

§ 200-3.2. Use Regulations.

A. General. Buildings and other structures shall be erected or used and premises shall be used only as set forth in the "Use Regulation Schedule" except as exempted by § 200-3.4 or by statute. Symbols employed on the "Use Regulation Schedule" shall mean the following:

Y A permitted use

P A use whose exercise is subject to regulation by means of a site plan review and approval.

N An excluded or prohibited use

SP A use permitted under special permit granted by the Planning Board

B. Use Regulation Schedule.

	Districts							
Principal Uses	**A**	**R-40**	**R-SE**	**NB**	**V**	**CB**	**IG**	**BEP**
(1) **Agricultural, Floriculture and Horticultural Uses**								
(a) Raising and keeping of livestock, including but not limited to horses, cattle, sheep, goats, swine, fur animals and poultry, on a parcel over five (5) acres	Y	Y	Y	Y	Y	Y	Y	Y

(b)	Raising and keeping livestock, including but not limited to horses, cattle, sheep, goats, swine, fur animals and poultry, on a parcel of five (5) or fewer acres	Y	Y	P	P	P	P	N	N
(c)	Raising of crops, whether for sale or personal consumption, on a parcel of any size	Y	Y	Y	Y	Y	Y	Y	Y
(d)	Indoor commercial horticulture/floriculture establishments (e.g., greenhouses)	Y	Y	Y	Y	Y	Y	Y	Y
(2)	**Residential Uses** [Amended 5-21-2012 ATM by Art. 28]								
(a)	Dwellings, one-family	Y	Y	Y	Y	Y	Y	N	N
(b)	Accessory apartments	Y	Y	Y	Y	Y	Y	N	N
(c)	Dwellings, two-family	N	Y	Y	Y	Y	Y	N	N
(d)	Multifamily dwellings (see § 200-5.1)	N	P	P	N	SP	N	N	N
(e)	Lodging and/or boarding houses	P	P	P	P	P	P	N	N
(f)	Mobile homes, mobile home parks or trailers for human habitation. (See special regulations in § 200-5.2.)	N	N	N	N	N	N	N	N
(g)	Major residential development	P	P	P	P	P	P	N	N
(h)	Dwelling units over first floor commercial uses	N	N	P	P	P	N	N	N
(i)	In one- and two-family dwellings, a mix of residential and commercial uses	N	N	P	P	P	P	N	N
(3)	**Public and Semi-Private Uses**								
(a)	Public, private, sectarian or denominational schools (nonprofit)	P	P	P	P	P	P	P	P
(b)	Day-care centers	P	P	P	P	P	P	P	SP
(c)	Family day-care homes	P	P	P	P	P	P	P	P
(d)	Religious uses	P	P	P	P	P	P	P	P
(e)	Nursing and/or convalescent homes	P	P	P	P	P	P	N	N
(f)	Hospitals and clinics for in- and out-patient care (nonprofit)	P	P	P	P	P	P	SP	SP
(g)	Community and/or neighborhood centers	P	P	P	P	P	P	N	N

(h)	Other institutional and philanthropic uses	P	P	P	P	P	P	N	N
(i)	Cemeteries	P	P	P	P	P	P	N	N
(j)	Other municipal uses voted by Town Meeting	P	P	P	P	P	P	P	P
(4)	**Recreational Uses** [Amended 10-21-2014 STM by Art. 9]								
(a)	Standard golf and par-3 golf courses	Y	Y	P	P	N	P	P	N
(b)	Golf driving ranges and miniature golf courses	P	N	P	P	N	P	P	N
(c)	Other recreational facilities conducted for gainful profit, including indoor and outdoor theaters, physical fitness centers, health clubs and indoor and outdoor tennis and racquetball facilities	P	N	N	P	P	Y	SP	SP
(d)	Massage parlors	N	N	N	N	N	N	N	N
(e)	Private membership clubs	P	P	P	Y	Y	Y	SP	N
(f)	Picnic and beach areas	Y	P	P	Y	Y	Y	N	N
(g)	Riding stables and/or boarding, horse riding trails, and riding academies	P	P	P	N	N	P	N	N
(h)	Camp grounds	Y	P	P	P	N	P	N	N
(i)	Other private predominantly open recreational areas	Y	P	P	P	N	P	N	N
(j)	Public recreational facilities	P	P	P	P	P	P	N	N
(5)	**Business Uses** [Amended 5-21-2012 ATM by Art. 28]								
(a)	Retail establishments serving the convenience goods needs of a local area, including but not limited to: grocery, delicatessen, baker, supermarket, drugstores and similar uses, having less than twenty thousand (20,000) square feet of gross building area	N	N	P	P	P	P	SP	N

(b)	Retail establishments serving the convenience goods needs of a local area, including but not limited to: grocery, delicatessen, baker, supermarket, drugstores and similar uses, having twenty thousand (20,000) square feet or more of gross building area	N	N	N	N	SP	P	SP	N
(c)	Auction galleries	P	P	Y	Y	P	Y	SP	N
(d)	Flea markets	P	P	Y	Y	N	Y	SP	N
(e)	Hotels or inns	N	N	N	P	P	P	SP	SP
(f)	Motel or motor courts	N	N	N	P	N	P	SP	N
(g)	Personal and consumer services establishments, including but not limited to: barber shops, shoe and leather repair, beauty shops, laundry or dry-cleaning establishments and laundromats	N	N	Y	Y	Y	Y	P	N
(h)	Fast-food restaurants	N	N	N	N	N	P	P	N
(i)	Restaurants	P	N	P	P	P	P	SP	N
(j)	Other eating and drinking establishments, most notably known as bars and grills	N	N	P	P	SP	Y	SP	N
(k)	Offices of licensed medical and dental practitioners limited to general outpatient care and diagnosis	N	N	P	P	P	Y	P	N
(l)	Business, professional and general offices with less than twelve thousand (12,000) gross square feet of floor area per structure	N	N	Y	Y	P	Y	P	N
(m)	Business, professional and general offices with twelve thousand (12,000) or more gross square feet of floor area per structure	N	N	P	P	SP	P	P	P

(n)	Gasoline service stations	N		N	N	N	N	P	P	N
(o)	Fuel oil dealers and stations	N		N	N	N	N	P	P	N
(p)	Car-wash establishments	N		N	N	N	N	P	P	N
(q)	Banks	N		N	P	P	P	P	P	N
(r)	Services most notably known as "automatic teller machine" (ATM), whether freestanding or accessory	N		N	N	P	P	P	P	P
(s)	Funeral homes	P		P	P	P	N	Y	SP	N
(t)	Animal kennels or animal hospitals	P		N	P	P	N	P	Y	N
(u)	Schools (for profit)	N		N	P	P	P	P	SP	N
(v)	Hospitals and clinics for in- and outpatient care (for profit)	P		P	P	P	N	P	SP	N
(w)	Storage trailers — units designed and used solely for storage not habitation; such trailers may be used as a nonconstruction site office	N		N	N	N	N	P	N	N
(x)	Adult entertainment establishments as per § 200-5.9 of this bylaw									
	[1] Adult bookstore		N	N	N	N	N	N	SP[1]	N
	[2] Adult motion-picture theater		N	N	N	N	N	N	SP[1]	N
	[3] Adult paraphernalia		N	N	N	N	N	N	SP[1]	N
	[4] Adult video store		N	N	N	N	N	N	SP[1]	N
	[5] Adult Live Ent. Establishment		N	N	N	N	N	N	SP	N
(6)	**Communications, Transportation and Public Utility Uses**									
(a)	Communications tower for federally licensed amateur radio operator, limited to seventy-five (75) feet in height, and requiring a minimum distance between the base of the tower and the property boundary line and/or any residential structure to be equal to the height of the tower, including any aerials or antennas that may be mounted on the tower	SP[3]		SP[3]	SP[3]	SP[3]	SP[3]	SP[3]	SP[3]	SP
(b)	Wireless communications facilities as per § 200-5.10 of this bylaw	SP[2]		SP[2]	SP[2]	SP[2]	N	SP[2]	SP[2]	SP
(c)	Bus or railroad passenger terminals	N		N	N	N	N	N	P	SP

(d)	Rail terminals, including rail freight yards or freight terminals	N		N	N	N	N	N	P	SP
(e)	Truck terminals, truck freight yards or freight terminals	N		N	N	N	N	N	P	SP
(f)	Commercial aircraft landing areas									
	[1] Airport or aircraft landing area for fixed-wing flying craft		N	N	N	N	N	N	P	N
	[2] Helicopter aircraft or gyroplane landing area		P	N	N	N	N	N	P	N
(g)	New automobile sales and/or new truck sales and/or rental establishments	N		N	P	N	N	P	P	N
(h)	Used automobile sales and/or used truck sales	N		N	P	N	N	P	P	N
(i)	Independent storage areas or parking areas, automobile parking garages for five (5) or more automobiles	N		N	P	P	N	P	P	SP
(j)	Electric generating facilities with less than or equal to fifty (50) megawatts of power output	N		N	N	N	N	P	P	N
(k)	Electric generating facilities with more than fifty (50) megawatts of power output	N		N	N	N	N	N	N	N
(l)	Gas/Gasoline transmission facilities	N		N	N	N	N	P	P	P
(m)	Electric distribution stations or substations	P		P	P	P	N	P	P	P
(n)	Wind energy conversion systems	P		P	P	P	N	P	P	P
(o)	Taxi or limousine service and other vehicles for hire with drivers and having no more than three (3) vehicles and containing no more than nine (9) passengers in any one (1) vehicle	N		N	P	Y	P	Y	Y	N
(p)	Taxi or limousine service and other vehicles for hire with drivers and having four (4) or more vehicles and containing no more than nine (9) passengers in one (1) vehicle	N		N	N	N	N	P	P	N
(q)	Water storage tanks, for public water systems as defined by 310 CMR 22.02, provided that any portion of the structure shall not be less than	Y		Y	Y	Y	P	Y	Y	Y

	one hundred (100) feet from any residential structure, and that the distance from the base at ground level of any tank to any property or street line be equal to the height of the tank. Neither the minimum lot size specified in § 200-3.2D nor any other minimum lot size shall apply to such use.								
(r)	Pumping stations, for public water systems as defined by 310 CMR, provided that any portion of the structure shall not be less than one hundred (100) feet from any residential structure. Neither the minimum lot size specified in § 200-3.2D nor any other minimum lot size shall apply to such use.	Y	Y	Y	Y	P	Y	Y	P
(s)	Natural gas distribution stations, substations, and piping, provided that any portion of the structure (not including dwelling service pipe) shall not be less than three hundred (300) feet from any residential structure and that the minimum lot size and setbacks shall not be less than required in § 200-3.2D. A variance may be granted by the Zoning Board of Appeals. All gas storage tanks in such facilities shall be subsurface.	P	P	P	P	N	P	P	P
(t)	Large-scale ground-mounted solar photovoltaic installations	P	P	P	P	P	P	P	P
(u)	Sewer pump stations and appurtenances	Y	Y	Y	Y	Y	Y	Y	Y

(7) **Industrial and Warehouse Uses**
[Amended 5-21-2012 ATM by Art. 28]

(a)	Light manufacturing establishments. Storage of goods or materials shall not be permitted on any lot except in an appropriate enclosure and also in compliance with § 200-4.1E hereof.	N		N	P	N	N	N	P	P
(b)	Biotechnology	N		N	N	N	N	N	N	SP
(c)	Fiber-optics facilities	N		N	N	N	N	N	N	SP
(d)	Medical research and development	N		N	N	N	N	N	N	SP
(e)	The following research and development or office uses:									
	[1] Scientific or research laboratories		N	N	P	P	P	P	P	P
	[2] Offices for technical, executive, professional or administrative uses		N	N	P	P	P	P	P	P
(f)	Sawmills, lumber and building materials establishments	N		N	N	N	N	P	P	N
(g)	Automobile and/or truck repair garages	N		N	P	N	N	P	P	N
(h)	Scrap metal and other materials storage yards, including scrap automobiles and trucks	N		N	N	N	N	N	SP	N
(i)	Land and water recreation vehicle (including boats) sales and service and storage yards	N		N	P	N	N	P	P	N
(j)	Public storage areas or buildings such as those for road salt and sand and municipal vehicles	P		P	P	P	N	P	P	N
(k)	Stone, sand and/or gravel processing operations	N		N	N	N	N	P	P	N
(l)	Hazardous waste disposal sites	N		N	N	N	N	N	N	N
(m)	Resource recovery plants	N		N	N	N	N	N	N	N

(8) **Accessory Uses**
[Amended 5-21-2012 ATM by Art. 28]

(a)	Customary home occupations conducted as a gainful business, provided that all parking for such businesses shall be provided on the premises where the home occupations are conducted; and further provided that all products thereof are produced or sold on the premises. (See definition of "home occupation" in § 200-2.1.)	Y	Y	Y	Y	Y	Y	Y	N
(b)	Accessory professional office in a dwelling conducted by the resident occupant, provided that all parking for such professional services shall be provided on the premises where the professional offices are located	Y	P	P	Y	Y	Y	Y	N
(c)	Accessory buildings such as a private garage, playhouse, greenhouse, tool shed and private swimming pool	Y	Y	Y	Y	Y	Y	Y	N
(d)	Trailers for office and storage use only during construction. The trailer for office/storage use shall not be used for habitation. These temporary on-site construction office/storage trailers may be located on the building site upon issuance of a building permit and must be removed within fourteen (14) days after an occupancy permit has been issued.	Y	Y	Y	Y	Y	Y	Y	Y
(e)	Food services as accessory use to serve employees of and visitors to principal use	P	P	P	P	P	P	P	P
(f)	Fitness centers as accessory use to serve employees of principal use	P	P	P	P	P	P	P	P
(g)	Personal and consumer services as accessory use to serve employees of principal use	N	N	N	N	N	N	N	P
(h)	Day-care center or any child-care facility including day care and family care as accessory use to serve employees of principal use	SP	SP	SP	SP	SP	SP	SP	SP
(i)	Emergency power back up facility with less than or equal to thirty (30) megawatts of power output	P	P	P	P	P	P	P	P

(j) Helicopter or gyroplane landing area as accessory use to serve business and/or industries in district	N	N	N	N	N	N	N	N	SP

NOTES:

[1] Adult entertainment establishments are only allowed in locations identified in § 200-5.9 of this bylaw.

[2] Wireless communication facilities are only allowed in locations identified in § 200-5.10 of this bylaw.

[3] A federally licensed amateur radio operator may be allowed to construct a communications tower in this district, subject to a special permit issued by the Planning Board, upon application made by following the procedure in § 200-7.1H(2) of the Charlton Zoning Bylaw. Criteria for granting said special permit shall be based solely on that which is allowed under MGL c. 40A, § 3.
[Amended 5-21-2012 ATM by Art. 28]

C. Special rules.

(1) Vehicle access to major residential developments shall be adequate to service the traffic that such developments will generate. Applicants for site plan approval and for special permits for such developments shall submit a traffic and engineering study showing the vehicle access conditions on Town of Charlton and private streets over which vehicles must travel, on the shortest route, to get to the development from a state highway. The study shall identify all conditions of road surface, curvature, grade, drainage, driver sight distance and roadway and pavement width on all such streets. The study shall also contain an evaluation by a professional engineer, registered in the State of Massachusetts, of the adequacy of the streets and access to handle the estimated vehicular traffic that will be generated with the development fully occupied.

(a) The Planning Board, in considering an application for site plan approval, and the Zoning Board of Appeals, in considering such an application for a special permit, may determine that such vehicle access to a major residential development is not adequate, and may use that determination as a reason to refuse to grant said site plan approval or special permit. In making its determinations, the Planning Board and Zoning Board of Appeals may seek the advice of other Town officials, such as the Superintendent of Highways, Fire Chief, and Police Chief, and may also seek advice from experts in traffic and roadway engineering.

(b) The Planning Board and Zoning Board of Appeals may make their approvals of site plans and special permits, respectively, contingent on the execution of the terms of written agreements, voluntarily entered into between the permit-issuing authority and applicants, that bind the applicants to remedy the substandard vehicle access conditions at their own expense. In addition to these provisions,

all requirements of Charlton's Subdivision Regulations must be met in obtaining site plan approval and/or a special permit.[2] [Amended 5-21-2012 ATM by Art. 28]

(2) Business Enterprise Park and Industrial - General buffers. In Business Enterprise Park and Industrial - General Zoning Districts, a landscaped strip twenty (20) feet in width shall be created and maintained along the lot frontage on a road. In addition, a landscaped strip one hundred (100) feet in width shall be created and maintained along any lot boundary that abuts an R-40 or an Agricultural District, or an Historic District. The landscaping shall be of plant materials that provide a year-round screening of the view of any industrial or commercial buildings or their appurtenances from the abutting residential zoning district or historic district. Passive uses, such as recreation, septic systems and wells shall be allowed within the buffer area, provided that the year-round screening is maintained; however, detention ponds are not allowed.

(3) Outside bulk storage, contractor's yards, disposal areas or areas of open storage related to manufacturing, processing, warehousing, wholesale trade or a public utility facility shall be screened from an adjacent residential use, a residential district, and street by a solid stockade fence at least six (6) feet in height or densely planted trees or shrubs at least six (6) feet or more in height, or be equivalently obscured by natural vegetation on a year-round basis. No more than fifty percent (50%) of a lot may be used for outdoor storage. [Amended 5-21-2012 ATM by Art. 28]

(4) A home occupation shall not include the services of more than two (2) employees not resident on the premises.

(5) Uses customarily accessory to a residence shall include the occasional sale of used household goods, a motor vehicle, or a boat or trailer of a resident.

D. Intensity of Use Schedule.

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Width and Contiguous Street Frontage (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Building Coverage (% of lot)	Maximum Building Height (feet)
Agricultural A	60,000	175	30	15	30	25	36
Low Density Residential R-40	40,000[1]	150	30	15	15	30	36

Residential - Small Enterprise R-SE	40,000[1,3]	150	30	15	15	30[4]	36
Neighborhood Business NB	20,000[1]	100	40	15	15	30	36
Village V[(7)]	10,000[(8)]	75	10[(9)]	10	10	60[(10)]	36
Community Business CB	40,000[1]	150	40	15	15	30	36
Industrial - General IG	40,000	150	40	35[2]	35[2]	40	36
Business Enterprise BEP	80,000	260	50[5]	50[5]	50[5]	33	36[6]

[1] An additional twenty thousand (20,000) square feet of contiguous land area is required for each dwelling unit beyond the first dwelling unit and fifty (50) feet of additional lot frontage plus twenty (20) feet for each dwelling unit beyond two (2). This requirement shall apply to two- family and multifamily dwellings, but shall not apply to accessory apartments.

[2] Side and rear yards shall each be at least seventy (70) feet when abutting any residential or agricultural district.

[3] In an R-SE Zone, a twenty thousand (20,000) square foot lot requires a sewer connection. Without a sewer connection, the minimum lot size is forty thousand (40,0000 square feet.

[4] No building in an R-SE Zone may exceed twenty thousand (20,000) square feet in gross floor area.

[5] In Business Enterprise Park Districts, buildings shall be set back a minimum of fifty (50) feet from the front lot line. Parking lots shall be set back a minimum of twenty (20) feet from the front lot line, or a minimum of thirty (30) feet from the front lot line if the front lot line abuts a state-numbered route, and they shall not be located within the required side or rear yards, nor within the required buffer area.

[6] To accomplish the purposes of the Village District, the Planning Board may authorize by special permit a reduction of front, side and rear setback standards for new or preexisting structures. The Board must find that the required setbacks would result in, or have resulted in, construction of structures that are not in keeping with the area's scale and character. The Board must further find that the relaxation of said standards will not interfere or negatively impact abutting properties, particularly property used or zoned for residential purposes.

[7] In Village Districts, the minimum lot size is ten thousand (10,000) square feet for lots served by the municipal sewer system and twenty thousand (20,000) square feet for lots without a sewer connection.

[8] In order to maintain a strong sense of streetscape, in the Village District there is also established a maximum front setback of twenty-five (250 feet.

[9] The maximum impervious coverage of the lot (buildings, parking, access drives, etc.) shall not exceed eighty percent (80%).

[10] Minimum performance standards as detailed in the Intensity of Use Schedule are hereby not applicable to sewer pump stations and appurtenances.

§ 200-3.3. Intensity Regulations.

A. General. Buildings or structures shall be erected or used and premises shall be used only as set forth in the "Intensity of Use Schedule" (§ 200-3.2D), except as exempted by statute.

B. Supplementary requirements.

(1) No building or structure shall exceed thirty-six (36) feet in height; except that spires, water tanks, communications towers, chimneys, flag poles, and other structures normally built above the roof and not devoted to human occupancy may be erected to such heights as are necessary to accomplish the purposes they are normally intended

to serve. Towers for wireless communication facilities (WCF) may not exceed one hundred fifty (150) feet in height except as allowed in § 200-5.10, and a communications tower for a federal licensed amateur radio operator may not exceed seventy-five (75) feet in height. [Amended 5-21-2012 ATM by Art. 28]

(2) No fence, wall, hedge, shrubbery or other obstruction shall be permitted to block vision between two and one-half (2 1/2) feet and eight (8) feet above the street grade on a corner lot within a triangular area formed by the intersecting street lines and a straight line which joins points on such street lines twenty (20) feet from their intersection.

(3) No structure other than a dock or boathouse shall be located within thirty (30) feet of the normal bank of any river or stream having a year-round running flow of water, or of any lake or pond containing one thousand (1,000) square feet or more of water eleven (11) months of the year, or of mean high water.

(4) No accessory building shall be located within any required front or side yard. No accessory building shall be located within any required rear yard, except for a building accessory to a one- or two-family dwelling, and shall not be located closer than ten (10) feet to a lot line.

(5) Two-thirds (2/3) of the total land area of every building lot must be free from wetlands as defined in the Massachusetts Wetland Protection Act as most recently revised and other conditions which make building impossible or hazardous. However, where a building lot contains a contiguous upland area equal to two-thirds (2/3) of the minimum lot size required in that district, the lot shall be exempt from the provisions of this section. No such lot shall be further subdivided so that the contiguous upland area is reduced to less than two-thirds (2/3) of the minimum lot size required by this section.

(6) In districts where accessory apartments are permitted, no dwelling unit shall contain more than one (1) accessory apartment.

(7) Retaining walls on lots are required to have at least a five-foot setback from front, rear and side lot lines.

C. Special cases.

(1) Where two (2) or more principal structures are erected on the same lot, adequacy of access utility service, and drainage serving each structure shall be functionally equivalent to that required for separate lots in the Planning Board's adopted Subdivision Regulations; the minimum lot area, width, and frontage shall be the sum of the requirements for each structure; and the minimum distance between such structure shall be the height of the higher building.

(2) Where no street line has been established or can be readily determined, such line shall be assumed to be thirty (30) feet from the center of the traveled roadway for the purpose of applying these regulations.

(3) Projections of not more than three (3) feet are permitted in required yards for architectural features of a building, such as stairs, chimneys, cornices, eaves or canopies, but not for bay windows or other enclosed habitable projections.

(4) Any structure located on a corner lot shall be set back from all streets a distance equal to the front yard setback requirement in the district.

§ 200-3.4. Nonconforming Conditions.

A. Lots. A lot that does not conform to the intensity requirements of this bylaw shall be governed by the following provisions:

(1) Such lot shall not be built upon unless it meets the criteria contained in MGL c. 40A, § 6, or Subsection A(2) herein.

(2) Any lot lawfully laid out by plan or deed duly recorded, as defined in MGL c. 41, § 81L, or any lot shown on a plan endorsed with the words "Approval Under the Subdivision Control Law Not Required" or words of similar meaning and import, pursuant to MGL c. 41, § 81P, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum area, frontage, width and depth requirements, if any, of the Charlton Zoning Bylaws in effect in the Town of Charlton where the land is situated, notwithstanding the amendment of provisions of the Zoning Bylaw imposing minimum area, frontage, width, depth or yard requirements, or more than one (1) such requirement, in excess of those in effect at the time of such recording or endorsement; (1) may thereafter be built upon for single and two family residential use, if at the time of adoption of such requirements or increased requirements, or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same district, or

(2) may be built upon for residential use for a period of five (5) years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in

common ownership with that adjacent land located in the same district; and further provided in either instance, at the time of building (A) such lot has an area of seven thousand five hundred (7,500) square feet or more and a frontage of fifty (50) feet or more in a district zoned for residential use, and conforms except as to area, frontage, width, and depth with the applicable provisions of the Charlton Zoning Bylaw in effect in the Town, and (B) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side, and rear yard setback, if any, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

(3) The land shown on a definitive subdivision plan or a preliminary subdivision plan which is followed within seven (7) months by a definitive plan shall be governed by the zoning in effect when the plan is first submitted in accordance with MGL c. 40A, § 6. The use of land shown on an Approval Not Required plan shall be governed by the zoning in effect when the plan is first submitted in accordance with MGL c. 40A, § 6.

(4) No such lot may be changed in size or shape so that a nonconformity with the provisions of this bylaw is increased in degree or extent, or a violation created, except by a public taking of a portion of the lot. [Amended 5-21-2012 ATM by Art. 28]

B. Structures. A lawfully existing structure which does not conform to the requirements of the bylaw may continue. Any reconstruction, extension, structural change or alteration of such structure shall be governed by the following:

(1) Any reconstruction, extension or structural changes to a lawfully nonconforming structure shall conform with the provisions of this bylaw and to any proposed amendment for which first notice of the public hearing has been published.

(2) If a nonconforming structure devoted to a conforming use is destroyed by fire or other catastrophe, it may be repaired or rebuilt, provided that the restoration is commenced within twenty-four (24) months, and completed within thirty-six (36) months of the catastrophe, and no nonconformity with the provisions of this bylaw is increased in degree of extent or a violation created. Otherwise, it may be repaired or rebuilt only in conformity with the provisions of this bylaw.

(3) Any alteration of a lawfully existing nonconforming structure shall conform with the provisions of this bylaw or to any proposed amendment to it if the alteration is begun after the first notice of the required public hearing has been published, when the alteration will provide for the use of the structure as follows:

(a) For a substantially different purpose;

(b) For the same purpose in a substantially different manner; or

(c) For the same purpose to a substantially different degree.

(4) Any alteration, reconstruction, extension or structural change to a single-family or two-family residential structure shall not be permitted if there will be an increase in the nonconforming nature of the structure.

(5) Changes in nonconforming structures devoted to nonconforming uses shall be governed by Subsection C of this section.

C. Uses. Any lawful existing use of a structure or land which does not conform to the provisions of this bylaw may continue. Any change or substantial extension of such use shall be governed by the following:

(1) Any change or substantial extension of a lawfully existing nonconforming use of a structure or land shall conform with the provisions of this bylaw and to any proposed amendment to it for which first notice of the required public hearing has been published. Such change or extension in an R-40 or an A District shall not exceed fifty percent (50%) of the land area occupied by the principal structure at the time such uses become nonconforming. Nor shall such change or extension cause the use to be more nonconforming in terms of the Intensity of Use Schedule (§ 200-3.2D).

(2) Any extension to the use of a nonconforming structure shall be governed by Subsection B(3) of this section.

(3) Any nonconforming structure or use which has been abandoned for a period of two (2) years shall not be reestablished except in conformance with this bylaw.

(4) If a structure or group of structures devoted to a nonconforming use is damaged or destroyed for fire or other catastrophe, it may be repaired or rebuilt and the use restored, provided that the restoration is commenced within twelve (12) months and completed within twenty-four (24) months of the catastrophe. Otherwise, it may be repaired or rebuilt only in conformance with the provisions of this bylaw.

(5) Preexisting nonconforming structures or uses may be extended, altered, or changed by special permit, provided that the Zoning Board of Appeals finds that the extension, alteration, or change will not be substantially more detrimental than the existing nonconforming use of the structure. Notwithstanding any other provisions of these bylaws, the alteration, reconstruction, extension or structural change (collectively "alteration") of a preexisting, nonconforming single-family or two-family residential structure will be deemed not to increase the nonconforming nature of such a structure, and shall be permitted as of right, if the structure is nonconforming solely because of insufficient frontage or lot area, or both, and the proposed change shall meet all dimensional requirements for front setback, side and rear setbacks, building coverage, lot coverage, maximum floors and maximum height.

SECTION 4
General Regulations

§ 200-4.1. Performance Standards.

A. No land, building or structure shall be used or occupied in any district in the Town of Charlton except in conformance with the standards contained herein.

B. Except as herein provided, all use and conditions of land, buildings and structures shall be in conformance with the *Regulations as Amended for the Control of Air Pollution in Central Massachusetts Air Pollution Control District*, adopted by the Bureau of Air Quality Control, Division of Environmental Health, Department of Public Health, Commonwealth of Massachusetts, as amended to become effective September 1, 1972, and amendments thereto. Enforcement of the regulations is provided for in Regulation 52.1 and amendments thereto.

C. Heat, glare and vibration. No heat, glare or vibration shall be discernible from the outside of any structure. In no case shall vibration be permitted which is discernible to the human sense of feeling for three (3) minutes or more duration in any one (1) hour of the day between the hours of 7:00 a.m. and 7:00 p.m., or of thirty (30) seconds or more duration in any one (1) hour between the hours of 7:00 p.m. and 7:00 a.m.

D. Waste disposal, water supply and water quality. Massachusetts General Laws and Regulations of the State Department of Public Health shall be met and, when required, approval shall be indicated on the approved site plan. In no case shall discharge cause the waters or land of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resource Commission, Division of Water Pollution Control as published and entitled "*Water Quality Standards*," filed with the Secretary of State on March 6, 1967, and amendments thereto, in its most recent edition, for streams and water bodies within the Town. Nor may any discharge exceed regulations established by the Charlton Board of Health.

E. Storage.

(1) All materials, supplies and equipment not intended for wholesale and retail sale shall be stored in accordance with Fire Prevention Standards of the National Fire Prevention Association and shall be screened from view from public ways and abutting properties; excepting that farm and home materials, supplies and equipment need not be screened from public view when located on farms and residential property, and that building materials, supplies and equipment need not be so screened from public view when located on a construction site, during the period of their use in construction.

(2) The storage, utilization or manufacture of materials or products which decompose by detonation shall be in accordance with standards as adopted by the Massachusetts Department of Public Safety.

(3) The storage, utilization or manufacture of solid materials which are subject to intense burning or of flammable liquids or gasses shall be subject to conditions of a permit issued by the Board of Selectmen.

§ 200-4.2. Off-Street Parking and Loading.

A. General. Sufficient off-street parking and loading shall be provided to serve all persons

needing vehicular access to new structures and uses, and to enlarged, extended or changed structures and uses to the extent such need is increased by such enlargement, extension, or change. Minimum parking requirements are set forth below in the Off-Street Parking Schedule.

B. Off-Street Parking Schedule.

Use	Unit of Measure	Parking Spaces (required/unit or fraction thereof)
One- or two-family dwelling	Dwelling unit	2.0
Multifamily dwelling	Dwelling unit	2.25
Lodging house, hotel, motel, or motor court	Each guest room or suite	1.0
Nursing and/or convalescent home	2 employees, maximum shift, plus 3 beds	1.0
Restaurant	3 seats, plus each employee on the maximum shift	1.0
Other business use	250 square feet net floor area	1.0
Transportation, industrial, and utility use	500 square feet net floor area	1.0
School, assembly hall or other public building	200 square feet of gross area, excluding storage area	1.0
Amusement or other place of public assembly	300 square feet of gross area, excluding storage area	1.0

C. Location requirements.

(1) Parking and loading areas and garages shall be provided on the same lot as they are required to serve.

(2) No parking or loading area shall be located within ten (10) feet of a public right-of-way line. No parking area containing more than four (4) spaces or a loading area shall be located within fifty (50) feet of a public right-of-way line in an Industrial District, nor within a required front yard in an R-40 District. No parking area or garage containing more than two (2) spaces or loading area shall be located in a front yard in an NB District.

(3) No parking area serving a multifamily dwelling shall be located in any required yard defined by required setback lines.

D. Other requirements.

(1) A parking area containing more than six (6) spaces of a required loading area shall be

designed so that no vehicle need back onto or off a street or stand on a street while parking, loading, unloading or waiting to do so.

(2) No street access drive for parking areas containing six (6) or more spaces or a loading area shall exceed thirty (30) feet in width at the street line. The minimum distance between the sidelines of such drives and the sidelines of any intersecting street and any other street access drive, measured between where such street and driveway sidelines intersect the adjacent street line, shall be as follows:

	From Intersecting Streets (feet)	**From Other Drives (feet)**
Drives serving a dwelling	50	20
Drives serving a hotel, motel or motor court	50	60
Drives serving other permitted principal structures in a/an:		
NB and V Districts	50	50
I District	50 (200 on U.S. Rt. 20)	100
CB District	50	50
Other districts	50	60

(3) Egressing vehicles from drives serving more than twenty (20) parking spaces shall have two hundred (200) feet of driver visibility in each travel direction.

(4) Parking and loading areas shall be graded, surfaced with a non-dusting material, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion, or excessive water flow onto streets or adjoining property.

(5) Parking areas containing more than twenty-five (25) spaces shall include or be bordered within five (5) feet of the spaces by at least one (1) tree of two (2) inches in caliper for each five (5) spaces. Trees within parking areas shall be in curb or berm protective plots of at least sixty (60) square feet per tree. No such protective plot shall be paved with any impervious material. In the BEP District, all required parking areas shall be located to the side or rear of each building served. No required parking area shall be located in a required side or rear yard.

(6) No less than twenty-five percent (25%) of any lot area shall be retained as unoccupied space free of all buildings, parking, pavement including street access drives and walks or other conditions, precluding landscaping; such unoccupied area shall be landscaped or stabilized with plant material [except for multifamily dwellings, see § 200-5.1B(4)].

(7) All commercial site plans shall show all proposed lighting on said site for exits and entrances and said lighting shall be erected and maintained by the owner of the property.

In the BEP District, lighting shall be provided to secure pedestrian safety and comfort by the illumination of all walkways, parking areas, and other common areas with minimal overspill into the night sky or adjacent properties.

(8) A common driveway shall be allowed for nothing other than two (2), one-family dwellings. Nor shall any common driveway exceed five hundred (500) feet in length. Common driveways serving two (2) lots shall not be permitted except by special permit from the Planning Board.

(a) The Planning Board may grant a special permit for a common driveway provided that:

[1] Both lots to be served have the required frontage on a street as defined in § 200-2.1;

[2] The driveway shall have a minimum eighteen-foot-wide paved surface, and shall not exceed a grade of twelve percent (12%).

[a] The Planning Board may require the proposed driveway grade not to exceed seven percent (7%), upon a determination by the Fire Chief that said grade reduction is required to assure adequate fire apparatus response and mobility.

[b] The common driveway shall have a turning area at the end for fire apparatus, designed to one (1) of the following design standards:

[i] A cul-de-sac of a minimum seventy-five (75) feet in diameter; or

[ii] A turning area eighteen (18) feet wide by thirty-five (35) feet deep, art a grade of no less than two percent (2%) in any direction, situated no closer than fifty (50) feet and no further than one hundred (100) feet from the end of the driveway.

[3] The property owners permitted the common driveway shall execute an agreement as to responsibility for maintenance and as to mutual access over the driveway in a form acceptable to the Planning Board. The Planning Board, in reviewing the special permit application, shall consider, among other issues, public safety, sight line distances, topography and presence of wetlands. Common driveways permitted by this section shall not be considered private ways and shall not be further extended.

[4] Each such common driveway shall have a minimum twenty-five-foot-wide right-of-way easement across all properties upon which such driveway is to be located.

(b) In addition, common driveways shall meet all of the requirements of Charlton's Driveway Bylaws and Driveway Regulations.[4]

SECTION 5

Special Regulations

§ 200-5.1.MultiFamily Dwellings.

A. Procedures

(1) Application and plans. Applicants for site plan approval for multifamily dwellings shall submit applications and site plans as required by § 200-7.1D.

(2) Criteria. Approval of multifamily dwellings shall be granted upon Planning Board determination that the site plan complies with the requirements of this bylaw and that due regard has been given to the supply of water, the disposal of wastewater, sewage and surface waters, movements of vehicular traffic and accessibility for emergency vehicles, and that the use is in harmony with the general purpose and intent of this bylaw.

B. Requirements.

(1) Each building shall contain not more than six (6) dwelling units and shall not exceed one hundred forty (140) feet in any dimension.

(2) In R-SE Districts, each multifamily dwelling unit connected to a sewer line shall have atleast twenty thousand (20,000) square feet of lot area.

In the R-40 District, the first dwelling unit in a multifamily development shall have forty thousand (40,000) square feet of lot area. In the R-40 District, each multifamily dwelling unit beyond the first shall have twenty thousand (20,000) square feet of lot area.

(3) The site plan shall be so designed that parking areas are screened from streets by building location, grading, or screening; lighting or parking areas shall avoid glare on adjoining properties; major topographic changes or removal of existing trees shall be avoided wherever possible; and water, wetlands, or other scenic views from streets shall be preserved wherever possible.

(4) Not less than fifty percent (50%) of the lot area shall be retained as unoccupied space free of all buildings, parking, pavement other than street access drives and walks, or other conditions precluding landscaping, and kept stabilized with plant material.

§ 200-5.2. Mobile Homes, Mobile Home Parks, and Trailers.

A. Prohibited use.

(1) Not more than one (1) mobile home or trailer shall be placed or allowed to remain on any lot.

(2) No mobile home or trailer shall be occupied for dwelling purposes except that a mobile home may be occupied for such purposes by one (1) or more persons on temporary visits to the Town not exceeding thirty (30) days in any successive twelve (12) months.

(3) No mobile home or trailer shall be placed or allowed to remain on any land rented or leased for such purposes.

(4) No mobile home park shall be permitted within the Town after the effective date of this bylaw, except that existing trailer parks shall be allowed with their presently allowed number of trailers.

(5) No object originally designed as a mobile home or a trailer designed for residential use shall be maintained on a lot for the purpose of the storage therein of materials, supplies or equipment of any type.

B. Nonconforming uses.

(1) Any lawful privilege as to a trailer or object originally designed as a mobile home in existence of the effective date of this bylaw shall not thereafter be lost by abandonment merely because of the failure to exercise such privilege for a period of less than two (2) consecutive years. The failure to exercise such privilege for a period of two (2) consecutive years or more shall be deemed to be an abandonment thereof.

(2) If a mobile home is lawfully in existence or is lawfully occupied for dwelling purposes on the effective date of this bylaw is damaged or destroyed by fire or other casualty, such mobile home may be restored or replaced within two (2) years after the occurrence of the casualty, provided that such restoration or replacing does not increase the nonconforming nature of the mobile home.

(3) The number of mobile homes located in any mobile home park lawfully in existence on the effective date of the bylaw shall not be increased over the number of such mobile homes allowed under a license issued by the Board of Health in effect on that date unless the Zoning Board of Appeals has issued a special permit therefor after making a finding that the increased number shall not be substantially more detrimental than the previous number in the neighborhood.

(4) This bylaw shall not prohibit the owners or occupiers of a residence which has been destroyed or rendered uninhabitable by fire or other natural catastrophe from placing a mobile home on the site of such residence for a period not to exceed twelve (12) months while the residence is being replaced or rebuilt. Such mobile home shall be subject to the provisions of the State Sanitary Code.

§ 200-5.3. Storage of Unregistered Motor Vehicles.

A. Prohibition and special permit. Not more than two (2) unregistered motor vehicles, assembled or disassembled, shall be kept, stored or allowed to remain on a lot except upon the grant of a special permit for such use by the Board of Selectmen as per the Storage of Unregistered Motor Vehicles Zoning Bylaw.

B. Conditions to be met. The Board of Selectmen may grant a special permit for such use only if all of the following conditions are met:

(1) Such use will not nullify or substantially derogate from the intent and purpose of this bylaw;

(2) Such use will not constitute a nuisance; and

(3) Such use will not adversely affect the neighborhood in which the lot is situated.

C. Conditions, safeguard and limitations in permit. The Board of Selectmen shall specify in each special permit under Subsection A the maximum number of unregistered motor vehicles that may be kept, stored or allowed to remain on the lot and also the maximum period of time for which the permit shall remain in effect. The Board of Selectmen may impose in any such permit other conditions, safeguards and limitations on both time and use.

D. Exemptions. The provisions of Subsection A shall not apply to motor vehicles which are (1) stored within an enclosed building, (2) designed and used for farming purposes, or (3) kept, stored, or allowed to remain on the premises specified in a license issued by the Board of Selectmen under MGL c. 140, § 59, as the premises to be occupied by the licensee for the purpose of carrying on the licensed business.

E. Special permit fee. Each special permit application submitted under Subsection A shall include an application fee in an amount established by majority vote of the special permit granting authority. [Amended 5-21-2012 ATM by Art. 28]

§ 200-5.4. Scenic Roads.

Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of Charlton, the Town may designate any road in Charlton, other than a numbered route or state highway, as a scenic road. After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees of more than four (4) inches in diameter, measured two (2) feet above the ground, or the tearing down or destruction of stone walls, or portions thereof, by the Town or any other public agency, or by property abutters, except with the prior written consent of the Planning Board; after a public hearing has been held. The public hearing shall be duly advertised as per the requirements of § 200-7.2G of this bylaw. Designation of a road as a scenic road shall not affect the eligibility of Charlton to receive construction or reconstruction aid for such road pursuant to the provisions of Chapter 90 of the Massachusetts General Laws.

§ 200-5.5. Historic Districts.

Article 25 of the Charlton Annual Town Meeting of May 14, 1977 established an Historic District Bylaw. With certain exceptions, as provided in Section 7 of that bylaw, no building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features, unless the Historic Districts Commission, established under that bylaw, shall first have issued a certificate of appropriateness, a certificate of nonapplicability, or a certificate of hardship with respect to such construction or alteration.

§ 200-5.6. Signs. [Amended 5-20-2013 ATM by Art. 22]

A. Purpose.

(1) It is the purpose of § 200-5.6 to protect the public health, safety, convenience and

general welfare of the residents of the Town of Charlton by regulating signs that:

(a) Obstruct traffic visibility and cause traffic hazard;

(b) Pose a danger through disrepair and threat of collapse;

(c) Decrease property values due to incompatibility with the property that surrounds it;

(d) Protect the architecture, character and appearance of the various neighborhoods in the Town;

(e) Minimize lighting impacts from signs;

(f) Disrupt the aesthetic environment of the Town of Charlton;

(g) Enable the fair and consistent enforcement of these sign regulations; and

(h) Protect and improve the public health, safety, convenience and general welfare.

(2) Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and other public places, and adjacent private places open to the public. The unregulated construction, placement and display of signs constitute a public nuisance detrimental to the public health, safety, convenience and welfare of the residents of the Town.

B. Definitions.

ADVERTISING BLIMP — An advertising blimp is an inflatable sign that by way of gas or other manner is caused to float above the structure it is attached to. Further, such inflatable sign is capable of moving from place to place and is not permanently affixed to the ground or structure.

ADVERTISING DEVICE — Any nonverbal device designed for advertising purposes, such as balloon signs, caricatures, animals, food items, etc.

ELECTRONIC MESSAGE CENTER - CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS) — A sign on which the characters, letters or illustrations can be changed automatically or through electronic or mechanical means. CEVMS exclude time and temperature signs.

MARQUEE — Any permanent roof-like structure projecting beyond a building or extending along and projecting from the wall of a building.

SIGN — A communication device, structure, or fixture that incorporates graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction or identification for a structure or area.

SIGN, ABANDONED — A sign which identifies or provides information pertaining to a business, lessor, lessee, service, owner, product or activity, which no longer exists at the premises where the sign is located, or for which no legal owner can be found.

SIGN, ACCESSORY — A sign which provides information pertaining to, but does not

specifically identify, a business, product or activity; such as "OPEN," "CLOSED," "ATM," phone number, website, e-mail, etc.

SIGN, ATTACHED — A sign permanently erected or affixed to a building.

SIGN, CANOPY — A sign on or attached to a permanent overhanging shelter that projects from the face of a building and is supported only partially by the building.

SIGN, CHANGEABLE COPY — A sign on which the characters, letters, illustrations can be manually or electronically changed without altering the face or surface of the structure.

SIGN, CONSTRUCTION — A sign identifying an architect, builder, contractor, subcontractor, material supplier, financing entity or others participating in the design, construction or alteration of the premises on which the sign is located.

SIGN, DIRECTIONAL OR TRAFFIC SAFETY — A sign identifying entrances, exits, parking areas or other operational features of premises and the provision of directions for safe use of the same.

SIGN, FREESTANDING — A sign not supported by a wall or screening surface.

SIGN, GROUND — Any sign having as supports, wood or metal columns, pipes, angle iron framing, masonry, plastic or any combination of these materials, unattached to any building or other structure. This includes single-pole pylon-type signs.

SIGN, ILLUMINATED — A sign lighted or exposed to artificial light either by lights on or in the sign or directed toward the sign, including direct/external lighting, indirect lighting, illumination, flashing or intermittent lighting.

SIGN, MARQUEE — A sign on or attached to a permanent overhanging shelter that projects from the face of a building and is supported entirely by the building.

SIGN, NONCONFORMING — A sign lawfully existing before the adoption of this ordinance which does not now conform to the regulations of the ordinance.

SIGN, OFF-PREMISES — A sign whose subject matter relates to products, accommodations, services or activities not exclusively located on the same premises as that sign and including billboards.

SIGN, ON-PREMISES — A sign which advertises activities, goods, products, etc., that are available within the building or on the lot where the sign is located.

SIGN, POLITICAL — A sign which pertain to the elective process or which constitute political speech.

SIGN, PROJECTING — A sign which extends from the wall of a building.

SIGN, PUBLIC SERVICE INFORMATION — A sign which exclusively promotes an activity or event of general interest to the community and which contains no advertising features.

SIGN, REAL ESTATE — A sign which is used for the sale, lease or rental of real property.

SIGN, STANDING — Any sign maintained on structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structure.

C. General regulations.

(1) These regulations shall apply to all signs and their supporting devices erected within the Town of Charlton.

(2) Lighting of a sign may only be by a white light of reasonable intensity shielded and directed solely at the sign. Internally illuminated signs are permitted on lots zoned for business and industrial uses directly abutting Route 20 or 169.

(3) No sign shall be erected or maintained that obstructs or interferes with the free and clear vision of or from any street or driveway, or obstructs or simulates official directional or warning signs erected or maintained by a governmental entity.

(4) Every standing sign shall be located a minimum of three (3) feet from any property line.

(5) No sign shall be erected or maintained in any street right-of-way, on utility poles or trees.

(6) No roof signs shall be erected nor shall any sign project above the peak of a roof. No sign attached to a building shall project more than twelve (12) inches from the edge of the building, except for awning signs. No sign shall exceed the maximum height set forth in Subsection F.

(7) Temporary signs are permitted in all districts with a sign permit from the Building Inspector as set forth in Subsection F. Temporary signs must be firmly attached to a supporting device and present no undue hazard to the public. See Subsection F for the maximum size of various types of temporary signs. Such signs are allowed for up to sixty (60) days. Temporary signs may be attached or lettered on the interior of the window. Such signs shall not be included in the aggregate sign area. The aggregate area of all signs in any window, either permanent or temporary, shall not exceed thirty percent (30%) of the area of such window. An applicant may obtain a permit for a temporary sign only twice in a twelve-month period. Temporary signs shall be removed within five (5) days after the reason for the sign has ended or on the day the permit expires, whichever is sooner.

(8) Pennants are prohibited in all zoning districts, except that they may be used one time only for grand openings for thirty (30) days or less with a permit from the Building Inspector.

(9) For signs in the Village District, also see § 200-5.17F.

D. Sign permits and fees. Sign permits shall be obtained on forms provided by the Building Inspector; Board of Selectmen has the authority to set fees from time to time.

E. Prohibited signs.

(1) Any sign which may be confused with or construed as a public safety device or sign or traffic or emergency light because of its color, shape or design.

(2) Any sign which incorporates moving, flashing, undulating, swinging, rotating or the electronic, visual representation of motion or animation by intermittent or variable

illumination. [Amended 10-15-2013 STM by Art. 5]

(3) Signs constructed, mounted or maintained upon the roof of any building.

(4) Off-premises signs.

(5) Exposed neon signs.

(6) Billboards.

(7) Signs emitting sound, except drive-through menu signs.

(8) Signs placed upon unregistered vehicles. No commercial or industrial sign shall be erected on or attached to any vehicle except for signs applied directly to the surface of the vehicle. The primary use of such vehicle shall be in the operation of a business and not in advertising or identifying the business premises. The vehicle shall not be parked in a public right-of-way for the purposes of advertising.

(9) No sign shall contain any moving, flashing, or animated lights or visible moving parts. Wind-driven, whirling, or spinning signs, or signs with so-called "whirligigs" are prohibited. Indicators of time and temperature are permitted on nonresidentially zoned lots directly abutting Route 20 or 169. Such signs shall be located no further than fifty (50) feet from Route 20 or 169 and shall comply with all other requirements of this section.

(10) Any sign not specifically allowed in this § 200-5.6.

(11) Exceptions.

(a) The following types of illuminated signs may be permitted in accordance with the standards listed herein:

[1] Changeable electronic variable message signs (CEVMS) consisting primarily of scrolling or changing text whereby no more than one (1) line of text scrolls at once, and is displayed for a period of at least four (4) seconds. The transition between each individual message or display shall be accomplished within two (2) seconds and occur without flashing.

[a] CEVMS shall contain a default mechanism that will freeze the display in a static mode if a malfunction occurs.

[b] The Town may require that "Amber Alerts" or emergency information messages be displayed on the CEVMS. Upon such notification, the sign operator shall display emergency information messages in appropriate sign rotations, and maintain such messages in rotation according to the designated issuing agency protocols.

[2] Digital sign displays whereby each image is static with no flashing or motion depicted, and each image is displayed for a period of at least ten (10) seconds. The transition between each individual message or display shall be accomplished within two (2) seconds and occur without flashing.

[3] Public service signs such as those that customarily display time or temperature.

[4] Reader boards that display a consistently sized text and are not animated.

(b) Signs which may be permitted under this section are to be further restricted as follows:

[1] Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at twenty-five (25) watts or less.

[2] Spotlights providing direct illumination to the public and beacons of any type are prohibited.

[3] Illumination of attraction devices or signs which fluctuate in light intensity are prohibited.

[4] Display surface of projecting signs shall not exceed sixteen (16) square feet, shall be limited to one (1) sign per business and shall not be permitted on property which has a freestanding sign, whether or not it is a CEVMS.

[5] All illuminated signs shall provide shielding for the source of illumination in order to prevent a direct view of the bulb or other light source from a residence within one hundred (100) feet of said illuminated sign or device.

F. Area of signs.

(1) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.

(2) The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest rectangle which encompasses all of the letters and symbols.

(3) The area of a sign which is other than rectangular in shape shall be determined as the area of the smallest geometric shape which encompasses all elements of said sign.

(4) The area of a sign consisting of a three-dimensional object shall be considered the area of the smallest rectangle that can encompass the area of the largest vertical cross-section of that object.

(5) Only one (1) side shall be counted in computing the area of a double-faced sign. All sides of a sign with more than two (2) sides shall be counted in calculation of sign area.

G. Permitted signs.

(See Table On Next Page)

Allowed Signs and Conditions of Use

Sign Type	Permanent (P) or Temporary (T)	Permit Required (Y/N)	Time Limit	Maximum Size Restrictions	Maximum Height Above Grade	Notes	Number of Signs
Accessory sign	T or P	N		10% of the sign face to which it is attached to or nearest to			1 on-site accessory sign per business or establishment
Advertising device (excluding balloon signs)	P	Y		Total surface area of advertising device shall count as part of the allowed ground sign area	Maximum height 20 feet with a clearance to ground of 30 inches		1 per site
Awning sign	P	Y		Lettering no larger than 6 inches in height			
Banners or flags	T	N	During hours of operation	Total area not to exceed 12 square feet; individual banners or flags not to exceed 6 square feet			Not to exceed 2 banners/flags per business
Canopy sign	P	Y		Maximum size: the smaller of 10% of the facade area associated with the business or 60 square feet Maximum height of 3 feet		Canopy signs shall be treated as wall signs	1 sign per canopy
Changeable copy and CEVMS	P	Y		32 square feet The area of a CEVMS shall count		Sign face of CEVMS cannot change in less than 4	1 per site

				towards the overall area of the sign to which it is attached or associated.		seconds	
Construction signs (6 square feet or less)	T	N	During construction and up to 7 days after the certificate of occupancy is issued	6 square feet		Signs may contain only the name of the contractor or subcontractor	1 per site
Construction signs (over 6 square feet)	T	Y	During construction and up to 7 days after the certificate of occupancy is issued	32 square feet		Signs may contain relevant information per the definition of construction signs	1 per site
Directional or traffic safety signs	P	N		2 square feet			
Drive-through menu sign	P	Y		32 square feet	Maximum height 20 feet with clearance		1 per site
Ground sign	P	Y		32 square feet	Maximum height of 20 feet with clearance to ground not less than 10 feet	Single- or double-faced ground signs are authorized in addition to wall and projecting signs. One accessory sign not to exceed 10% of the area of the ground sign may be attached to the main sign.	1 per site
Government signs	T and P	N					
Historic or commemorative	P	N		6 square feet			

marker							
Home occupation	P	N		2 square feet			1 per business
Ladder sign	P	Y		32 square feet	Maximum height 20 feet with a clearance to ground of 30 inches		1 per site; shall be considered the ground sign for the property
Marquee sign	P	Y		Subject to wall sign restrictions			
Political signs					Not subject to regulation		
Projecting sign	P	Y		8 square feet	Minimum of 10 feet clearance from ground to the bottom of the sign	Cannot extend within 24 inches of the curbline	1 per business
Public service information sign	T	N	30 days	6 square feet		Sign may be located on premises other than those of the sponsoring entity	
Real estate sign on-premises and open house signs	T	N	The period while the property is being offered for sale or rent; during the hours of the open house	6 square feet		Allowed in right-of-way for duration of open house	1 per each property offered for sale or rent; up to 3 open house signs are permitted
Regulatory or safety sign	P	N		6 square feet			
Residential decorative sign	P	N		2 square feet			1 per residence
Residential complex or subdivision identification sign	P	Y		24 square feet	Not more than 8 feet in height and not less than 30 inches from the	Sign shall include only the name of the subdivision or complex and shall be	1 per subdivision or complex

					ground	prohibited from containing the name of the developer, owner or property management company	
Sandwich board sign	T	N	During hours of operation	6 square feet	4 feet in height	No associated lighting	1 per business
Special purpose sign	P	N		2 square feet			
Standing sign	P	Y		32 square feet; multi-tenant signs may go up to 90 square feet and 1 standing sign may be erected at each roadway intersection located wholly within the property. Such standing sign shall not exceed 16 square feet in area.	Up to 20 feet in the CB District and 36 feet in the IG and BEP Districts	Area may be increased to 50 square feet with a special permit pursuant to § 200-5.6J	1 per business
Subdivision lot plan sign	T	Y	During the sale of subdivision lots; must be removed 7 days after last lot is sold	32 square feet	Maximum height of 15 feet with clearance to ground of 30 inches		1 per subdivision
Time and temperature sign	P	Y		Counts as part of the sign area for the projecting or ground sign to which it is attached	For ground signs, the maximum height is 20 feet with a clearance to ground	For projecting signs, the clearance to ground is at least 8 feet	1 per site

				of 30 inches		
Wall sign	P	Y	Maximum size is the lesser of 10% of the facade associated with the business being advertised or 60 square feet, whichever is smaller		Any business that has no street frontage may have 1 sign facing the parking area	1 wall sign per business established in the structure; in addition, 1 secondary wall or window sign not to exceed in area 50% of the primary wall or window sign is permitted by special permit issued pursuant to § 200-5.6F
Wayfinding sign	P	Y if not a government agency	15 square feet	Maximum height of 10 feet with a clearance from ground of 30 inches	Advertising is prohibited and these signs are allowed off-premises signs	
Window or door sign	T	N	Not to cover more than 30% of door or window area		Not allowed on the exterior of windows or doors	

H. Exceptions. The following signs are exempt from the requirements of this section:

(1) Flags and insignia of any government except when displayed in connection with commercial promotion.

(2) Temporary devices erected for a charitable or religious cause, provided they are removed within five (5) days of erection.

(3) Temporary displays inside windows, covering not more than thirty percent (30%) of window area, illuminated by building illumination only.

(4) Integral decorative or architectural features of a building, including letters, logos and trademarks.

(5) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color

contrasting with sign background, and not exceeding four (4) square feet in area.

(6) Address identification through numerals or letters.

(7) "For Sale," "For Rent" or political signs.

(8) Window displays of merchandise or signs incidental to the display of merchandise.

(9) Gasoline station signs required by local, state or federal regulations.

(10) Signs erected by municipal, county, state or federal government, as may be deemed necessary for their respective functions, in accordance with the standards of this section.

(11) Signs not exceeding five (5) square feet in area indicating "entrance," "exit," "parking," "no trespassing," or the like, erected on a premises for the direction of persons or vehicles.

(12) Youth athletic league sponsor ads or banners, affixed during active league season schedule onto a fence at public recreational facilities.

I. Nonconforming signs.

(1) Any sign not conforming to the terms of this section is hereby declared a nonconforming sign. Nonconforming signs may continue to be maintained; provided, however, that no such sign shall be permitted if, after the date the zoning bylaw was adopted, it is enlarged, or altered in any substantial way, except to conform to the requirements of the bylaw. Notwithstanding this, the panels of such sign may be changed to reflect a changed product line.

(2) Further, any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent (35%) of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of the bylaw.

(3) Any exemption shall terminate with respect to any sign that shall have been abandoned; advertise or calls attention to any product, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the Building Inspector.

(4) A sign damaged by vandalism, accident or Act of God may be repaired or re-erected without a permit within sixty (60) days in the same location but should conform to the standards set forth in this section. Such sign shall not be any more nonconforming than the previous sign.

(5) Any sign that is located upon property which becomes vacant and is unoccupied for a period of sixty (60) days shall be deemed to have been abandoned. An abandoned sign is prohibited hereby and shall be removed by the owner of the premises forthwith.

(6) Any sign under permit by the Outdoor Advertising Board on the effective date of this

bylaw may continue to be maintained without conforming to the area and height requirements of this section. The Board of Selectmen shall refer to the Planning Board, for its review and recommendation, any notices issued by the Outdoor Advertising Board as to applications for authority to maintain or install billboards or other signs in Charlton.

J. Administration and enforcement.

(1) Unless indicated otherwise, no sign shall be erected in the Town without a permit from the Building Inspector. Every application for a sign permit shall be accompanied by a scaled, dimensioned drawing showing the size and location of the sign on the property or building. The Building Inspector shall review the permit application, the drawing and any related materials and shall issue a permit if the sign set forth in said application is in full compliance herewith. The Building Inspector shall approve or deny an application within thirty (30) days of his/her receipt thereof, or as to signs located within an historic district, within sixty (60) days of receipt. Signs to be erected on Town property shall require an additional permit from the Board of Selectmen.

(2) However, a sign located within an historic district as defined by MGL c. 40C shall be permitted only after certification by the Historic District Commission that the sign complies in full with the bylaws, rules, regulations, and operative guidelines of the Commission, with the provisions of MGL c. 40C, and with all rules and regulations promulgated thereunder. The Commission shall transmit its decision to the Building Inspector in this regard within forty-five (45) days of its receipt of the application, but neither approval nor disapproval shall be inferred from the failure of the Commission to act within the time provided hereby.

(3) Signs located along or designed to be visible from a roadway designated as a scenic road shall be reviewed by the Planning Board prior to the issuance of a sign permit hereunder. In its review, the Board shall determine compliance of the sign with all provisions of state law and Town bylaw applicable to scenic roads. It shall transmit its recommendations thereon to the Building Inspector within twenty-one (21) days of its receipt of the application.

(4) The Planning Board shall be the special permit granting authority for the purposes of this section. The Board shall grant special permits hereunder if it determines that:

(a) The sign requested pursuant to the special permit application is necessary due to topography or site conditions unique to its proposed location; or

(b) A unique and particular type of use requires additional signage in order to identify the premises adequately.

(5) The Zoning Board of Appeals shall have the authority to issue a variance from the provisions of this section in accordance with § 200-7.3B(1) hereof.

(6) Every sign shall be maintained in sound structural condition satisfactory to the Building Inspector at all times. The Building Inspector shall inspect a sign when and as the Building Inspector deems appropriate. The Building Inspector shall have the

authority to order the repair, alteration or removal of a sign which constitutes a public health and/or safety problem by reason of improper or inadequate maintenance, design, construction, condition or dilapidation.

§ 200-5.7. Flexible Development.

A. Purpose. The purpose of the flexible development option is to provide for the most efficient use of services and infrastructure, to maintain the Town's traditional New England rural character and land use patterns and to encourage the permanent preservation of open space.

B. Applicability. Flexible development special permit shall be permitted on parcels of ten (10) acres or more in A, R-40 and R-SE and V Districts upon the issuance of a special permit for flexible development from the Planning Board upon a finding that the proposed flexible development will be superior to a conventional subdivision plan in: allowing for greater flexibility and creativity in the design of residential developments; encouraging the permanent preservation of open space, agricultural land, forests and woodland, historic or archaeological sites, or other natural resources; maintaining the Town's traditional New England rural character and land use patterns in which small villages contrast with open spaces, farmland and forests; preserving scenic vistas; providing for the most efficient use of municipal and other services; preserving unique and significant natural, historical and archaeological resources; and encouraging a less sprawling form of development, but not to the extent that such development will visually and environmentally overwhelm the land. [Amended 5-21-2012 ATM by Art. 28]

C. Standards.

(1) Building lots within flexible developments shall conform to the following standards:

Zoning District	Minimum Lot Area (square feet)	Frontage (feet)	Setback Front (feet)	Setback Side (feet)	Setback Rear (feet)	Maximum Building Coverage
A	45,000	100	30	15	30	30%
R-40	30,000	100	30	15	15	30%
R-SE	30,000[1]	100	30	15	15	30%

NOTES:

[1] Building lots may contain 20,000 square feet if connected to a sewer system.

(2) The lots within the flexible development used for residential structures shall be grouped, where each lot shall be contiguous. Every group shall be separated from every other group within any flexible development by a distance determined by the Planning Board.

(3) A strip of permanently restricted open space, the width of which shall be at the discretion of the Planning Board, shall be provided between every group and the exterior property lines of the flexible development parcel.

(4) A minimum of twenty-five percent (25%) of the land area in the flexible development shall be permanently restricted open space and shall be suitable for recreational, agricultural or cultural uses. The Planning Board may require that at least fifty percent (50%) of the permanently restricted open space shall be free from wetlands as defined in the Wetlands Protection Act. However, such open space may contain more than fifty percent (50%) wetlands if the additional open space consists of bodies of water.

(5) The number of building lots proposed may exceed the number that would normally be allowed by a conventional subdivision plan in full conformance with zoning, subdivision regulations, health codes, wetlands bylaws and other applicable requirements by ten percent (10%) if the Planning Board finds that the character of the surrounding area would not be adversely affected thereby and that all other requirements of this section are met. Three (3) copies of a preliminary conventional subdivision plan are required to be submitted as part of the flexible development preliminary subdivision plan application for use by the Planning Board in determining preference of either flexible or conventional subdivision design. [Amended 5-21-2012 ATM by Art. 28]

(6) No lot shown on an approved flexible development plan shall be further subdivided and the plan shall be so noted. Relocation of lot lines, street layout and open space layout may be allowed after approval, provided that no increase in the number of building lots results thereby and provided further that approval of the Planning Board is given. If the Board determines that a proposed revision constitutes a substantial change, a public hearing shall be held at the expense of the applicant.

(7) Streets constructed within the flexible development shall conform to the applicable requirements of the Rules and Regulations Governing the Subdivision of Land.[5]

D. Open space.

(1) Ownership.

(a) The open space to be permanently restricted shall be conveyed to one (1) of the following:

[1] The Town of Charlton for conservation, recreation, agricultural or park purposes if accepted by a Town Meeting;

[2] A nonprofit organization the principal purpose of which is the conservation of open space;

[3] A corporation or trust owned or to be owned by the owners of lots or residential units within the flexible development.

(b) The Board may also require that scenic, conservation or historic easements be deeded to the Town or other nonprofit organization.

(2) The special permit shall state any restrictions on the use of the open space. Where

1. **Editor's Note: See Ch. 210, Subdivision of Land.**

such land is not conveyed to the Town, it shall be covered by a restriction, enforceable by the Town or a nonprofit organization, running with the land, which provides that such land shall be used only for the purposes specified in the special permit. Such restrictions may provide easements for underground utilities but they shall not permit wells or septic systems upon the land. The open space may not be developed for uses accessory to the residential use such as parking or roadways. Wherever practical, the open space shall be contiguous to other protected open space or bodies of water.

(3) If the open space subject to the restrictions established by the special permit is to be owned by a corporation or trust in accordance with Subsection D(1)(a)[3], maintenance of the common land shall be permanently guaranteed through the establishment of an incorporated homeowners' association which provides for mandatory membership by the lot or unit owners, assessments for maintenance expenses, a general liability insurance policy covering the open space, and a lien in favor of the Town of Charlton in the event of the lack of maintenance. The terms of the lien shall provide that the Town may, if it determines that required maintenance has not been accomplished as required by the conditions of the special permit, perform the required maintenance and assess the members of the corporation or trust, or the corporation or trust itself, for the cost of such maintenance. Copies of the documents creating the corporation or trust of the general liability insurance policy, and of the lien, shall be submitted to the Planning Board for review and Planning Board acceptance and shall be recorded in the Worcester District Registry of Deeds, in the form and with content as approved by the Planning Board, as a condition of the special permit. [Amended 5-21-2012 ATM by Art. 28]

(4) The open space shall not be leased, sold or used for purposes other than those authorized by the special permit. Any proposed change to the use of the open space shall be approved by a majority of the Planning Board present and voting, provided that the proposed use is consistent with the intent of this section, and it will not adversely impact abutters and the use of surrounding open space by bright lights, noise or other nuisances. The Board may impose conditions on such proposed uses.

E. Procedure.

(1) A pre-application meeting with the Planning Board and other relevant boards for review and discussion of a preliminary or conceptual plan is recommended prior to a formal submission of an application for a special permit. Preliminary sketches of a flexible development plan and a conventional subdivision plan are encouraged to be submitted.

(2) No application shall be deemed complete, nor shall any action be taken, until all required materials have been submitted. Plans and other submission materials conforming to the Planning Board's adopted "*Procedures for Applications for a Special Permit for Flexible Development*", as filed with the Town Clerk, shall be submitted to the Planning Board and Town Clerk as required by such procedures.

(3) The Planning Board shall, within fifteen (15) days of submission, distribute one (1) copy of the submission materials each to the Conservation Commission, Board of

Health, Sewer Commission, Building Inspector, Fire Department and Board of Selectmen for review and comment. The Planning Board shall not take final action on the plan within thirty-five (35) days of such distribution unless such comments are sooner received.

(4) The Planning Board shall hold a public hearing and make its decision in accordance with applicable provisions of MGL c. 40A, § 9, unless otherwise required by Massachusetts law; the Board shall hold a public hearing within sixty-five (65) days of the filing a complete of the application with the Town Clerk; the Board shall file its decision with the Town Clerk within ninety (90) days following the date of the public hearing; and the granting of a special permit shall require a four-fifths (4/5) vote of the Planning Board. The cost of advertising the hearing and notification of abutters shall be borne solely by the applicant. The time limits hereunder may be extended by written agreement between the petitioner and the Planning Board and any such agreement shall be filed with the Town Clerk. [Amended 5-21-2012 ATM by Art. 28]

(5) The granting of a special permit for flexible development shall not be construed as definitive subdivision approval under the Subdivision Control Law. The approval of a definitive subdivision plan showing a flexible development shall not be construed as the granting of a special permit. However, the applicants are encouraged to request a simultaneous public hearing for both plans, if required.

(6) The special permit shall not be valid until recorded in the Registry of Deeds and no work may commence until evidence of such recording has been received by the Planning Board and the Building Inspector. Such recording shall be the responsibility of the petitioner.

F. Definitions. The following terms shall have the following meanings for the purposes of this section:

FLEXIBLE DEVELOPMENT — A residential development in which single-family dwelling units are clustered together into one (1) or more groups on the lot and the groups are separated from each other and adjacent properties by permanently protected open space.

§ 200-5.8. Development Standards for BEP Districts.

A. Roads and utilities.

(1) Access to the site. Vehicular access shall be only from a major street or collector street (as defined in the Rules and Regulations Governing the Subdivision of Land[6]), except where unusual circumstances make secondary accesses from minor streets practicable without adverse effects on property along such minor streets. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Left-hand storage and right-hand turn lanes and/or traffic dividers shall be required where existing or anticipated heavy traffic flows indicate need.

(2) Internal circulation. Uses within an industrial or office park shall be served by a

2. **Editor's Note: See Ch. 210, Subdivision of Land.**

separate internal road system to the maximum extent possible.

(3) Construction standards. Site development shall be in accordance with the applicable provisions of the Rules and Regulations Governing the Subdivision of Land regarding utilities, drainage and roadways; roadways shall be designed to the standards for nonresidential subdivisions in said Rules and Regulations. Upon the written request of the applicant, the Planning Board may waive strict compliance with such regulations where it is demonstrated that such waiver or modification is in the public interest and is consistent with this section, with § 210-8.1 of the Rules and Regulations and with the Subdivision Control Law (MGL c. 41, § 81R).

(4) Roadway maintenance. All internal roadways in the site that are privately maintained may be required by the Planning Board to have a covenant or agreement executed by the owner or owners of record running with the land, and duly recorded at the Worcester District Registry of Deeds to insure that the roadway will be adequately and safely maintained. If the ways and utilities are proposed to be accepted by the Town, the Planning Board may require the applicant to ensure that the roadways meet all requirements of its Rules and Regulations Governing the Subdivision of Land or to make repairs to the facilities proposed for acceptance, as a pre-condition to such acceptance. [Amended 5-21-2012 ATM by Art. 28]

(5) Performance security. The Planning Board may require sufficient security to insure completion of the roads and utilities to its subdivision standards. The form of security selected, and procedures for reducing or releasing said security, shall comply with the Rules and Regulations Governing the Subdivision of Land and with the Subdivision Control Law (MGL c. 41, § 81U).

(6) Stopping sight distance. Any street which provides access to a Business Enterprise Park shall have the minimum stopping sight distance at the entrance to the Park as specified in the following table:

Design Speed (mph)	Stopping Sight Distance (feet)
30	200
35	250
40	325
45	400
50	475
55	550

B. Landscaping requirements. In addition to § 200-3.2C(2), industrial park buffers, and § 200-3.2C(3), outside bulk storage, the following landscaping and screening requirements shall apply. [The requirements of § 200-4.2D(5) shall not apply to industrial and office parks.]

(1) The front yard setback area of each lot, except for driveways and walkways, shall be

landscaped with an effective combination of trees, ornamental trees, ground cover, shrubbery, and lawn.

(2) Within parking lots, there shall be provided one tree for every ten (10) spaces. A minimum of five percent (5%) of the parking lot area having twenty-five (25) or more spaces shall be maintained with landscaping.

(3) Removal of healthy trees over five (5) inches in diameter at breast height (dbh) shall be minimized along roadways to the maximum extent practicable. Any such trees as are removed shall be replaced. New or replacement trees must be at least two (2) inches dbh. [Amended 5-21-2012 ATM by Art. 28]

(4) All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one (1) growing season by the property owner.

C. Lighting. Exterior illumination shall be only as necessary for safety and lighting of buildings, walks and roads. All lighting shall be arranged and shielded so as to prevent glare from the light source onto any public way or any other property. No light standard shall be taller than twenty-five (25) feet. All light standards shall be in a style approved by the Planning Board.

D. Utility areas. The Planning Board may require exposed storage areas, dumpsters, machinery, service areas, utility buildings and/or other unsightly use to be screened from view from neighboring properties and streets through the use of berms, fences or landscaping.

E. Utility services. All on-site utilities shall be placed underground, unless permission is otherwise granted by the Planning Board.

F. Procedures. If new lots are created that require the approval of the Planning Board under the Subdivision Control Law, the applicant shall submit a definitive plan and seek approval of a subdivision. Development on individual lots, or development of an office or industrial park on a single lot, or on multiple lots, requires approval of a site plan under § 200-7.1D of this Zoning Bylaw. The applicant may submit the materials required for both applications simultaneously in order to expedite the review process.

§ 200-5.9. Special Permits for Adult Uses.

A. Purpose and intent. It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment uses are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located, with impacts including increased levels of crime, blight, and late hours of operation resulting in noise and traffic late into the night. Therefore, this bylaw is enacted pursuant to MGL c. 40A, §§ 9 and 9A to serve the compelling Town interests by regulating and limiting the location of adult entertainment enterprises as defined herein. This regulation will promote the Town of Charlton's great interest in protecting and preserving the quality of its neighborhoods, commercial districts, and the quality of life through effective land use planning.

B. General. Special permits shall be required to authorize the establishment of adult bookstores, adult video stores, adult paraphernalia stores, adult live entertainment establishments or adult motion-picture theaters as hereinafter defined. Such permit shall require specific improvements, amenities and locations of proposed uses for which such permit may be granted. All proposals for special permits under this section shall also require site plan review under § 200-7.1D of the Charlton Zoning Bylaw.

C. Definitions. As used in this section, the following words shall have the following meanings:

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 excitement as defined in MGL c. 272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premises' gross floor area.

ADULT ENTERTAINMENT ESTABLISHMENT — Any building, stage, structure, prop, vehicle or trailer that is utilized for the substantial purpose(s) of depicting or describing sexual conduct or offering sexual excitement, each as defined in MGL c. 272, § 31.

ADULT LIVE ENTERTAINMENT ESTABLISHMENT — Any establishment which displays live entertainment which is distinguished or characterized by its emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, §%%'entity-nbsp'%%31, and which excludes minors by virtue of age.

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting videos, movies or other film materials distinguished by an emphasis on matters depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock 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 MGL c. 272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premises' gross floor area.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies or other film material which is distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premises' gross floor area.

D. Allowable locations for adult entertainment uses:

(1) Adult entertainment uses are allowed only within certain boundaries within the Town's Industrial - General (IG) District, described as follows:

INDUSTRIAL-GENERAL ZONE (WEST): Beginning at a point on the southerly side

of Sturbridge Road (U.S. Route 20) at the Sturbridge Town line; thence southerly on Sturbridge line until it comes to a point in the northerly line of the abandoned road known as Major Hill Road; thence easterly on the northerly line of Major Hill Road until it comes to a point 50 feet west of Globe a.k.a. McKinstry Brook; thence northerly 50 feet west of and parallel to the west bank of the brook until it comes to the southerly line of Sturbridge Road; thence westerly by the southerly side of said road to the point of beginning.

(2) All of the provisions of other sections of this Zoning Bylaw shall continue to so apply except when such provisions conflict with the provisions of this section; in case of such conflict, the provisions of this section shall control.

E. Rules and application requirements.

(1) The special permit granting authority, the Charlton Planning Board, shall adopt and from time to time amend rules relative to the issuance of the permits, and shall file a copy of said rules in the Office of the Town Clerk.

(2) No special permit shall be granted by the Planning Board for an Adult entertainment establishment, adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater or adult live entertainment establishment unless the following conditions are satisfied:

(a) When submitting a proposal for a special permit under this bylaw, the applicant shall obtain a copy of the application and procedures from the Charlton Planning Board, the special permit granting authority. The applicant shall file one (1) copy of the application with the Town Clerk and deliver a second, date-stamped copy of the application form to the Office of the Planning Board. All applications shall be accompanied by fifteen (15) copies of the permit applied for.

(b) Dimensional requirements. The proposed use, and the building or structure containing it, shall meet minimum distance separations from the property line of other types of uses as outlined below: [Amended 5-21-2012 ATM by Art. 28]

[1] A minimum of two hundred fifty (250) feet from any residential district designated by Charlton Zoning Bylaws.

[2] A minimum of one thousand (1,000) feet from the property line boundary of any public school, public library, day-care facility, or religious facility;

[3] A minimum of five hundred (500) feet from the property line boundary of any public playground, park, or recreational area where minors regularly travel or congregate;

[4] A minimum of one thousand (1,000) feet from any other adult bookstore, adult video store, adult paraphernalia store, adult entertainment establishment, or adult motion-picture theater and from any establishment licensed under the provisions of MGL c. 138, § 12.

[5] Building line setback required for the proposed use, and for the building or structure containing it, shall be a minimum of fifty (50) feet from any

public or private way.

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

(d) No special permit shall be issued to any person convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.

(e) Adult use special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the Charlton Planning Board, a copy of which shall forthwith be given to the Town Clerk by the applicant. The special permit granting authority shall act within ninety (90) days following a public hearing for which notice has been given by publication or posting as provided by MGL c. 40A, § 11, and by mailing notice of said public hearing by registered or certified mail, return receipt requested, to all owners of abutting properties, and owners of properties within one thousand (1,000) feet of the property line boundary of the proposed facility, and to all other parties in interest. Failure by a special permit granting authority to take final action upon an application for a special permit within said ninety (90) days following the date of pubic hearing shall be deemed to be a grant of the permit applied for unless such period is extended at the request of the applicant. Special permits issued by a special permit granting authority shall require a two- thirds vote of boards with more than five (5) members, a vote of at least four (4) members of a five-member board and a unanimous vote of a three-member board.

(f) A special permit granted under this bylaw shall lapse at the expiration of six (6) months from its issuance (or from the date on which it is deemed to have issued, whichever is sooner), if no appeal is made during the statutory appeal period, such time as is required to pursue or await the determination of an appeal referred to in MGL c. 40, § 17, from the grant thereof to be excluded from the computation of such six-month period, if a substantial use thereof has not sooner commenced except for a good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause. Any request for extension of the special for good cause shall be made in writing to the Planning Board establishing such cause before the end of the six-month period; all extensions may be granted or denied at the sole discretion of the Charlton Planning Board.

(g) The granting of a special permit for adult uses shall not be construed as approval for site plan review under § 200-7.1D of the Charlton Zoning Bylaw. Said site plan review is required of any proposed new adult entertainment

establishment, adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater, and adult live entertainment establishment. Applicants who wish to shorten the permit timeline are encouraged to request a joint permitting process covering both the special permit and site plan review.

(h) Existing adult entertainment uses. Any existing adult entertainment establishment, adult bookstore, adult motion-picture theater, adult paraphernalia store, or adult video store or adult live entertainment establishment shall apply for such permit within ninety (90) days following the adoption of this Zoning Bylaw; along with a written request to waive the site plan review requirements under § 200-7.1D of the Charlton Zoning Bylaw.

F. Severability. If any section of this bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

§ 200-5.10. Special Permits for Wireless Telecommunication Facilities.

A. Purpose. The purpose of these regulations is to minimize adverse impacts of wireless communications facilities, satellite dishes and antennas on adjacent properties and residential neighborhoods; minimize the overall number and height of such facilities to only what is essential; promote shared use of existing facilities to minimize the need for new facilities; and deal effectively with aesthetic concerns and to minimize adverse visual impacts.

B. Definitions.

COMMUNICATION DEVICE — Any antenna, dish or panel mounted out of doors on an already existing building or structure used by a commercial telecommunications carrier to provide telecommunications services. The term "communications device" does not include a tower.

STEALTH COMMUNICATION FACILITIES — Any newly constructed or installed building, building feature, or structure designed for the purpose of hiding or camouflaging a WCF, tower(s), and communications device(s) installed therein or thereon, including but not limited to church steeples, flag poles, historic-replica barns, silos, water towers, bell towers, etc.

TOWER — Any equipment mounting structure that is used primarily to support reception or transmission equipment and that measures twelve (12) feet or more in its longest vertical dimension. The term "tower" is limited to monopoles.

WCF ACCESSORY BUILDING — A structure designed to house both mechanical and electronic equipment used in support of wireless communications facilities.

WIRELESS COMMUNICATIONS FACILITIES (WCF) — Any and all materials, equipment, storage structures, towers, dishes and antennas, other than customer premises equipment, used by a commercial telecommunications carrier to provide telecommunications or data services. This definition does not include facilities used by a federally licensed amateur radio operator.

C. Compliance with federal and state regulations. All wireless communications facilities 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, as the same may be amended from time to time.

D. Location. After a review of the existing technological needs of the telecommunications providers, the topography of Charlton, the requirements of the Telecommunications Act of 1996 and the impact on Town residents, the Town finds that wireless communications facilities may be allowed as follows:

(1) New towers. A wireless telecommunications tower overlay district is hereby established, superimposed on existing zoning districts. All requirements of the underlying zoning districts shall remain in full force and effect, except as may be specifically superseded herein. The following areas are included in the overlay district:

(a) New towers may be allowed subject to a grant of a special permit by the Planning Board at the following geographic locations:

[1] The area of land bounded on the south by Route I-90 (Mass. Turnpike); on the west by Route 49, on the north by the Town of Sturbridge, and on the east by the easternmost boundary of the Parcel 7 on Tax Assessor's Map 31, Block B;

[2] The area of land known as the Massachusetts Turnpike Service Area, 6W, a/k/a Charlton Plaza, bounded on the north by Hammond Road, and on the south by the Massachusetts Turnpike, as shown on Charlton Assessor Map 19, Block C, Parcel 2.

[3] The area of land shown on Charlton Assessors' Map 30, Block C, Parcels 4, 16, and 17.

[4] The area of land shown on Charlton Assessors' Map 26, Block D, Parcel 13, excluding the southwest portion of the parcel bounded by a straight line extending southerly from the southeast corner or Parcel 9.1 to a point on the northerly side of Worcester Road a/k/a Route 20 four hundred twenty (420) feet easterly of the northeasterly corner of the intersection of Putnam Lane and Worcester Road a/k/a Route 20.

[5] The area of land shown on Charlton Assessors' Map 24, Block A, bounded as follows: beginning at a point on the southern boundary of Map 24, Block A, Lot 6, two hundred (200) feet easterly from the southwestern corner of said Lot 6, thence extending northerly and northeasterly a uniform two hundred (200) feet easterly and southerly of and parallel to the boundary of the Northside Historic District — South, through Lots 6.1 and 4.3A in said Map and Block, thence continuing easterly, southerly and easterly a uniform two hundred (200) feet southerly, westerly and southerly of, and parallel to, the boundary line of the Northside Historic District — South which runs along the southerly lines of Lots 4, 4.4, and 4.1 in said Map and Block, to the easterly line of said 4.3A and Lot 6 to

the southeast corner of said Lot 6, thence westerly along the southern boundary of Lot 6, to the point of the beginning, excluding therefrom so much of Map 24, Block A, Lot 6.1 as would otherwise be located therein.

(2) Stealth communications facilities, communication devices and WCF accessory buildings. Stealth communications facilities, communication devices and WCF accessory buildings may be allowed in any zoning district subject to a grant of a special permit by the Planning Board, provided that they are properly screened and conform to the requirements set forth in this bylaw.

(3) Reconstruction, extension and alteration of preexisting towers. Existing towers may be reconstructed, expanded and/or altered in all zoning districts subject to a special permit granted by the Planning Board, provided that they conform to all of the requirements set forth in this Zoning Bylaw.

(4) New antennas within existing buildings. Communications devices and WCF accessory buildings may be located totally within existing buildings and existing structures in all zoning districts, subject to a special permit granted by the Planning Board.

E. General requirements.

(1) No wireless communications facility may be erected except upon the issuance of a special permit by the Planning Board and approval under site plan review as set forth in § 200-7.1D of the Zoning Bylaw and subject to all of the provisions of this section. It is recommended to the applicant to undertake both the special permit and site plan review procedures concurrently in order to expedite the permitting process. Multiple applications for the same site/facility are also encouraged, provided there is one (1) lead applicant responsible for all submissions; and further provided that no submission will be officially received until the Planning Board is satisfied that all submission requirements for all the applicants have been met, as described under Subsection G.

(2) The only wireless communication facilities allowed are: (a) newly constructed freestanding towers, and stealth communications facilities/structures, with their associated communications devices, and WCF accessory building(s); (b) communications devices and WCF accessory buildings mounted on, or supported, in whole or in part, by any existing building or structure; (c) and any WCF located wholly within any existing building or structure. Lattice-style towers and similar facilities that require guy wires for support are not allowed.

(3) All owners and operators of land used in whole or in part for a wireless communications facility and all owners and operators of such wireless communications facility shall, as a continuing condition of installing, constructing, erecting and using a wireless communications facility, permit other FCC-licenses commercial entities seeking to operate wireless communications facility, 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 facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communication's equipment or fixtures.

(4) Each proposed construction of a new WCF, tower, communications device, stealth communications facility, or WCF accessory building shall require an initial special permit. Any extension in the height of, addition of WCF accessory buildings, communications devices to, or replacement of any WCF shall require an amendment to the special permit previously issued for that facility; or in the case where there is no special permit, an initial special permit.

(5) New facilities shall be considered by the Planning Board only upon a finding by the Planning Board that: (a) the applicant has used reasonable efforts to co-locate its proposed wireless communications facilities on existing or approved facilities; and (b) that the applicant either was unable to negotiate commercially reasonable lease terms with the owner of any existing or approved facility that could accommodate the proposed facilities from both structural engineering (i.e., the height, structural integrity, weight-bearing and wind-resistant capacity of the existing or approved facility), and radio frequent engineering (i.e., height, coverage area, etc.) perspectives; or there neither exists nor is there currently proposed any facility that could accommodate the proposed facilities from structural and radio frequent engineering perspectives. A report discussing this information, entitled "New Wireless Communications Feasibility Study," is to be submitted to the Planning Board as part of any special permit submission as outlined in Subsection G(4) below.

(6) The Town, acting through its Planning Board, may require the applicant to pay required fees for professional peer review of the applicant's proposal by a professional or radio frequency engineer, attorney or other qualified professional. [Amended 5-21-2012 ATM by Art. 28]

(7) Co-existence with other uses. A wireless communications facility may be located on the same lot by special permit with any other structures or uses lawfully in existence and/or lawfully undertaken pursuant to this Bylaw.

F. Design requirements and performance standards. All wireless communications facilities erected, installed and/or used shall comply with the following design requirements and performance standards:

(1) Shared use of towers by commercial telecommunications carriers is required unless such shared use is shown by substantial evidence to not be feasible.

(2) It is presumed that the maximum allowed height of towers is one hundred fifty (150) feet, unless the applicant demonstrates that a greater height is essential to the proper functioning of the wireless communications services or unless the Planning Board finds that co-location on said tower is both practical and preferable. Stealth facilities must meet all dimensional restrictions for buildings and structures as required in the applicable sections of the Town of Charlton Zoning Bylaw.

(3) In the event that the Planning Board finds that in order to conform to the intent and

purpose of this bylaw co-location is preferable, then towers shall be designed to accommodate the maximum number of presently interested users which is technologically practical. In addition, if the number of proposed users is less than four (4), the applicant shall provide a plan showing how the proposed tower can be expanded to accommodate up to four (4) users. In the event that the Planning Board finds that co-location is preferable, the applicant must agree to allow co-location pursuant to commercially reasonable terms to additional users.

(4) Towers shall be located a minimum of five hundred (500) feet from an existing residential dwelling or proposed dwelling in a permitted submission. This distance may be reduced by the Planning Board if it finds that the visual and aesthetic impact(s) on a residential neighborhood or dwelling would not be significantly more detrimental by doing so.

(5) A tower shall be set back from the property lines of the lot on which it is located by a distance equal to the overall vertical height of the tower and any attachments.

(6) Clustering of several wireless communications facilities on an individual lot may be allowed if the Planning Board finds that the visual and aesthetic impact(s) on surrounding residential neighborhoods or dwellings would not be significantly more detrimental than having only a single wireless communications facility. Such a proposal shall require three (3) additional visual depictions of the proposed grouping of facilities as described in Subsection G(2).

(7) Communications devices located on a structure shall not exceed ten (10) feet in height above the roof-line of the structure, unless the Planning Board finds that a greater height is essential to the proper functioning of the wireless communication services to be provided by the applicant at such location. For structures where it is difficult to determine the roof line, such as water tanks, the height of the communications devices shall not exceed ten (10) feet above the highest point of the structure.

(8) Screening requirements. All exterior wireless communications facilities equipment and fixtures shall be painted or otherwise screened or colored to minimize their visibility to abutters, adjacent streets and residential neighborhoods. Wireless communications facilities, equipment and fixtures visible against a building structure shall be colored to blend with such building or structure. Wireless communications facilities, equipment and fixtures visible against the sky or other background shall be colored or screened to minimize visibility against such background A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line. Existing on-site vegetation shall be preserved to the maximum extent feasible.

(9) Communication devices shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Freestanding dishes or communications devices shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences, and to limit the need to remove existing vegetation. All equipment shall be screened, colored, molded and/or installed to blend into the structure and/or the landscape.

(10) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be of razor wire. Any entry to the proposed access road shall be gated (and locked) at the intersection of the public way, and a key to the lock provided to the emergency response personnel designated by the Planning Board.

(11) Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

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

(13) For proposed tower sites, the width, grade, and construction of the access road shall be designed so that emergency response vehicles can get to the tower and WCF accessory buildings, and shall be designed to provide proper storm drainage.

G. Procedure for a special permit and site plan review. All applications for wireless communications facilities, and/or communications devices shall be made and filed on the applicable application forms for site plan and special permit in compliance with § 200-7.1D, § 200-7.1H(2), and § 200-7.2G of the Zoning Bylaw, and also with the following additional requirements:

(1) A locus plan of the site at a scale of one (1) inch equals two hundred (200) feet (1" = 200') which shall show all property lines, zoning, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five hundred (500) feet of the wireless communications facilities.

(2) No less than eight (8) color photographs and/or renditions to be submitted of the proposed WCF with its tower, communications devices, etc., showing the impact of the proposed facility on abutting streets, adjacent property owners and residential neighborhoods; said visuals are to be labeled with their locations. For satellite dishes or antennas, a color photograph or rendition illustrating the dish or antenna at the proposed locations is required.

(3) For new towers, and for reconstruction, alteration, or extension of existing towers, the applicant shall arrange to either fly a balloon of at least three (3) feet in diameter, or conduct a crane test at the maximum height of the proposed tower at least once before the first public hearing. The date, time and location of the test shall be advertised by the applicant at least fourteen (14) days, but no more than twenty-one (21) days, before the flight in a newspaper of general circulation.

(4) Feasibility study. For proposed new wireless communication facilities, a feasibility study in report form is required to be completed by the applicant's professional or radio frequency engineer and local senior technical manager, showing documentation of an extensive and complete search of existing towers and WCF. The study requires answers to technical questions such as identifying existing towers in the applicant's search ring; coverage diagrams/percentages from available heights at these locations; RF interference conflicts; physical capacity of towers available in search ring and the

requirements for retrofitting such facilities; existing tower contact information and contact dates; results of co-location efforts; proposed new tower weight/user capacity; available height locations for co-location users; and available ground area for WCF accessory buildings. Feasibility study forms are available from the Planning Board.

(5) If applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

H. Criteria for granting special permit.

(1) Applications for special permits may be denied if the Planning Board finds that the petitioner does not meet or address the requirements of this § 200-5.10 and MGL c. 40A, § 9.

(2) When considering an application for a wireless communication facility, the Planning Board shall take into consideration the proximity of the facility to residential dwellings and its impact on these residences. New towers shall only be considered after a finding that existing (or previously approved) towers suitable for and available to the applicant on commercially reasonable terms cannot accommodate the proposed use(s), taking into consideration radio frequency engineering issues and technological constraints.

(3) When considering an application for a proposed communications device to be placed on a structure, or for a proposed stealth communications facility, the Planning Board shall take into consideration the visual impact of the unit from the abutting neighborhoods and street(s).

I. Conditions. The Planning Board shall also impose, in addition to any reasonable conditions supporting the objectives of the Zoning Bylaw, such applicable conditions as it finds appropriate to safeguard the neighborhood or otherwise serve the purpose of this § 200-5.10, including, but not limited to, screening, buffering, lighting, fencing, modification of the external appearance of the structures, limitation upon the size, method of access or traffic features, parking, removal or cessation of use, or other requirements. Such conditions shall be imposed in writing with the granting of a special permit. As a minimum, the following conditions shall apply to all grants of special permits pursuant to this section:

(1) Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and required maintenance shall be filed with the Inspector of Buildings by the special permit holder, with a copy received by the Planning Board no later than January 31 of each year.

(2) Removal of abandoned towers and facilities. Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower and facility shall remove same within ninety (90) days of receipt of notice from the Planning Board notifying the owner of such abandonment. If such tower or facility is not removed within said ninety (90) days, the Planning Board may

cause such tower or facility to be removed at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(3) For all towers, a performance bond must be issued to the Town from a surety authorized to do business in Massachusetts and satisfactory to the Town of Charlton, in an amount equal to the cost of removal of any and all WCF from the premises and for the repair of such premises and restoration to the condition that the premises were in at the onset of the lease, said amount to be determined at the discretion of the Planning Board by either the applicant's engineer or professional hired by the Planning Board at the applicant's expense. The amount of the bond shall be the total estimate of restoration costs and anticipated fees (in today's dollars) by the applicant's engineer, plus an annual increase of three percent (3%) for the term of the lease. The term of the bond shall be for the full term of any lease plus twelve (12) months. The Town must be notified of any cancellation or change in the terms or conditions in the bond.

(4) For all towers, an agreement must be executed whereby the user will allow the installation of municipal communications devices at no cost to the Town of Charlton, and which will allow other carriers to lease space on the tower so long as such use does not interfere with the user's use of the tower, or with any Town-controlled communications devices.

(5) For all towers located on non-municipal property, a clause must be inserted in any lease that unconditionally permits the Town or contractors hired by the Town to enter the premises, at any time, whereupon towers are located, if any Town-wide or Town-controlled telecommunications are located thereon.

(6) For all towers located on municipal property, a certificate of insurance for liability coverage in amounts determined by the Board of Selectmen must be provided naming the Town as an additional insured.

(7) For all towers located on municipal property, an agreement must be executed whereby the user indemnifies and holds the Town harmless against all claims for injury or damage resulting from or arising out of the use or occupancy of the Town-owned property by the user.

(8) All permittees shall be required to file annually on or before February 1st with the Charlton Planning Board a complete list of all WCF locations in the Town then used by the permittee, including communications devices mounted on the interior of a building or structure.

(9) The special permit shall lapse in two (2) years unless substantial use or construction has commenced by such date, unless for good cause shown a written request for an extension of time is made to the Planning Board. Such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. This two-year period does not include such time as required to pursue or await the determination of an appeal from the granting of this special permit.

(10) Any future extension, addition of WCF, or construction of new or replacement towers

or stealth facilities shall be subject to an amendment of the special permit, following the same procedure as for an original grant of a special permit.

J. Severability. If any section of this bylaw is ruled invalid by any authority or a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

§ 200-5.11. Special Permits for Senior Living Facilities.

A. Purpose. The purpose of the Senior Living Bylaw is to encourage residential development that provides alternative housing choices for people that are fifty-five (55) years of age and older. For the purposes of this bylaw, housing units are intended for occupancy by persons fifty-five (55) or over within the meaning of MGL c. 151B, § 4, Subsection 6, and shall comply with the provisions set forth in 42 U.S.C. § 3601 et seq. This bylaw is also intended to promote affordable housing, efficient use of land and public infrastructure, and to preserve open space.

B. Applicability. In order to be eligible for a special permit for a senior living development, the property under consideration must be a parcel or set of contiguous parcels held in common ownership, totaling at least ten (10) acres in size and located entirely within the Agricultural (A), Low Density Residential (R-40), Village (V), or Residential - Small Enterprise (R-SE) Zoning Districts as set forth on the Zoning Map. In a senior living development, notwithstanding the provisions of the Table of Use Regulations (§ 200-3.2, Use Regulations), only those uses specified in this § 200-5.11 shall be allowed.

C. Types of dwellings, facilities, and uses permitted. The following uses are allowed as of right, subject to the dimensional and other requirements of this § 200-5.11: detached one-family dwellings. The following uses, facilities and structures shall be permitted only upon a special permit granted by the Planning Board: detached or attached dwellings of any combination [other than the aforementioned use(s) permitted as of right)] restorative care center, skilled nursing facility, clinic, congregate housing, assisted-living facility, and accessory uses for in-house resident services such as exercise and recreational rooms or areas, a swimming pool, small convenience store, hairdressing shop, massage service, instruction in physical exercise or arts or crafts, a small theater for visiting live theater performances. Such in-house resident services accessory uses shall only be provided to residents and their guests and shall not display exterior advertising. The program of and facilities for in-house services offered by the senior living development shall be specified in the special permit application and the scale of each service shall be in proportion to the number of dwelling units in the senior living development and subject to approval by the Planning Board. All facilities shall fully comply with standards of the Architectural Access Board. Enclosed or nonenclosed walkways connecting buildings shall be permitted.

(1) Independent living retirement housing. As used in this bylaw, "independent living retirement housing" means private residential dwelling units, individually equipped with a minimum of a kitchen, bedroom, bathroom and living area. Geared toward independently functioning adults, this housing typically does not offer on-site supportive services but is designed to be barrier-free and may include emergency call features complemented by housing management and maintenance services.

(2) Congregate housing. As used in this bylaw, "congregate housing" means private dwelling units/apartments which may have kitchen facilities within a complex containing central dining and other common areas and is designed for an adult population requiring some supportive services including but not limited to meals, housekeeping, home health, and other supportive services. Congregate housing under this section of the bylaw must obtain all required permits and/or licenses that are required to operate such facility by any department of the United States of America, the Commonwealth of Massachusetts and the Town of Charlton.

(3) Assisted-living facility. As used in this bylaw, an "assisted-living facility" means a twenty-four-hour staff along with private dwelling units which may contain independent efficiency kitchens, but which contain common kitchen, dining and other activity areas. Assisted-living facilities are geared to an adult population which may have difficulty functioning independently and may require oversight including, but not limited to, the provision of a full meal plan, transportation services, personal care and assistance with medications. Special care programs specifically designed for adults with memory loss are included in this category. Assisted-living facilities under this section of the bylaw must obtain all required permits and/or licenses required to operate such facility by any department of the United States of America, the Commonwealth of Massachusetts, including certification by the Executive Office of Elder Affairs pursuant to MGL c. 19D, and the Town of Charlton.

(4) Restorative care/skilled nursing facility: includes any institution which provides services primarily to three (3) or more individuals admitted thereto and which provides such individuals with the following long-term nursing, convalescent or rehabilitative care; supervision and care incident to old age; or retirement home care for elderly persons. This includes services provided by nursing homes, convalescent homes, long-term care facilities, rest homes, infirmaries for older adults, and charitable homes for the aged. Restorative care/skilled nursing facilities under this section of the bylaw must obtain all applicable permits and licenses required by any agency of the United States of America, the Commonwealth of Massachusetts and the Town of Charlton.

(5) Dwelling unit. As used in this § 200-5.11, and notwithstanding the definition of "dwelling unit" set forth in § 200-2.1 of this Zoning Bylaw, the term "dwelling unit" shall mean one (1) or more living or sleeping rooms arranged for the use of one (1) or more individuals living as a single housekeeping unit with individual or congregate cooking, living, sanitary and sleeping facilities, excluding mobile homes and trailers. The intent of this definition is to define a "home" with private sleeping rooms rather than a dormitory arrangement of sleeping quarters.

D. General requirements. An application for a senior living development special permit must conform to the following standards:

(1) Occupancy of dwelling units shall be limited to persons fifty-five (55) years of age or older.

(2) The minimum tract size shall be ten (10) acres.

(3) All dwelling units must be served with public water service and be connected to the public sewerage system. Subject to all other applicable bylaws, rules and regulations of the Town, including, without limiting the foregoing, those of the Board of Health and the Water and Sewer Commission, an on-site waste treatment facility (package treatment plant), approved by the Mass. Department of Environmental Protection (DEP), may be substituted for public sewer, and an on-site water supply system may be substituted for public water, if the Town Water and Sewer Commission deems the connection to public water service or public sewer service to be infeasible.

(4) A minimum of thirty percent (30%) of the parcel shown on the development plan shall be contiguous open space, excluding required yards and buffer areas. Not more than twenty-five percent (25%) of the open space shall be wetlands, as defined pursuant to MGL c. 131, § 40. The open space shall be subject to the conditions set forth in § 200-5.7, Flexible development, provided that the term "senior living development" shall be substituted for the term "flexible development" in said conditions.

(5) A minimum of ten percent (10%) of the total units shall be affordable in perpetuity. For the purposes of this section, "affordable units" shall be defined as units affordable to people or families with incomes as set by the Department of Housing and Community Development (DHCD) for this purpose. Affordable units shall be dispersed throughout the development and shall be indistinguishable from market-rate units. The Charlton Housing Authority shall be responsible for choosing purchasers or tenants, and monitoring and ensuring the long-term affordability of the units.

(6) The maximum number of permitted housing units within all permitted senior living developments in the Town of Charlton shall be limited to a number equivalent to ten percent (10%) of all existing residential units (excluding senior living development units) located in the Town of Charlton. The Board of Assessors shall establish the number of residential housing units as of January 1 of each calendar year.

(7) No single structure containing independent living retirement housing shall contain more than four (4) dwelling units.

(8) The total number of dwelling units in a senior living development shall not exceed four (4) units per acre of buildable land unless a density bonus is granted under the following section. Buildable acreage shall be calculated by a registered land surveyor or civil engineer and shall not include any of the following:

(a) Land within a floodway or floodplain district as defined under Section 6, Floodplain District.

(b) Freshwater wetlands as defined by MGL c. 131, § 40.

(c) Land having slopes greater than twenty percent (20%).

(d) Land subject to a conservation restriction which prohibits development.

(e) Land subject to any local, state, or federal law or regulation, right-of-way, public or other restriction, which prohibits development.

(9) The Planning Board may grant density bonuses under the following provisions; provided, however, that at no time shall there be more than six (6) units per buildable acre of land in the development:

(a) Affordability. For each affordable housing unit provided above the minimum required ten percent (10%), one (1) additional housing unit may be permitted.

(b) Open space. For each acre of preserved open space in addition to the minimum required, two (2) additional housing units may be permitted.

(10) Public bikeways, pedestrian walkways or walking trails may be required by the Planning Board to provide circulation or access to schools, playgrounds, parks, shopping, transportation, open space and/or community facilities or such other purposes as the Board may determine to be appropriate to serve the needs of the development.

(11) Any structure proposed in a historic district or on a parcel immediately adjacent to a historic district shall be submitted for review and approval to the Historical Commission.

E. Dimensional requirements.

(1) Lot area. Individual independent living retirement housing residential lots shall have a minimum lot area of ten thousand (10,000) square feet.

(2) Lot frontage. Individual independent living retirement housing lots within a senior living development shall have a minimum of one hundred (100) feet of frontage on a public way or an approved subdivision way.

(3) Setback requirements. All structures shall be located no less than twenty-five (25) feet from the front lot line and no less than fifteen (15) feet from the side and rear lot lines.

(4) Building separation. Distance between structures shall not be less than thirty-six (36) feet.

(5) Buffer areas. All dwellings and structures shall be located a minimum of fifty (50) feet from adjacent properties. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, except where adjacent to property used for agriculture purposes.

(6) Building height. No building shall exceed thirty-six (36) feet in height, exclusive of basements.

(7) Parking. The development shall comply with the driveway and parking provisions of § 200-4.2, Off-street parking and loading.

F. Procedures. The Planning Board shall be the granting authority for senior living development special permits.

(1) Pre-application. Applicants are required to present a conceptual development plan prepared by a registered professional architect, register professional landscape

architect or registered professional engineer at a regularly scheduled Planning Board meeting. The plan shall include a detailed analysis of site topography, wetlands, unique land feature, and soil types. The purpose of this requirement is to help applicants and officials develop a better understanding of the property and to help establish an overall design approach that respects the intent of this bylaw, which is to provide alternative housing choices, protect open space, and promote efficient use of the land and infrastructure.

(2) Application. Applicants are required to submit a special permit application and development plan, conforming to the requirements of this bylaw, to the Planning Board for approval under the provisions of § 200-7.2, Granting authority.

(a) The development plan shall include a site plan under § 200-7.1D, Site plan review.

(b) If the development plan shows a subdivision of land as defined under MGL c. 41, § 81L, the applicant is required to also submit a preliminary subdivision plan and applications under the applicable Planning Board Subdivision Rules and Regulations at the time of application for a senior living development, and must obtain approval of the preliminary subdivision plan prior to submitting a definitive plan and application. All road networks and accompanying infrastructure shall be retained by the applicant and not accepted by the Town as public ways.

(3) The Planning Board may grant a special permit for a senior living development if the Board determines that all requirements under the bylaw have been met and that the benefits of the proposed use outweigh the detriments to the neighborhood or Town.

(4) The Planning Board may impose such additional conditions as it finds reasonably appropriate to safeguard existing neighborhoods or otherwise serve the purposes of this bylaw.

G. If any provision of this bylaw is determined to be invalid, it shall not affect the validity of the remaining provisions.

§ 200-5.12. Phased Growth.

A. Purposed and intent. This section of the Charlton Zoning Bylaw is adopted pursuant to Article 89 of the Massachusetts Constitution in order to ensure that the issuance of building permits for new residential construction in the Town of Charlton is consistent with the Town's ability to provide infrastructure necessary to accommodate the new growth. This section establishes a phased growth rate limitation consistent with historic growth rates experienced in Charlton, as described in the Master Plan for the Town of Charlton. The Master Plan demonstrates that the Town is unable to provide services and facilities at a pace equivalent to the rate of development and population growth experienced in the Town in the past decade. The Town seeks to ensure that growth occurs in a manner that can be supported by Town services, particularly adequate public safety, schools, roads, water, sewer, and human services at a level of quality expected by the citizenry and affordable to the Town.

B. Applicability. Beginning on the date when this section of the bylaw was approved by Town Meeting, no building permit for a new dwelling unit or units shall be issued unless in accordance with the schedule set forth in this section, unless exempted pursuant to Subsection E of this section. This section shall apply to all definitive subdivision plans, as well as to all flexible development projects proposed pursuant to § 200-5.7 of this bylaw. Dwelling units shall be considered as part of a single development, for the purposes of development scheduling, if located either on a single parcel or contiguous parcels of land that have been held in common ownership at any time on or subsequent to the date of adoption of this bylaw.

C. Zoning change protection. The protection against zoning changes as granted by MGL c. 40A, § 6, shall, in the case of a development whose completion has been restrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw.

D. Development rate timetable.

(1) Building permits for new dwelling units shall be authorized only in accordance with the following schedule. This applies to all definitive subdivision plans, as well as to all flexible development projects proposed pursuant to § 200-5.7 of this bylaw, which will result in the creation of new dwelling units.

(2) The Planning Board shall not approve any development schedule that would result in the issuance of building permits that exceed the phased growth rate limitation set forth in this section of the Charlton Zoning Bylaw.

(3) Building permits shall be issued as follows:

Number of New Dwelling Units	Percentage of Total Dwelling Units per Year*
1 to 4	100%
5 to 10	75%
11 to 20	50%
21 to 40	25%
41 or more	20%

* Percent of new dwelling units in the development for which building permits may be authorized per calendar year. The yearly schedule designated above commences from the date the Planning Board approves and signs the definitive subdivision plan or approval for the flexible development project.

(4) If the maximum number of building permits allowable for a particular development in a given calendar year pursuant to the schedule in Subsection D(3) immediately above are not actually issued during said year, those which would have been allowed but which did not in fact issue said year may be carried forward to the immediately following calendar year and may be added to those normally allotted for the project during said immediately following year, but shall not be carried forward to any subsequent calendar year.

E. Procedures.

(1) As a condition for approval, applicants shall submit a proposed development schedule with their application for all definitive subdivision plans as well as for all flexible development projects proposed pursuant to § 200-5.7 of this bylaw, that will result in the creation of new dwelling units.

(2) Approved development schedules shall be incorporated as part of the decision filed with the Town Clerk in accordance with applicable procedures for the permit sought and shall be properly recorded at the Worcester District Registry of Deeds. One copy of the approved development schedule shall be filed with the Building Commissioner's Office.

F. Exemptions. The following types of development are exempt from this section of the Charlton Zoning Bylaw. The issuance of building permits for these types of development are exempted from the phased growth rate limitation in order to further the goals and objectives of the Charlton Master Plan. In any such instance, issuance of any and all applicable permits pursuant to the Charlton Zoning Bylaw shall be conditioned upon the recording of a restriction enforceable by the Town that ensures that the dwelling units shall only be used for residents as described below.

(1) All developments restricted to use for senior citizen housing.

(2) All developments restricted to use for housing for the disabled.

(3) Housing that is eligible for inclusion on the Mass. DHCD Subsidized Housing Inventory (SHI) listing. [Added 5-21-2012 ATM by Art. 28]

(4) Affordable housing created in accordance with § 200-5.15, Inclusionary zoning special permit, of the Charlton Zoning Bylaw. [Added 5-21-2012 ATM by Art. 28]

§ 200-5.13. Reduced Frontage Lots.

A. Reduced frontage lots may be created and excluded from existing minimum frontage requirements, providing that the Planning Board authorizes the creation of the lot by special permit for reduced lot frontage, in accordance with the regulations and requirements set forth below. Such lots shall only be permitted in the Agricultural (A) and Low Density Residential (R-40) Zoning Districts.

B. General requirements.

(1) The minimum lot area required for each reduced frontage lot shall be five (5) acres.

(2) The minimum frontage length and lot width shall be fifty (50) feet.

(3) The building setback line shall be a minimum of two hundred (200) feet.

(4) The reduced frontage access strip portion of the lot cannot exceed six hundred (600) feet in length.

(5) The plan showing a reduced frontage lot submitted to the Planning Board for

endorsement under MGL c. 41S, 81P or 81U shall clearly identify the lot as a reduced frontage lot and bear a statement to the effect that such reduced frontage shall not be further divided to reduce its area or to create additional building lots. Further, such plan shall show the proposed dwelling location.

(6) Reduced frontage lots shall meet the requirements of § 200-3.3B(5) of the Charlton Zoning Bylaw [two-thirds (2/3) upland area].

§ 200-5.14. Flexible Business Development.

A. Purpose. The purposes of this section, Flexible business development, are:

(1) To promote more sensitive siting of commercial and industrial buildings and better overall site planning;

(2) To perpetuate the appearance of the Town's traditional New England landscape;

(3) To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and

(4) To offer an alternative to standard commercial and industrial development.

B. Definitions. The following terms shall have the following definitions for the purposes of this section:

CONTIGUOUS OPEN SPACE — Open space suitable, in the opinion of the Planning Board, for the purposes set forth herein. Such open space may be separated by the road(s) constructed within a FBDP. Contiguous open space shall not include required yards.

FLEXIBLE BUSINESS DEVELOPMENT PROJECT (FBDP) — A commercial and/or industrial development authorized by special permit as set forth in this § 200-5.14.

C. Applicability. A FBDP may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Business Enterprise Park District as defined in the Zoning Bylaw, subject to the conditions and specifications set forth herein.

D. Procedures. A FBDP may be authorized upon the issuance of a special permit by the Planning Board. An applicant for a FBDP special permit shall file with the Planning Board ten (10) copies of the following:

(1) A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.[7]

(2) Wetland delineation; where such is in doubt or dispute, the Planning Board may require appropriate documentation.

(3) Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation. The applicant shall pay for the cost of such review, per procedure established by the Planning Board.

3. **Editor's Note: See Ch. 210, Subdivision of Land.**

(4) The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein. The applicant shall pay the cost of such review required of the additional information, per procedure established by the Planning Board.

E. Modification of lot requirements. Applicants for a FBDP special permit may modify lot shape and other dimensional requirements for lots, subject to the following limitations:

(1) Lots having reduced frontage shall not have frontage on a street other than a street created by the FBDP; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lots are consistent with existing development patterns in the existing neighborhood.

(2) Side and rear yards shall not be reduced to less than fifty percent (50%) of distances otherwise required.

F. Standards. The following design standards shall apply to a FBDP:

(1) Types of buildings. The FBDP may consist of any combination of structures on one lot or a subdivision of land; provided, however, that no single office buildings may be constructed unless such single office exceeds twelve thousand (12,000) square feet in gross floor area.

(1) Architectural style. The architecture of all buildings is of interest to the Planning Board, and as such the Planning Board shall determine that the design and appearance of all buildings will not be injurious to the established or future character of the vicinity and the neighborhood and that it shall be in harmony with the general purpose and intent of this bylaw. Structures shall be oriented toward the street serving the premises and not the required parking area.

(2) Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the Planning Board's Subdivision Control Rules and Regulations.[8]

(3) Parking. Each business located within the FBDP shall provide parking as required by § 200-4.2 of this Zoning Bylaw; provided, however, that the Planning Board may reduce the number of required parking spaces in a FBDP by special permit upon a finding that such reduction will not cause substantial detriment.

(4) Buffer areas. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement:

(a) Where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50) feet in depth, which may include such restricted land area within such buffer area calculation; or

4. **Editor's Note: See Ch. 210, Subdivision of Land.**

(b) Where the land abutting the site is held by the Town for conservation or recreation purposes; or

(c) The Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

(5) Stormwater management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board[9] and the DEP's Stormwater Management Policy.

G. Contiguous open space. A minimum of twenty-five percent (25%) (or less if in the opinion of the Planning Board such reduction is consistent with the intent of this section) of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

(1) The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Subsection A, above.

(2) In no case shall the percentage of contiguous open space which is wetlands exceed fifty percent (50%) of the tract.

(3) The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

(4) The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to ten percent (10%) of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.

(5) Underground utilities to serve the FBDP may be located within the contiguous open space.

H. Ownership of the contiguous open space. The contiguous open space shall, at the Planning Board's election, be conveyed to:

(1) The Town or its Conservation Commission, subject to the public acceptance requirements of the Board of Selectmen and Town Meeting;

(2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

5. **Editor's Note: See Ch. 210, Subdivision of Land.**

(3) A corporation or trust owned jointly or in common by the owners of lots and/or units within the FBDP, if applicable. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or units in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot/unit. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it and recover from the trust or corporation the costs of performing the maintenance and all expenses, including attorney fees (Town Counsel otherwise), incurred in enforcing the requirements set forth in this section, which costs and expenses shall constitute a lien upon each of such lots/units. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

I. Decision. The Planning Board may approve, approve with conditions, or deny an application for a FBDP after determining whether the FBDP better promotes the purposes set forth in Subsection A than would a conventional commercial or industrial development of the same property.

J. Relation to other requirements. The submittals and permits of this section shall be in addition to any requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.

§ 200-5.15. Inclusionary Zoning Special Permit.

Affordable Housing — Incentive Option

A. Purpose and intent.

(1) The purpose of this incentive option is to increase the supply of affordable housing in the Town of Charlton. This bylaw aims to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of MGL c. 40B and its implementing regulations as promulgated by the Department of Housing and Community Development (DHCD), Charlton's Zoning Bylaw, and the Charlton Master Plan.

(2) Accordingly, the provisions of this section are designed to:

(a) Provide developers an incentive to increase the supply of affordable rental and ownership housing in the Town of Charlton;

(b) Eventually reach the ten-percent affordable housing threshold established by the Commonwealth in MGL c. 40B, §§ 20 through 23;

(c) Encourage a greater diversity and distribution of housing to meet the needs of

families and individuals at all income levels; and

(d) Prevent the displacement of Charlton residents.

B. Definitions.

AFFORDABLE HOUSING UNIT (AHU) — A dwelling unit available at a cost of no more than thirty percent (30%) of gross household income of those households at or below eighty percent (80%) of the Worcester Primary Metropolitan Statistical Area (PMSA) median household income as reported by the U.S. Department of Housing and Urban Development, including units listed under MGL c. 40B and the Commonwealth's Local Initiative Program and qualifying for the Mass. DHCD Subsidized Housing Inventory (SHI) listing. [Amended 5-21-2012 ATM by Art. 28]

INCOME, LOW AND MODERATE

(1) LOW INCOME — Households making less than fifty percent (50%) of the median income of the Worcester PMSA.

(2) MODERATE INCOME — Households making between fifty percent (50%) and eighty percent (80%) of the median income of the Worcester PMSA.

MEDIAN INCOME — The median income, adjusted for household size, for the Worcester PMSA published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development or any successor federal or state program.

PROJECT — Any residential development containing six (6) dwelling units, including housing created both by new construction or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use.

C. Applicability. Developers may exercise the affordability incentive option for residential development projects containing at least six (6) dwelling units in any zoning district that permits residential development by right or by site plan approval. The option is only available to definitive subdivision plans and is not available to projects containing fewer than six (6) dwelling units. [Amended 5-21-2012 ATM by Art. 28]

D. Provision of affordable units and density bonus.

(1) Utilizing the affordable housing incentive option will require the granting of a special permit from the Planning Board.

(2) Density bonus applicability. The density bonus is only available in those areas of Charlton serviced by both municipal water and sewer, or upon approval of both the Planning Board and the Board of Health. [Amended 5-21-2012 ATM by Art. 28]

(3) Density bonus formula. For projects resulting in a net increase of six (6) or more dwelling units, the applicant has the option of obtaining a density bonus in exchange for the provision of affordable housing. The number of additional lots derived from the density bonus shall not exceed twenty-five percent (25%) of the total lots that could be created under a conventional definitive subdivision plan design. The density bonus shall be calculated according to the following formula:

(a) For those residential development projects that will set aside a minimum of fifteen percent (15%) of the total proposed housing units for affordable housing, the minimum lot area per dwelling normally required in the applicable zoning district may be reduced by the amount necessary to permit up to two (2) additional units for each one (1) affordable housing unit provided.

(b) For those residential development projects that will set aside a minimum of ten percent (10%) of the total proposed housing units for affordable housing, the minimum lot area per dwelling normally required in the applicable zoning district may be reduced by the amount necessary to permit up to one (1) additional unit for each one (1) affordable housing unit provided.

(4) Fractions. If, when applying the above percentages to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction shall be rounded up to the next whole number.

E. Standards. Residential projects that plan on utilizing the affordable housing incentive option need to comply with the following standards:

(1) Affordable units shall be dispersed throughout the project so as to ensure a true mix of market-rate and affordable housing.

(2) Affordable units shall conform to the general appearance of residences in the area and/or the project. Affordable units must contain at least eighty-five percent (85%) of the average floor area of the market-rate units.

(3) All affordable housing units created under this bylaw shall be no less accessible to public amenities, such as open space, than the market-rate units.

(4) The construction of the affordable units will be built (a unit is considered "built" upon the issuance of an occupancy permit) coincident with the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-Rate Units (% built)	**Affordable Housing Units (% built)**
Up to 30%	None required
30% to 50%	At least 30%
51% to 75%	At least 75%
76% or more	100%

F. Use restrictions.

(1) Preservation of affordability: restrictions on resale. Each affordable unit created in accordance with this bylaw shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit

and to ensure its continued availability for affordable income households in perpetuity. The resale controls shall be established through a deed restriction, acceptable to the Massachusetts Department of Housing and Community Development and the Charlton Planning Board, and recorded at Worcester District Registry of Deeds or the Land Court. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any certificate of occupancy, as the Planning Board shall deem appropriate.

(2) Maximum rental price. Rents for the affordable units, including utilities, shall not exceed thirty percent (30%) of the targeted annual gross household income.

(3) Maximum sales price. Housing costs, including monthly housing payments, principal and interest payments, and insurance, shall not exceed thirty percent (30%) of the targeted gross household income.

(4) Resale prices. Subsequent resale prices shall be determined in a manner consistent with the initial pricing of the affordable housing unit. The resale price will be established based on a discounted rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. This percentage may be increased or decreased by up to five percent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.

(5) Marketing plan. The affordable units must be rented or sold using a plan for marketing which has been reviewed and approved by the Planning Board (or its administrative agent). Such plan will be consistent with any affordable housing guidelines issued by the Planning Board. The plan shall describe marketing approaches, selection of occupants, initial rents and sales prices for the units designated as affordable and, prior to their being recorded, condominium, cooperative or other homeowners' association documents as appropriate. This plan shall include a description of the lottery or other process to be used for selecting buyers, in conformity to Affordable Housing Guidelines.

(6) Preference for Charlton residents and persons employed within the Town of Charlton. Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than fifty percent (50%) of the affordable units shall be initially offered to current residents of the Town of Charlton who qualify under the income guidelines and who have resided in the Town for a minimum of five (5) years, to persons employed within the Town of Charlton for at least five (5) years, and to persons who, although not currently residents of the Town, have previously resided in the Town of Charlton for a minimum of five (5) years. The Town may establish a system of priorities for selecting buyers or renters, in accordance with Affordable Housing Guidelines issued by the Planning Board.

(7) Ensuring that buyers are income eligible. Purchasers and would-be purchasers and renters are required to submit to the Planning Board copies of their last three (3) year's tax returns and certify in writing that their income does not exceed eligibility

guidelines.

(8) Relationship to the state's affordable housing inventory. It is intended that the affordable low- and moderate-income housing units that result from this bylaw be considered as Local Initiative Program (LIP) units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development and or count as low- or moderate-income housing units pursuant to MGL c. 40B, §§ 20 through 23.

(9) Relationship to public funding programs. Developers may participate in public subsidy programs for the purpose of providing affordable housing within their developments. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program. In case of conflicting price limitations, the lower price requirement shall prevail.

G. Procedures. All projects shall comply with the following procedures as applicable:

(1) Pre-application meeting. Applicants are encouraged to meet with the Planning Board to discuss the project proposal and affordable housing requirements prior to filing a special permit application.

(2) Submission of affordable housing plan. The applicant shall fill out and submit an affordable housing plan form to the Planning Board prior to filing a special permit application. This form requires the following information: project units by location, square footage, unit types, number and types of rooms, and location of and number of affordable units. Specific floor plans shall be included with this submission.

(3) Planning Board review. The Planning Board shall meet to hear the special permit application. The Planning Board decision may require modifications, conditions, and safeguards, including documentation regarding housing unit affordability.

(4) Revised affordable housing plan. As needed to secure Planning Board approval, a revised affordable housing plan may be submitted to the Planning Board. No building permit shall be issued until the applicant submits proof that the decision of the Planning Board has been recorded and that a final approval letter for the affordable housing plan has been issued.

H. Enforcement.

(1) Legal restrictions. Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent level, and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Planning Board.

(2) Administration. The Planning Board will be the authority that will monitor, oversee and administer the details for all resale of any affordable units created under this bylaw. The Planning Board may appoint an administrative agent to assist with the implementation of this bylaw.

(3) Maintaining local affordable housing inventory. The Planning Board shall maintain the Affordable Housing Inventory, to ensure compliance with approved plans.

§ 200-5.16. Small Wind Turbines.

A. Purpose and intent.

(1) It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility-supplied electricity.

(2) Additionally, the purpose of the regulation is to promote alternative energy sources, reduce peak power demands in existing utility power grids, reduce reliance on fossil fuels, and provide choices to property owners that have possible cost savings and positive environmental impacts.

B. Definitions.

SMALL WIND TURBINE — A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than twenty (20) kW and which is intended to provide power primarily for on-site uses as opposed to generation for sale to the commercial power grid.

TOWER HEIGHT — The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

C. Submission requirements. The applicant shall provide thirteen (13) copies of each of the following to the Planning Board as part of the site plan application:

(1) A completed application form with a review fee.

(2) Existing conditions site plan prepared by a professional engineer and professional registered land surveyor drawn in sufficient detail to show the following:

(a) Property lines, dimensions, landowners, acreage, and contours at two-foot intervals of the subject property and properties within three hundred (300) feet of the small wind turbine.

(b) Location and dimensions of all existing buildings, accessory structures and uses, public and private roads, driveways, easements, stone walls, and fence lines within three hundred (300) feet of the system.

(c) Height of any structures over thirty-five (35) feet, and the location and average height of trees on the subject property and adjacent properties, within three hundred (300) feet of the proposed small wind turbine.

(3) Proposed conditions site plan prepared by a professional engineer and professional registered land surveyor drawn in sufficient detail to show the following:

(a) The location of the proposed small wind turbine and any appurtenances and equipment. Indicate property boundaries and distances to the base(s) of the wind turbine(s) and to the nearest corners of each of the appurtenant structures and equipment.

(b) Limits of areas where vegetation is to be cleared or altered and justification for any such clearing or alteration.

(c) Detailed stormwater management plans and plans to control erosion and sedimentation both during construction and as a permanent measure.

(d) Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, exterior lighting or signs.

(e) Plans of proposed access driveway or roadway and parking area at the small wind turbine, whether temporary or permanent; include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface material.

(f) Location of access easements or rights-of-way, if any, needed for access to the small wind turbine from a street.

(4) Standard drawings of the structural components of the small wind turbine, including structures, tower, base and footings. Said drawings, and any necessary calculations shall be certified by a registered engineer that the system complies with the State Building Code.

(5) A technical report from a qualified individual that the site is feasible for wind power, that documents wind speed at the proposed site, that anticipates energy that will be created from the small wind turbine unit, and that estimates the amount of energy necessary to serve the on-site uses.

(6) Post-construction simulation views of the site from at least four (4) locations where the small wind turbine will be visible from as determined by the Planning Board through means of sketches or computer simulations.

(7) A proposed maintenance schedule for the small wind turbine and related equipment.

D. Design and siting requirements.

(1) Setbacks. A small wind turbine shall not be located closer to a property line than the height of the tower plus the height of the blade in its vertical position. It is recommended that the setback areas be kept free of all habitable structures while the small wind turbine is in place.

(2) Noise. The small wind turbine and associated equipment shall conform to Massachusetts noise regulations (310 CMR 7.10). In no case shall the sound created by said facility exceed seventy (70) decibels (dba) at the nearest property line.

(3) Height. The small wind turbine shall not exceed one hundred twenty (120) feet in height, and must comply with Federal Aviation Administration (FAA) regulations.

(4) Visual impact. Installation of the small wind turbine will not create a substantially adverse visual impact. The small wind turbine shall have a nonreflective finish of an unobtrusive color. The Planning Board may require the structure to be painted or otherwise camouflaged to minimize visual impact.

(5) Electromagnetic interference. The small wind turbine shall cause no disrupting electromagnetic interference. If it is determined that a small wind turbine is causing interference, the operator shall take the necessary corrective action to eliminate this

interference, subject to the approval of the Building Commissioner.

E. Approval.

(1) In acting on the site plan application, the Planning Board shall proceed in accordance with the procedures and timelines for special permits in MGL c. 40A, § 9, as well as § 200-7.2A of this bylaw. The Planning Board may hire professional consultants at the expense of the applicant to assist it in evaluating the proposed small wind turbine and the impacts on the community.

(2) Said site plan approval will run with the property and shall not be specific to a particular owner unless otherwise noted.

F. Maintenance requirements.

(1) At all times the applicant shall maintain the small wind turbine and related equipment in good working condition and perform regular maintenance in accordance with the approved maintenance schedule. A record shall be kept of all maintenance performed, and said record must be provided to the Zoning Enforcement Officer whenever requested to verify maintenance.

(2) Should the turbine fall into disrepair and/or experience a situation where it is producing unusual noise or other emissions, the applicant shall have no more than twenty-four (24) hours to implement actions to correct the situation.

(3) Failure to properly maintain the small wind turbine or correct other issues may result in revocation of the site plan approval.

G. Removal requirements.

(1) A small wind turbine that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the small wind turbine owner. Removal of the system shall include the structure, foundation, transmission equipment, fencing and other appurtenances. The site shall be revegetated to prevent erosion.

(2) The owner of the small wind turbine shall submit a letter to the Planning Board in January of each year confirming the turbine is still in use and verifying compliance with standards of the bylaw and the special permit that was granted.

H. Waiver provisions. The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained. Such waivers must be referenced in the written site plan approval decision, including the reasons for them.

§ 200-5.17. Village District Regulations.

A. Landscaping.

(1) A landscaped buffer zone, of at least the width of the required setback, continuous except for approved driveways, shall be established along any side of the lot with road frontage to visually separate the building and its parking areas from the road.

Trees shall be placed at least three (3) feet from the face of the curb, and at least two (2) feet from the sidewalk.

(2) A landscaped buffer zone along the side and rear of each lot, of at least the width of the required side and rear setback, shall be provided where a proposed nonresidential use abuts a residential use.

(3) The buffer zones shall be planted with grass, ground cover, medium height shrubs, and shade trees planted at least every thirty (30) feet. The buffer zone shall include both deciduous and evergreen shrubs and trees. Trees and shrubs at driveway intersections shall be set back a sufficient distance from such intersections so as not to obstruct traffic visibility. Trees shall be at least eight (8) feet tall with a trunk caliper of at least two (2) inches.

(4) Exposed storage areas, machinery, garbage "dumpsters," service areas, truck loading areas, utility buildings and structures shall be placed to the rear of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from public or private streets used by the general public. Screening and buffering shall be achieved through walls, fences and landscaping, shall be a minimum of six (6) feet tall, and shall be visually impervious.

(5) Materials to be used in the buffer zone include but are not limited to the following: natural/existing vegetation, natural topography, berms, stone walls, fences, deciduous and coniferous shrubs/trees, perennials, annuals, pedestrian-scale walkways, and other landscape materials that enhance the aesthetic quality of the site. The final approval of all material used within the buffer zone shall be at the discretion of the Planning Board.

(6) Street trees shall be planted along the edge of the parking lot at a maximum average of thirty (30) feet on center. Parking lot edges which abut property under a different ownership shall have a screening wall or be planted with shrubs that obtain a height of at least three (3) feet in three years with a maximum spacing of three (3) feet on center.

(7) Mechanical equipment such as HVAC units, telephone boxes, or electrical transformers shall be integrated into the site design through use of landscaping, berms, or fences and shall be as unobtrusive as possible. HVAC units may be located behind roof ridge lines so they are not visible from the front view of the building.

B. Parking and access. In addition to the provisions of § 200-4.2, Off-street parking and loading, the following provisions shall apply in the Village District. Where this section conflicts with § 200-4.2, this section shall govern:

(1) Parking areas shall be located to the side and rear of the structure. No parking area shall be designed such that parking is within the required or authorized front yard setback. The Planning Board may, at its discretion, allow twenty-five percent (25%) of the total parking to be located to the front of the structure.

(2) Recognizing that standard parking requirements may hamper development of village-

style land use and development, the Planning Board is authorized to reduce the parking requirements specified for the use/structure proposed up to twenty-five percent (25%). In determining the appropriate reduction, if any, the Board may give consideration to the hours of use of the proposed use, hours of use of other uses/structures within the Village District, nearby on-street spaces, the amount of "shared" parking with other uses, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use, as well as other relevant information to assist the Board in determining the need for additional parking for motor vehicles.

(3) To minimize the visual impact of parking lots and promote pedestrian use, parking lots shall occupy no more than one-third (1/3) of the lot frontage of the proposed use, and no more than seventy-five (75) feet in a stretch.

(4) Parking areas shall include provisions for the parking of bicycles in locations that are safely segregated from automobile traffic and parking.

(5) A minimum of five percent (5%) landscaping and green space must be provided for all parking areas. This area shall not include the buffer zones, but shall include all internal landscaped islands in the parking areas.

(6) The number of parking spaces required for a given site may be on another site within the district. Such off-site parking must be established by legal documentation satisfactory to Town Counsel, and a copy filed in the office of the Town Clerk.

(7) Common parking areas shall be permitted for mixed-use developments which have different hours, days and/or seasons of peak parking demand. The Board may, in approving development within the District, permit individual parking standards to be reduced for separate uses where it can be demonstrated that adequate parking will be made available on a shared basis. The Board may require written easements or other assurances to enforce shared parking arrangements. Where practicable, the Planning Board may require common driveways and interconnected parking lots in order to facilitate shared parking.

C. Pedestrian amenities.

(1) Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and should be designed in concert with landscaping plans. New construction should improve pedestrian access to buildings, sidewalks and parking areas and should be completed with considerations of pedestrian safety, handicapped access and visual quality.

(2) If no public sidewalk exists across the frontage of the lot, a paved sidewalk of at least four (4) feet in width shall be provided within the front yard setback; and to the maximum extent possible, the sidewalk shall be designed to create a continuous pedestrian walkway with the abutting properties.

(3) At a minimum, fifty percent (50%) of the walls of ground floor spaces directly facing streets shall have transparent window and door openings, placed at the eye level of pedestrians [between three (3) feet and eight (8) feet above grade]. The Planning

Board may waive this standard for redevelopment if compliance would create an economic hardship or cause undesirable changes to the facade of the building. To allow people to see interesting things inside buildings, fixed interior walls shall not obscure views into the building.

(4) Commercial and office building should include features such as awnings, canopies, bay windows, plazas, balconies, decorative detail, public seating, and well-designed lighting to encourage visual interest for pedestrians.

D. Mixed-use projects. Ground floor space shall generally be reserved for pedestrian-oriented retailing and services, with offices and housing above. Second-story residential uses are encouraged, and shared parking arrangements shall be allowed.

E. Lighting and wiring. In addition to the requirements of § 200-5.8C, the following requirements shall apply to the Village District:

(1) All applications for site plan review and special permit shall include a proposed lighting plan that meets functional security needs of the proposed land use without adversely affecting adjacent properties or the neighborhood. Any light used to illuminate signs, parking areas or for any other purposes must be arranged to reflect light away from adjacent residential properties and away from the vision of passing motorists. The lighting plan must comply with the following design standards:

(a) Background spaces, such as parking lots, must be illuminated as unobtrusively as possible to meet the functional needs of safe circulation and protecting people and property. Foreground spaces, such as building entrances and plaza seating areas, must use local lighting that defines the space without glare.

(b) Light sources must be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent properties.

(c) The style of light standards and fixtures must be consistent with the style and character of architecture proposed on the site.

(d) Light levels measured twenty (20) feet beyond the property line of the development site (adjacent to residential uses or public rights-of-way) must not exceed one-tenth (1/10) footcandle as a direct result of the on-site lighting.

(2) To the extent practicable, all wiring shall be placed underground to minimize the visual exposure of overhead wires and utility poles.

F. Signs. The color, size, height, and landscaping of signs shall be designed for compatibility with the local architectural motif. Permanent signs affixed to windows that advertise a product or service are encouraged. Such signs should have colorful and unique elements that provide visual interest for pedestrians.

G. Historic structures. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties. When new construction is surrounded by existing historic buildings, building height and exterior materials shall be harmonious with

those of adjacent properties.

§ 200-5.18 Medical Research And Development Overlay District (MRDOD)

A. Purpose. The purpose of the Medical Research and Development Overlay District (MRDOD) is to promote medical research facilities and the light manufacturing of medical equipment. Also allowed are land uses ancillary to such medical facilities, including warehousing and distribution facilities, office uses, and accessory uses.

B. Definitions.

Research Laboratory-A medical or scientific laboratory conducting research, excluding research laboratories categorized as Level 4 by the National Institutes for Health.

C. Overlay District

(1) Establishment. The MRDOD is an overlay district having a land area of approximately 79.78 acres, being Assessor's Map 43, Lots A-1.10, A-1.2 and A.1.1 that is superimposed over the underlying zoning district., as shown on the map entitled "Medical Research and Development Overlay District Zoning Map," dated September 16, 2016, attached hereto. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.

(2) Underlying Zoning. The MRDOD is an overlay district superimposed on all underlying zoning districts, except as limited herein, the underlying zoning shall remain in full force and effect.

(3) Applicability of MRDOD. An Applicant for a Project located within MRDOD shall apply for special permit and site plan approval in accordance with the requirements of this Section. In such case, then except as otherwise provided in this Section, such applications shall be subject to the regulations set forth in this Section only. When a building permit is issued for any project approved in accordance with this Section, the provisions of the underlying district(s) shall no longer be applicable to the land governed by the special permit and site plan approval.

D. Permitted Uses

Subject to the grant of a special permit by the Planning Board, the following uses are permitted, individually or in combination with other permitted uses, in the MRDOD:

Biotechnology
Fiber-optics Facilities
Medical Research and Development
Scientific or Research Laboratory
Light Manufacturing of Medical Equipment
Warehouse/Distribution Facility
Office
Associated Accessory Uses

E. Dimensional Regulations

The Following dimensional standards shall apply in the MRDOD:

Minimum Lot Area	10.00 acres
Minimum Lot Frontage	200 feet
Minimum Building Front Setback	100 feet
Minimum Building Side Yard	50 feet
Minimum Building Rear Yard	50 feet
Maximum Building Coverage of Lot	40%
Maximum Building Height	36 feet

F. Off-Street Parking and Loading Regulations

Off-street parking and loading shall comply with Section 200-4.2. The term "net floor area" shall mean 85% of the total of the floor areas of a building measured at the exterior walls.

(1.) Any Biotechnology Facility, Fiber-optics Facility, Medical Research and Development Facility, Scientific or Research Laboratory, Light Manufacturing of Medical Equipment Facility, or Office shall require one (1) space per 250 square feet of net floor area.

(2)Any Warehouse/Distribution Facility shall require one (1) space per 500 square feet of net floor area.

G. Signs

Signage in the MRDOD shall comply with the requirements of Section 200-5.6.

H. Design and Performance Standards

(1)All performance standards set forth in Section 200-4.1 shall apply in the MRDOD.

(2)All performance standards set forth in Section 200-5.8, A-E inclusive, shall apply in the MRDOD.

(3)Multiple principal buildings may be placed on one lot provided that building separation and internal traffic and pedestrian facilities shall be approved by the Planning Board as part of the special permit review.

I. Site Plan approval

An applicant for a special permit in the MRDOD shall also require site plan approval pursuant to Section 200-7.14.

J. Application for Special Permit

An application for a special permit and site plan approval shall be submitted in accordance with the Rules and Regulations for the Planning Board.

K. Procedures

The Planning Board may approve, approve with conditions, or deny an application for a special permit in the MRDOD after determining whether the proposed development is consistent with the purposes set forth in Section 200-5.18 and conforms with all applicable standards set forth in this Section.

L. Relation to Other Requirements

The provisions of this section shall be in addition to the requirements of the Subdivision Control Law and any other applicable by-laws, rules, and regulations.

§ 200-5.19 Commercial Motor Vehicle Garage Structure On Residential Property

A. Purpose and Intent.

It is the purpose of this regulation to provide safe, effective and efficient design and use of structures for the garaging of a commercial motor vehicle on a residential property, in the instance of the person(s) residing at the property owning and operating a commercial motor vehicle and seeking on-site garaging on the residential property for the commercial vehicle.

B. General Requirements.

a. The garaging of a commercial motor vehicle on a residential property shall only be allowed in the Agricultural (A) zoning district on lots of not less than eight (8) acres.

b. Any such building for the garaging of a commercial motor vehicle on a residential property shall be set back not less than one hundred (100) feet from the front, rear and or set property lines.

c. Upon written request of the applicant, the Planning Board may reduce the property line setback for any proposed building for the garaging of a motor vehicle under Section 200-5.19 to no less than fifty (50) feet from the front, rear and/or side property lines where the Board finds such waiver or modification is consistent with the requirements of Section 200-5.19 and Section 200-7.1.4 of the Charlton Zoning Bylaw.

d. No more than one (1) commercial motor vehicle shall be allowed to be garaged per residential parcel per the requirements of this Bylaw.

C. Procedure.

a. Application and Plans: Applicants for approval of garaging structures under Section 200-5.19 shall submit applications and site plans to the Planning Board as required by Section 200-7.1.4 of the Charlton Zoning Bylaw.

b. Criteria: Approval of structures under Section 200-5.19 shall be granted upon Planning Board determination that the site plan complies with the requirements of this Bylaw and that due regard has been given to accessibility for emergency vehicles, driveway and turnaround design, vehicular access, screening, parking and loading areas and that the use is in harmony with the general purpose and intent of this Bylaw.

SECTION 6
Floodplain District

(overlay to all other districts)

§ 200-6.1. Purposes.

The purposes of the Floodplain Districts are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the

natural flood control characteristics, and the flood storage capacity of the floodplain, and to preserve and maintain the groundwater table and water recharge areas within the floodplain.

§ 200-6.2. District Delineation.

A. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Charlton designated as Zones A and AE, on the Worcester 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 Worcester County FIRM that are wholly or partially within the Town of Charlton are panel numbers 25027C0767E, 25027C0768E, 25027C0769E, 25027C0780E, 25027C0783E, 25027C0786E, 25027C0787E, 25027C0788E, 25027C0789E, 25027C0791E, 25027C0792E, 25027C0793E, 25027C0794E, 25027C0931E, 25027C0932E, 25027C0951E, 25027C0952E, 25027C0953E, 25027C0954E, 25027C0956E, 25027C0957E and 25027C0958E, dated July 4, 2011. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

B. Within Zone A, where the one-hundred-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain existing flood elevation data, and it shall be reviewed by the Town Inspector of Buildings. If the Inspector of Buildings determines that the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw and the State Building Code. If the determination is that the land is in the floodplain, the Inspector of Buildings shall notify the Planning Board and the developer/applicant.

§ 200-6.3. Regulations.

A. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with MGL c. 131, § 40, and with the following:

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

(2) Wetlands Protection Regulations, Department of Environmental Protection (DEP)

(currently 310 CMR 10.00);

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

(4) *Minimum Requirements for the Subsurface Disposal of Sanitary Sewage*, DEP (currently 310 CMR 15, Title 5);

B. Permitted uses. The following uses of low flood damage potential and uses which cause no or little obstruction to flood flows shall be allowed, provided they are permitted in the underlying district and they do not require structures, fill or storage of material and equipment:

(1) Agricultural uses such as farming, grazing, truck farming, horticulture, and the like.

(2) Forestry and nursery uses.

(3) Outdoor recreational uses, including fishing, boating, play areas, and the like.

(4) Conservation of water.

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

(6) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

(7) Buildings lawfully existing prior to the adoption of these provisions.

C. Notification of watercourse alteration. In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

(1) Adjacent communities
(2) NFIP State Coordinator Massachusetts Department of Conservation and Recreation 251 Causeway Street, Suite 600-700 Boston, MA 02114-2104
(3) NFIP Program Specialist Federal Emergency Management Agency, Region I 99 High Street, 6th Floor Boston, MA 02110

§ 200-6.4. Special Permits for Floodplain Development.

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

A. The proposed use shall comply in all respects with the provisions of the underlying district; and

B. Within five (5) business days of receipt of the application the Zoning Board of Appeals shall transmit one (1) copy of the application, containing a site plan, to the Board of Selectmen, Board of Health, Conservation Commission, Planning Board and Inspector of Buildings. Final action shall not be taken until reports have been received from the above Boards and officials, or until forty-five (45) days have elapsed, and the above boards and

officials have not taken any action.

C. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

D. In considering an application to determine whether a site is reasonably free from flooding, the Zoning Board of Appeals shall, to a degree consistent with a reasonable use of the site, find the following requirements to be fulfilled:

(1) The location and construction of the utilities will minimize or eliminate flood damage.

(2) The method of disposal of sewage, refuse and other wastes, resulting from the use permitted on the site, and the methods for providing adequate drainage will minimize flood damage.

(3) A good and sufficient case is demonstrated.

(4) A determination that failure to grant the special permit would result in exceptional hardship to the applicant.

(5) The granting of a special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.

(6) A determination that the special permit is for the minimum construction necessary, considering the flood hazard, to afford relief.

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

F. A special permit shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

G. If a special permit is granted, the Zoning Board of Appeals shall notify the applicant in writing above their signatures that:

(1) The issuance of such a special permit to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as determined by National Flood Insurance coverage.

(2) Such construction below the base flood level increases risks to life and property.

H. The Zoning Board of Appeals shall maintain a record of all special permit actions, including justification for their issuance, and report such special permit actions in the Annual Report submitted to the Federal Flood Insurance Administration.

§ 200-6.5. Application for Variance.

The Zoning Board of Appeals may grant a variance from these Floodplain District requirements upon a determination that the variance is the minimum necessary action, considering the flood hazard, to afford relief to an applicant in the case of:

A. New structures to be erected on a lot contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation; or

B. The restoration or reconstruction of a structure listed on the National Register of Historic Places or an Official State Inventory of Historic Places.

§ 200-6.6. Reasons for Denial of a Variance.

A. Variances shall not be issued for any new construction, substantial improvement, or other development in a designated floodplain zone which would result in a significant increase in flood heights within the Town during the occurrence of the one-hundred-year flood.

B. Variances shall not be issued except:

(1) That the Zoning Board of Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant or petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw; or

(2) A determination that the variance issuance will not result in significantly increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws or regulations.

§ 200-6.7. Required Notice to Applicant or Petitioner.

The applicant or petitioner must be notified in writing that the issuance of a variance to locate a structure at an elevation below the one-hundred-year flood level will result in increased actuarial rates for flood insurance coverage. The applicant or petitioner shall also be notified in writing that the issuance of a variance to construct a structure below the one-hundred-year flood level increases risks to life and property.

§ 200-6.8. Required Notice to Others.

Upon granting of a variance or special permit, the Zoning Board of Appeals shall require that:

A. A notice be recorded with the title records of the property at the Worcester County Registry of Deeds, stating that the proposed construction will be located in a flood hazard area. Said notice will also contain a statement of the number of feet below the one-hundred-year flood level that the lowest non-floodproofed floor of the proposed structure shall be located.

B. The Town Clerk maintains a record of all variance actions, including justification for their

issuance and the number of variances issued. The Clerk shall also send an Annual Report to the Flood Insurance Administration of number of variances granted.

§ 200-6.9. Authority and Interpretation.

Where these flood provisions impose greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

§ 200-6.10. Validity and Severability.

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

SECTION 7
Administration

§ 200-7.1. Administration.

A. Appointment. A Zoning Enforcement Officer shall be appointed by the Board of Selectmen for an indefinite term. The Board of Selectmen may appoint any existing Town officer or any other person to this position, and shall not leave the position of Zoning Enforcement Officer vacant. Compensation shall be determined by the Board of Selectmen. The Zoning Enforcement Officer shall review all zoning matters, and if he/she finds any activity in relation to land or buildings or structures in violation of this bylaw, he/she shall send written notification of the violation to the owner and order that the activity in question be stopped immediately, giving reasons for the order. The Zoning Enforcement Officer may request an assistant from the Town if in his/her judgment an assistant is necessary.

B. Enforcement. The Zoning Enforcement Officer shall be charged with the enforcement of this Zoning Bylaw and shall require of the Inspector of Buildings the withholding of a permit for the construction, alteration or moving of any building, sign or structure if the building, sign or structure as constructed, altered or moved would be in violation of this bylaw.

C. Certificate of compliance. No land shall be occupied or used, and no building, sign or other structure erected or structurally altered shall be occupied or used after the effective date of this bylaw, unless a certificate of compliance has been issued by the Zoning Enforcement Officer stating that the building, sign or other structure and the proposed use of the land, building, sign or other structure complies with the provisions of this bylaw, excepting that uses, buildings and structures in existence before the effective date of this bylaw do not require a certificate of compliance. Such existing uses, buildings and structures do require a certificate of compliance for any alterations or use changes made after the effective date of this bylaw.

D. Site plan review and approval.

(1) Purposes and thresholds. For the purpose of ensuring adequate stormwater management, wastewater disposal, screening, parking and loading spaces, utilities, water supply and pressure, landscaping, protection of significant natural and man-made features, lighting, and erosion and sedimentation control, compatible site

design, safe pedestrian and vehicular access, protection of the natural environment, and compliance with the provisions of this bylaw, a site plan shall be submitted for review and approval to the Planning Board, for the following uses:

(a) New construction of all uses identified with the symbol "P" ("P" Use) on the Use Regulation Schedule of § 200-3.2B of this bylaw.

(b) Expansion of any "P" Use existing to increase floor space by at least twenty-five percent (25%) or five thousand (5,000) square feet, whichever is less;

(c) Any change in a P Use if:

[1] The change is from one (1) major category of use listed in the Use Regulation Schedule to another major category of use (for example, a change from any use listed under Business Uses to a use listed under Industrial and Warehouse Uses), or

[2] Such change would result in a more intensive use, as measured by the need for more than five (5) additional parking spaces (as required by § 200-4.2B of this bylaw) or an increase in traffic generation (as measured by the Institute of Transportation Engineers *Trip Generation Manual* or another source standard in the industry).

(d) Resumption, subject to the other requirements and proscriptions of this bylaw, of any "P" Use described above discontinued for more than two (2) years.

(e) All uses in those districts where site plan approval is required.

(2) General requirements.

(a) All site plans required under this bylaw shall be prepared by a registered professional architect, registered professional landscape architect, or registered professional engineer, unless the Planning Board waives this requirement because of unusually simple circumstances and specifically exempted herein. Ten (10) copies of site plans and other plans required by Subsection D(3) below shall be submitted to the Planning Board or its designee.

Applicant shall submit a narrative with the plan if necessary for a layperson to understand the plan or any detail thereof. Each page of the submitted plans shall have a Planning Board signature block at approximately the same location. At the written request of the applicant, the Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan.

(b) For those uses/structures referenced in Subsection D(1)(a) through (d) of this section as site plan approval pursuant to this § 200-7.1 is a prerequisite the grant of a building permit.

(3) Submission requirements.

(a) A site plan at a scale of one (1) inch equals forty (40) feet (1" = 40') or such other scale as the Planning Board may accept so long as the plan shows all

details clearly and accurately. For convenience and clarity, this information may be shown on one (1) or more separate drawings. The site plan shall show the following information and in all cases distinguish clearly between existing and proposed features:

[1] Name, address, and phone number of the person or persons submitting the application. If other than the owner, a notarized statement authorizing the applicant to act on the owner's behalf and disclosing his/her interest shall be submitted.

[2] Name, address, and phone number of the owner or owners.

[3] Property address and Charlton Assessors' Map, Block, and Lot Number.

[4] Name of project, date and scale of plan.

[5] Dimensions of lot, building coverage percentage (see § 200-3.2D) and unoccupied space percentage [see § 200-4.2D(6)].

[6] Description (including location) of existing land use(s) and building(s), if any.

[7] Description (including location and dimensions) of proposed use(s) and buildings.

[8] Location of required setback lines.

[9] Location and dimensions of all driveways.

[10] Location and dimensions of all driveway openings. Road construction and drainage details, curb cuts, and all required state and local highway access authorizations.

[11] Location, dimensions, and detail of surfacing materials of parking and loading space(s). The plan should also indicate the total number of parking spaces provided and the total required number of parking spaces (See § 200-4.2B, Off-Street Parking Schedule.).

[12] Service area(s), exterior storage areas, fences, and screening.

[13] Lighting [see § 200-4.2D(7) for commercial lighting plans]. For projects located in BEP Districts, sufficient detail should be provided to demonstrate compliance with § 200-5.8C.

[14] The location, dimensions, height, illumination and characteristics of proposed signs, in sufficient detail to demonstrate compliance with § 200-5.6, Signs.

[15] The location and description of all existing and proposed sewage disposal systems, stormwater management systems and other required waste disposal systems. All related easements shall be shown.

[16] Existing and proposed well or public water supply system.

[17] Location and description of all other existing and proposed utilities, their exterior appurtenances, and related easements.

[18] Zoning district(s) in which the property is located and location of any zoning district boundaries that divide or abut the property.

[19] Ownership of the abutting land as indicated on the most recent Town Assessors' records and location of buildings thereon within three hundred feet (300) feet of the project boundaries.

[20] Existing topography and proposed finished grading at two-foot elevation intervals and existing easements, if any.

[21] Significant natural and man-made features such as stone walls, public or private burial grounds, and watercourses.

[22] Erosion and sedimentation control plan, including during and after construction.

[23] Location of wetlands as well as calculation of percentage of lot free of wetlands [to determine compliance with § 200-3.3B(5)].

[24] Proposed emergency vehicle routing around building(s) and any and all emergency entrances and/or exits.

(b) A landscaping plan at the same scale as the site plan that shows landscaping features, including the location and description of screening, fencing, and plantings, including the size and type of planting material. Landscaping plans for projects that include no more than twelve thousand (12,000) square feet of gross building area shall be prepared by a registered engineer or by a landscape designer. Landscaping plans for projects that include more than twelve thousand (12,000) square feet of gross building area shall be prepared by a licensed landscape architect.

(c) A locus plan at a scale of one (1) inch equals one hundred (100) feet (1" = 100') or other such scale as may be approved by the Planning Board, showing the entire project site and its relation to surrounding properties, buildings and roadways, and zoning district boundaries within one thousand (1,000) feet of the project boundaries or such other distance as may be approved by the Planning Board.

(d) Building elevation plans at a scale of one-quarter (1/4) inch equals one (1) foot (1/4" = 1') or one-half (1/2) inch equals one (1) foot (1/2" = 1') or other such scale as may be approved by the Planning Board, showing all elevations of all proposed buildings and structures and indicating type and color of materials to be used on all facades.

(e) Payment of required administrative and peer review fees.

(f) Copies of all easements, covenants and restrictions shown on plans and text to be provided.

(g) Additional information required by the Planning Board to determine compliance with the criteria set forth in Subsection D(7), including but not limited to soil suitability tests and analysis, a phasing plan, if applicable, a construction mitigation plan and a landscape maintenance plan.

(4) Filing the application. The applicant shall submit the application for site plan approval to the Town Clerk and a date and time-stamped copy thereof to the Planning Board or its designee. The date of filing shall be the date after which the application was received by the Clerk and the Planning Board or its designee.

(5) Pre-application meeting, notice and hearing. The Planning Board strongly encourages the applicant to present and discuss the general development concept for the proposed project at one (1) of its posted meetings prior to filing an application. The applicant may present as many or as few of the details listed in Subsection D(3) as desired.

(6) Site plan review and approval procedures.

(a) Within seven (7) business days after the filing of an application for site plan approval, the Planning Board may submit one (1) copy of the site plan each to the Board of Selectmen, the Board of Health, the Conservation Commission, the Inspector of Buildings, the Superintendent of Highways, and the Sewer Commission and ask for their comments.

(b) Within sixty-five (65) days of the filing of an application for site plan approval, the Planning Board shall provide notice and hold a public hearing noticed in accordance with the requirements set forth in MGL c. 40A §§ 11 and 15. A majority vote of the Planning Board is required for approval of a site plan.

(c) Within ninety (90) days after the initial date of the public hearing, the Planning Board shall take its final action on the application (render its decision, file its decision with the Town Clerk and notify the applicant of its decision).

(d) At the applicant's written request, the Planning Board may extend the time period in Subsection D(6)(b) and (c) unless extended pursuant to Subsection D(6)(d) shall constitute approval of the site plan as provided in MGL c. 40A, § 11.

(e) Failure of the Planning Board to act within any of the time periods listed above in Subsection D(6)(b) and (c), unless extended pursuant to Subsection D(6)(d), shall constitute approval to the site plan as provided in MGL c. 40A, § 11.

(7) Review and approval criteria.

(a) The Planning Board shall approve a site plan for projects with "P" Uses if the applicant demonstrates to the Planning Board that the project is properly designed in the following site design categories:

[1] The site plan complies with all applicable provisions of these bylaws feasible to the site, including, but not limited to, § 200-4.2, and § 200- 5.17A and B for projects within the Village District.

[2] The application is complete, including payment of administrative and peer

review fees [see Subsection D(3)].

[3] All drives, parking lots, loading areas, paths, sidewalks and streets are designed to provide for safe vehicular, pedestrian and bicycle travel.

[4] There is safe and adequate access and egress to and from the site.

[5] Access and site circulation enables prompt fire, police, ambulance and other emergency responses.

[6] Adequate capture and discharge of stormwater and surface water runoff is achieved in accordance with the Department of Environmental Protection Massachusetts *Stormwater Handbook*, as amended.

[7] Provision for adequate utilities has been made.

[8] Adequate water supply is available in terms of quantity, quality, and water pressure for commercial and/or domestic needs and fire protection.

[9] Minimize glare from headlights through plantings or other screening.

[10] Lighting intrusion onto other properties and public ways is minimized, while at the same time providing adequate lighting for security and public safety.

[11] Adequate disposal of wastewater is provided. [12]

Changes to the natural landscape are minimized. [13]

Adverse impacts of construction are minimized.

[14] There is adequate landscaping and landscaping maintenance.

(b) The Board may deny an application for site plan approval if:

[1] The project does not comply with one or more of the criteria set forth in Subsection D(7)(a) and reasonable conditions cannot be imposed to ensure compliance with one (1) or more of these criteria; or

[2] The applicant has not provided information sufficient for the Planning Board to determine compliance with one (1) or more of the criteria listed in Subsection D(7)(a).

(8) Lapse. An approved site plan shall lapse after a period of two (2) years (not including time required to pursue or await the determination of an appeal from site plan approval) from the date of approval unless substantial use or construction has not begun. All work proposed in the site plan or required by conditions in the site plan approval decision, shall be completed within two (2) years from the date the Planning Board voted to approve the site plan unless the Planning Board provides in the site plan approval for a longer period of time or the applicant requests an extension and it is granted by the Planning Board.

(9) Conditions. The Planning Board may impose conditions on site plan approval to ensure compliance with the review and approval criteria listed above, including, but not limited to, requiring:

(a) A performance guarantee, in a form and amount acceptable to the Planning Board, to guarantee completion of all public improvements required by the approved site plan and land restoration not having to do with the construction of public improvements. The Planning Board shall establish the amount of security required after reviewing an estimate from the applicant's engineer and determining whether the proposed amount is sufficient or whether it needs to be increased.

(b) That any project easements and restrictions are subject to review and approval by legal counsel to the Planning Board.

(c) That condominium and homeowners documents are subject to review and approval by legal counsel to the Planning Board to ensure compliance with the review and approval criteria listed above.

(d) Other conditions the Planning Board determines are necessary to ensure compliance with the review and approval criteria listed above.

(10) Post-site plan approval.

(a) Upon completion of construction, and before the release of the performance guarantee, the applicant shall have prepared and submitted to the Planning Board as-built plans. The Board shall receive six (6) paper copies of the as-built plans and the plans shall also be submitted in AutoCad (*.dwg) format or such other digitized file format as specified by the Planning Board.

(b) An applicant shall submit proposed changes to an approved site plan to the Planning Board so that it can determine whether the changes are field adjustments or amendments to the approved site plan. The Planning Board shall convene a public hearing in accordance with MGL c. 40A, § 11, to consider and vote upon proposed amendments.

(c) Appeals from a Planning Board decision to grant, grant with conditions or deny site plan approval shall be made to Superior Court in accordance with MGL c. 40A, § 17.

E. Building permit. No building permit shall be issued for the construction, alteration or moving of a building or other structure which as constructed, altered or moved would not be in conformance with this bylaw.

F. Occupancy permits. No building erected, materially altered, relocated or in any way changed as to construction or under a permit or otherwise, and no land, shall be occupied or used without an occupancy permit signed by the Inspector of Buildings. Said permit shall not be issued until the building, and its use and accessory uses, and the use of all land comply in all respects with the bylaw.

G. Enforcement and penalty.

(1) If the Zoning Enforcement Officer is requested in writing by any citizen to enforce the provisions of this bylaw against any person allegedly in violation of the bylaw and the Zoning Enforcement Officer declines to act, the Zoning Enforcement Officer shall

notify, in writing, the party requesting such enforcement of any action, or refusal to act, and the reason therefor, within fourteen (14) days of receipt of such request.

(2) Any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Zoning Enforcement Officer or other administrative officer under the provisions of this bylaw; or any person, including an officer or board of the Town, aggrieved by an order or decision of the Zoning Enforcement Officer, or other administrative officer, in violation of the provisions of Chapters 40A and 808 of the Massachusetts General Laws or any provision of this bylaw, may file an appeal in accordance with the provisions of Chapters 40A and 808 of the Massachusetts General Laws.

(3) Whoever violates any provision of this bylaw shall be punished by a fine imposed by a court of law not exceeding fifty dollars ($50) for each offense and each day that such violation continues shall constitute a separate offense.

H. Industrial use special permits.

(1) Requirements. No building, use or occupancy permits for any construction, alteration, relocation or improvement as to real property or the structures thereon shall be issued for any industrial use or project as listed in § 200-3.2B, Use Regulation Schedule, and which is designated "SP" (special permit) under IG and BEP Districts, except in accordance with the terms of a special permit for such projects as set forth herein. The special permit granting authority for all permits is necessary for the construction or use of a project in an Business Enterprise Park or Industrial - General District (designated "SP" in § 200-3.2B) shall be the Planning Board which, for such purposes, shall have all of the powers conferred upon such special permit granting authorities by MGL c. 40A, and which shall conduct its business in accordance with the notice, hearing and decisional requirements therein set forth, and in accordance with the requirements of this bylaw.

(2) Industrial use special permit procedure.

(a) A pre-application meeting with the Planning Board and its Technical Advisory Committee for informal discussion and review of preliminary materials is strongly suggested prior to formal submission of an application for a special permit.

(b) No application shall be deemed complete, nor shall any action be taken, until all required materials have been submitted. Plans and other application materials conforming to the Planning Board's adopted *Procedures for Applications for Industrial Use Special Permits*, as filed with the Town Clerk, shall be submitted to the Planning Board and Town Clerk as required by such *Procedures*. [See § 200-7.1D(1), (2) and (3) for site plan contents as required in special permit applications.]

(1) The Planning Board shall, within fifteen (15) days of submission, distribute one copy of the application materials each to the Conservation Commission, Board of Health, Sewer Commission, Building Inspector, Technical Advisory Committee, Highway Superintendent and Board of Selectmen for review and comment. The

failure of any commission, board, committee, inspector, superintendent or department to make recommendations within thirty-five (35) days of receipt by such agency of the application materials shall be deemed lack of opposition thereto.

(c) The Planning Board shall hold a public hearing and make its decision in accordance with applicable provisions of MGL c. 40A; the Board shall hold a public hearing within sixty-five (65) days of the filing of the application with the Town Clerk; the Board shall render a decision within ninety (90) days following the date of the public hearing and shall file a copy of its decision with the Town Clerk within fourteen (14) days thereafter; the granting of a special permit shall require a four-fifths (4/5) vote of the Planning Board. The cost of advertising the hearing and notification of abutters shall be borne solely by the applicant. The time limits hereunder may be extended by written agreement between the petitioner and the Planning Board, by majority of the Board, and any such agreement shall be filed with the Town Clerk.

(d) A special permit granted by the Planning Board shall not be valid until recorded in the Registry of Deeds, and no work may commence until evidence of such recording has been received both by the Board and the Building Inspector. Such recording shall be the responsibility of the petitioner.

(3) Technical Advisory Committee. For the purpose of providing technical advice to the Planning Board regarding the advisability of the granting of special permits for industrial uses, as described above in Subsection H(1), a Technical Advisory Committee may be appointed by the Planning Board. Said Committee shall consist of three (3) members, at least two (2) of whom, preferably, shall have expertise in industrial economics or industrial technologies. Each of the persons appointed shall be a resident of the Town of Charlton for the duration of his/her service on the Committee. Initially, one (1) member of the Technical Advisory Committee shall be appointed to a one-year term, one (1) member to a two-year term and one (1) member to a three-year term. Two (2) members shall constitute a quorum for meetings, and all actions of the Committee shall require an affirmative vote of two (2) or more members.

(4) Review criteria. A special permit shall be granted by the Planning Board acting as the special permit granting authority only if the Planning Board finds that the proposed project is in harmony with the intents and purposes of the applicable industrial zoning district; that it is sufficiently advantageous to the Town and the immediate area in which it is located; and that present and future impacts on Charlton's infrastructure, and built and natural environments will be minimized. The Board shall deny a special permit where in its judgment a nuisance, hazard or congestion will be created, or where for other reasons there will be substantial harm to the neighborhood or derogation from the general purposes and the intent of the bylaw, or that the stated district objectives or applicable use criteria will not be satisfied. In granting a special permit, the Planning Board may impose such conditions and safeguards as public safety, welfare and convenience may require.

§ 200-7.2. Granting Authority.

The special permit granting authority for the Town of Charlton shall be allocated as follows:

A. The Planning Board shall have site plan review and approval authority and shall be the special permit granting authority for special permits issued pursuant to §§ 200-5.6, 200-5.7, 200-5.9 and 200-5.10 of this bylaw. The Planning Board shall also be the special permit granting authority for all uses identified with the symbol "SP" in the Use Regulation Schedule, § 200-3.2B.

B. The Zoning Board of Appeals. The Zoning Board of Appeals shall have the authority to issue special permits for development in floodplain zones as specified in § 200-6.4 of this bylaw. The Zoning Board of Appeals also shall have the authority to issue special permits for altering the number of mobile homes in an existing mobile home park, as specified in § 200-5.2B(3) of this bylaw.

C. The Board of Selectmen. The Board of Selectmen shall have the authority for appointing a Zoning Enforcement Officer and the Zoning Board of Appeals, and to grant special permits for unregistered motor vehicles as specified in § 200-5.3 of this bylaw.

D. Appeals. Any person aggrieved by a decision of the Zoning Board of Appeals or the Board of Selectmen in exercising their powers to grant or deny special permits may appeal such decisions in accordance with the provisions of Chapter 40A of the Massachusetts General Laws.

E. Conditions for granting. Special permits may be granted if an applicant can show a condition peculiar to the particular case but not generally true for similar permitted uses on other sites in the same zoning district. The Board of Selectmen and Zoning Board of Appeals shall deny a special permit where in its judgment a nuisance, hazard, or congestion will be created, or for other reasons there will be substantial harm to the neighborhood or derogation from the general purposes and the intent of the bylaw, or that the stated district objectives or applicable use criteria will not be satisfied.

F. Review and reports. Upon the receipt of any application for a special permit and the payment of an application fee established from time to time by the Zoning Board of Appeals, for any special permit not involving unregistered motor vehicles, and the required plans and documents, the Zoning Board of Appeals shall file one (1) copy with the Town Clerk and one (1) copy with the Planning Board for review and recommendation. The Planning Board shall submit reports to the Zoning Board of Appeals or the Board of Selectmen within thirty-five (35) days of the receipt of the application and supporting documents. Failure to report within this time period shall be deemed to be lack of opposition thereto.

G. Public hearing. Any special permit shall only be issued after a public hearing which must be held within sixty-five (65) days after the effective date of filing of a special permit application. Effective date is the date the application is filed with the Town Clerk by either the Board of Selectmen or the Zoning Board of Appeals. For any public hearing held under this bylaw, all abutters must be notified by mail of the hearing date and time, and notice of the hearing must be published twice at least eight (8) and fifteen (15) days before the hearing in a newspaper of general circulation.

H. Period of validity. If fifty percent (50%) of a project has not been completed without good cause, within one (1) year from the date granted, the special permit shall lapse. Included within the one-year period is the time required to pursue or await the determination of an appeal. Extensions to the special permit may be granted by the special permit granting authority for good cause.

I. Permits granted before zoning changes. If a special permit or a building permit is issued before the publication of the first notice of a public hearing of a proposed zoning amendment, but is not then utilized by commencing construction within a six-month period and then proceeding as expeditiously as is reasonable, the building or special permit will lapse and a new permit will be required to conform to the amended bylaw.

§ 200-7.3. Zoning Board of Appeals.

A. The Zoning Board of Appeals constituted under Article 27 of the Warrant for Annual Town Meeting of May 8, 1969 shall be the Zoning Board of Appeals under this bylaw: and said Board shall be appointed by the Board of Selectmen, and said appointment shall be made and shall operate in accordance with Chapters 40A and 808 of the Massachusetts General Laws and its amendments. Said Zoning Board of Appeals shall consist of five(5) registered voters of the Town. The Board of Selectmen shall also appoint two (2) registered voters of the Town for a term of three (3) years to serve as associate members to act in the absence of regular members and at the expiration of each three-year term shall again appoint two (2) associate members for three (3) years. All members and associate members of the Zoning Board of Appeals shall serve without compensation.

B. Powers of the Zoning Board of Appeals shall be:

(1) To hear and decide petitions for variances in accordance with Chapter 40A in all districts subject to appropriate conditions, including, but not limited to, calendar time period, extent of use, hours of operation, outdoor storage, lighting, parking, dimensional requirements or similar controls. No variance shall be granted which would authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

(2) (Reserved)

(3) To hear and decide applications for expansion of nonconforming uses in accordance with the provisions of § 200-3.4C(5) of this bylaw.

(4) To hear and decide applications for special permits in accordance with § 200-7.2 of this bylaw.

C. In exercising the powers granted by Subsection B above, the Zoning Board of Appeals shall act in accordance with the provisions of Chapters 40A and 808 of the Massachusetts General Laws.

D. Any approval which has been granted by the Zoning Board of Appeals under the provisions of Subsection B(3) above shall lapse within two (2) years from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, has not begun by such date except for good cause.

E. Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior Court, Land Court, and in accordance with MGL c. 40A, § 17.

F. The Zoning Board of Appeals shall adopt rules consistent with Chapters 40A and 808 of the Massachusetts General Laws and provisions of this bylaw for the conduct of its business.

§ 200-7.4. Planning Board.

A. Recommendations to the Board of Appeals. Any application filed with the Board of Appeals under § 200-7.3B hereof shall be referred upon its receipt by the Board of Appeals to the Planning Board for a report and recommendation relative thereto as provided by MGL c. 41, § 81I, and MGL c. 40A, § 11. The Planning Board shall make its report to the Board of Appeals by the date of the public hearing as to the application. Failure to make recommendations within thirty-five (35) days of receipt of a special permit application by the Planning Board shall be deemed lack of opposition thereto. For all other applications, the Planning Board shall receive a copy of application materials from the Board of Appeals at least twenty-one (21) days before the public hearing.

B. Associate Planning Board member. In accordance with the Town of Charlton's General Operating Bylaws, Chapter 50, Article I, § 50-1B, and in accordance with MGL c. 40A, § 9, the Selectmen and the Planning Board shall appoint an Associate Planning Board Member. The term of the appointment is one (1) year; consecutive reappointments are allowed. The acting chairperson of the Planning Board may designate the Associate Member to sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board.

Appendix B includes on pages 1 through 3 a total of nine (9) design samples to visually illustrate examples of the following design concepts:

Figure 1: Accessory Building/Structure

Figure 2: Awnings and Canopies

Figure 3: Buffer

Figure 4: Building Coverage

Figure 5: Floor Area Ratio

Figure 6: Corner Lot and Typical Lots

Figure 7: Building Height

Figure 8: Yard and Frontage

Figure 9: Sign Types

Please note that these samples are for illustrative example purposes only. For complete details regarding Zoning Bylaw performance standards for each of these site or structural design elements please refer to the appropriate section of the Zoning Bylaw text or contact the Building Commissioner/Zoning Enforcement Officer (ZEO) or Planning Board.

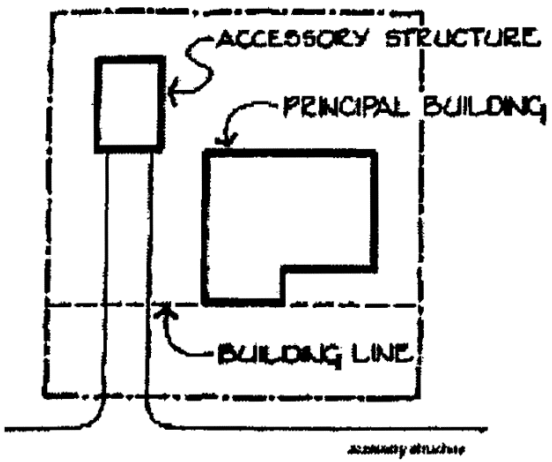


Figure 1: Accessory Building/Structure

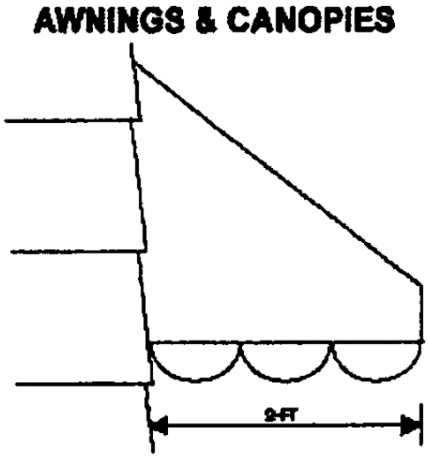


Figure 2: Awnings and Canopies

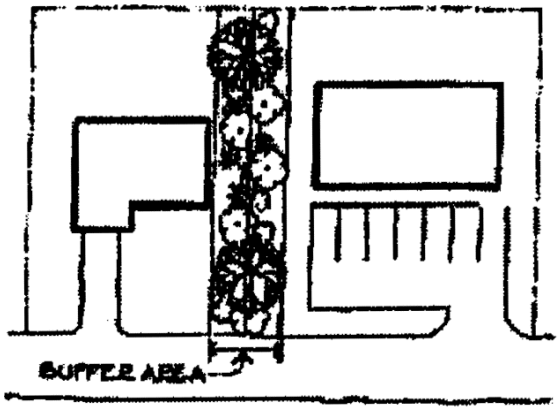


Figure 3: Buffer

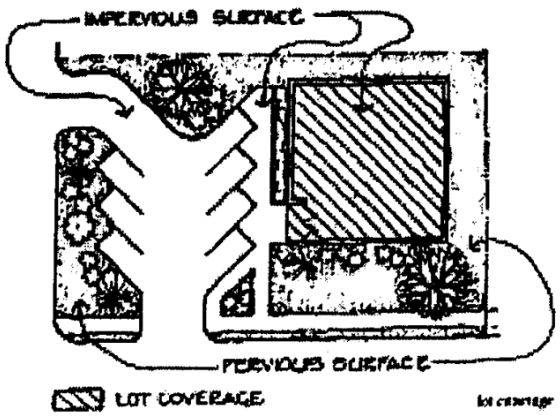


Figure 4: Building Coverage

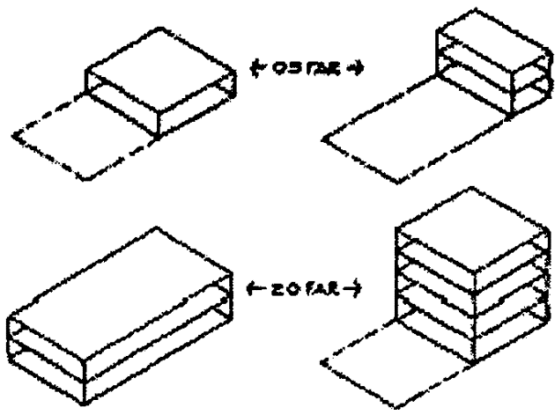


Figure 5: Floor Area Ratio

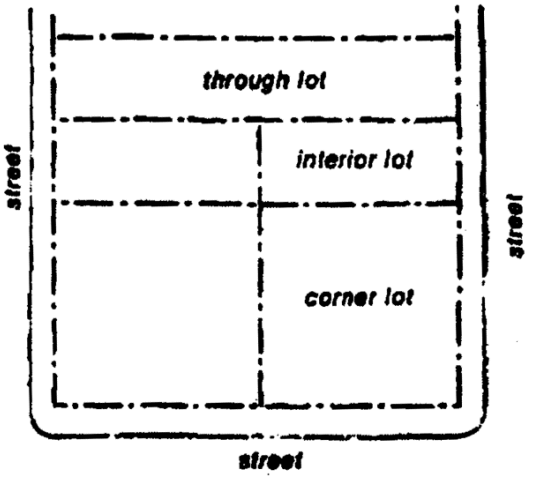


Figure 6: Corner Lot and Typical Lots

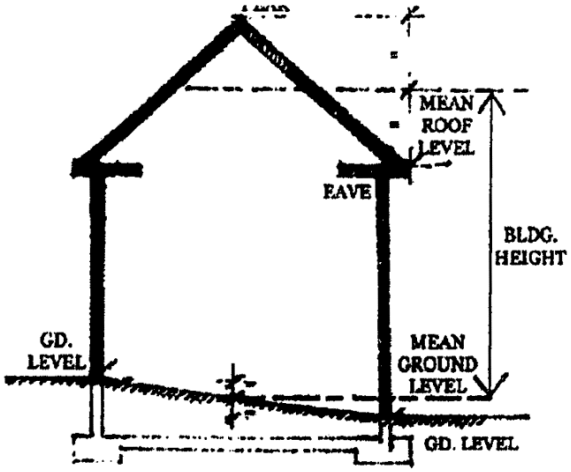


Figure 7: Building Height

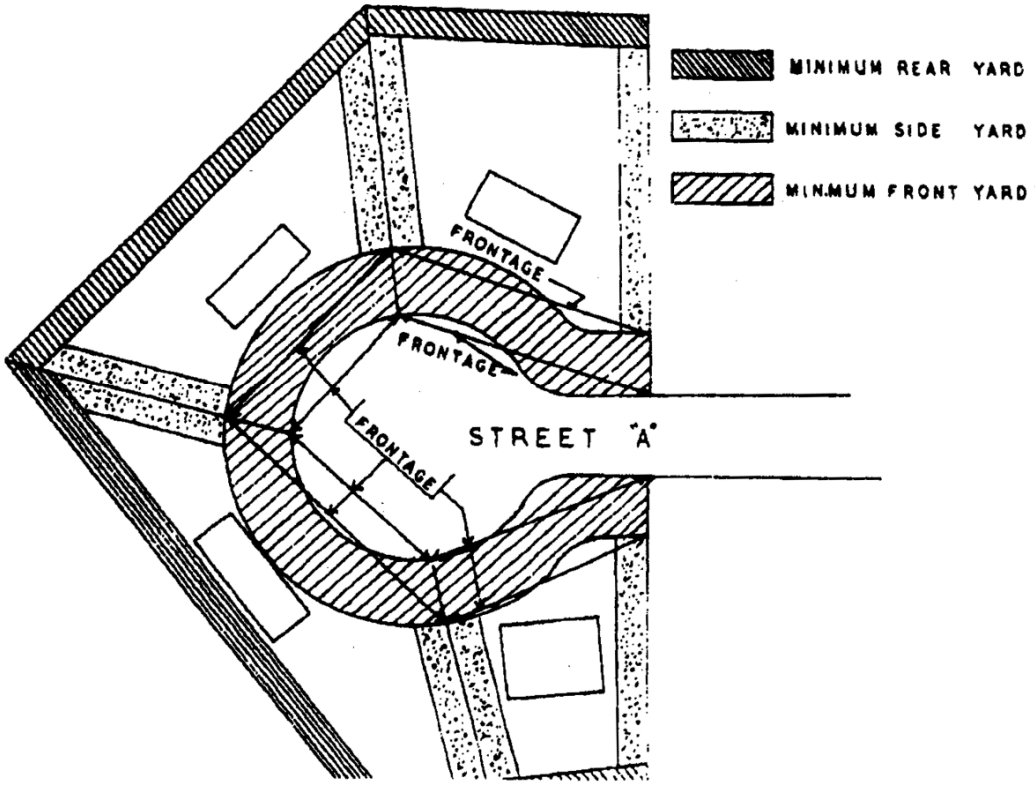


Figure 8: Yard and Frontage

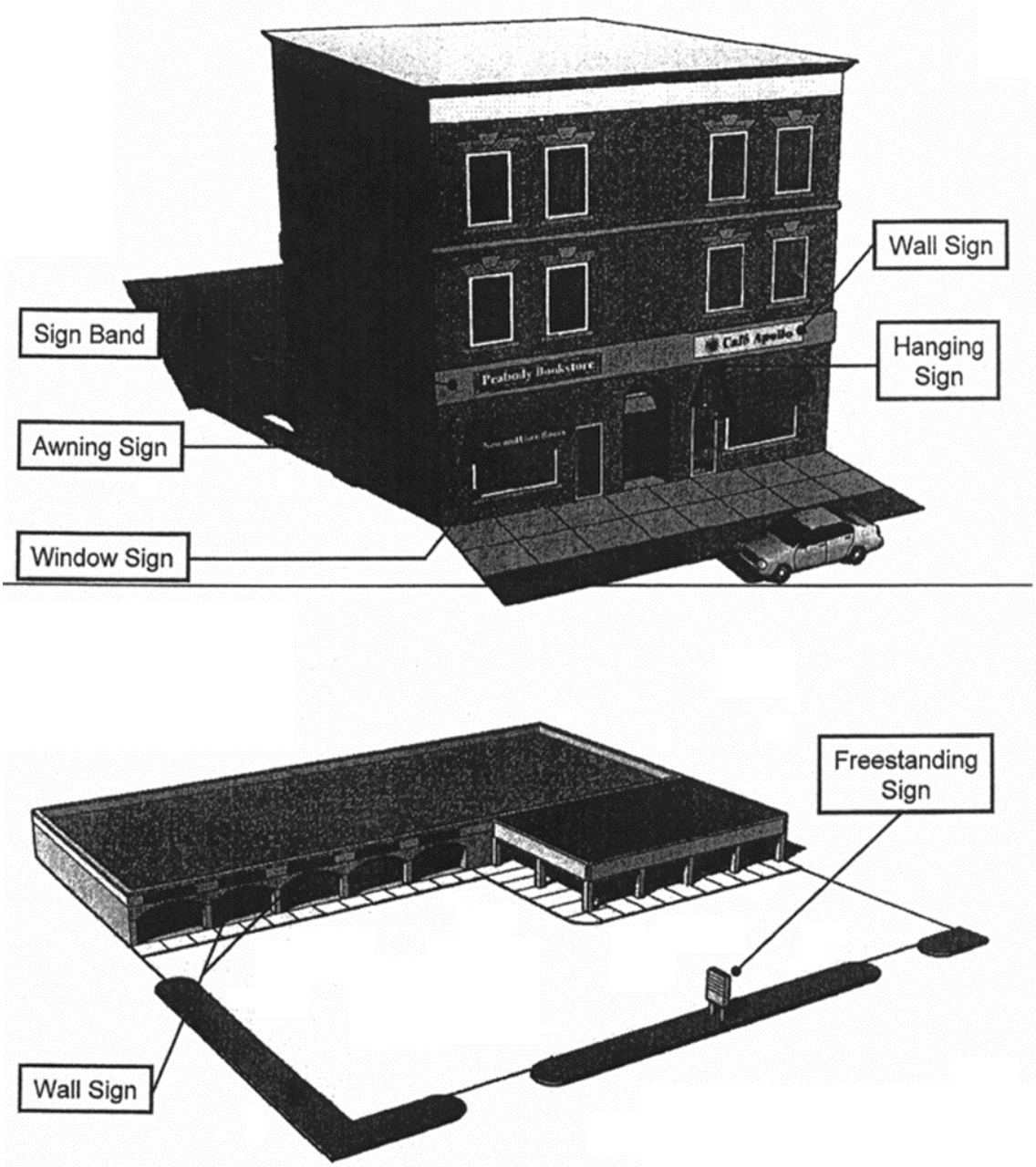


Figure 9: Sign Types