
PHASE II DIAGNOSTIC REPORT

TOWN OF SOMERSET ZONING BY-LAW RECODIFICATION PROJECT

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INTRODUCTION

This Diagnostic Report concludes Phase II of the Somerset Zoning By-law Recodification Project. The primary purpose of this Report is to provide the groundwork for development of an initial draft of a revised Zoning By-law to be presented for public comment. The Report expands upon the Phase I Audit by presenting detailed explanations of the housekeeping, organizational, and legal issues to be considered as part of the Zoning By-law recodification process. It also presents options and recommendations for strengthening or clarifying existing By-law provisions, for making the By-law consistent with State law, and for reorganizing and reformatting the By-law. The recommendations are primarily aimed at (1) making the By-law more user friendly, (2) resolving interpretation and enforcement issues, and (3) supporting the land use objectives identified in the Town's Master Plan.

The discussion and recommendations in this Diagnostic Report are grouped under the following key topics:

- I. Structure and Format
- II. Section by Section Analysis
- III. Policy Issues for Consideration

I. STRUCTURE AND FORMAT

As was discussed in the Audit Report, the current Zoning By-law is difficult to navigate, due primarily to numerous amendments adopted over the years that were never fully integrated. As is often the case with repeated legislative amendments, redundancies and inconsistencies in terminology develop, and organizational cohesion suffers. Below are my recommendations for a more readable, user-friendly By-law:

- Provide an improved, consistent numbering system comprised of both numbers and letters to make clear distinctions among major sections, subsections, and paragraphs within subsections. Eliminate the use of parenthetical numbers and letters for subsections and paragraphs.
- Use defined visual breaks between major sections to ensure better visual cues, and to make the By-law less “cluttered” looking.
- Use section headings and subheadings consistently.
- Improve the organization and visual presentation of the use, dimensional and parking tables to allow for easier access to the information. Reduce the use of explanatory notes in the tables. Where explanation of special regulations is necessary, reference the applicable section numbers rather than re-state the special regulations.
- Include diagrams to illustrate dimensional requirements.

- Group together related sets of regulation, such as the overlay districts, accessory use regulations, and site plan requirements. Exhibit A to this Report is a suggested Table of Contents to provide an idea of how the By-law might be better organized.
- Eliminate duplicate and outdated provisions.
- Maintain a chronological record of amendments to assist in determining the nonconforming status of a property.
- Consolidate generally applicable special permit requirements instead of repeating them for each type of special permit use.
- Consolidate the various site plan review requirements into a single, new, Site Plan Review section.
- Employ consistent terms to describe uses permitted in each district. Coordinate use categories listed in the Table of Use Regulations with the use categories listed in the Table of Parking Requirements and in the Chart of dimensional regulations.
- Provide an alphabetized subject matter index with section number references, so that users may be directed to all the sections governing a particular topic such as “landscape buffers,” “parking,” “zoning maps,” or “enforcement.”

II. SECTION BY SECTION ANALYSIS

The following analysis summarizes my review of the current By-law, with a focus on identifying key issues and problems in each section of the By-law, and providing recommendations for improvement.

Section 1.0 - PURPOSE

- While Section 1.0 is entitled simply “Purpose,” the Section also includes other general provisions concerning the By-law’s interpretation and relation to other laws. Similar provisions are found in other sections of the By-law, as well. For example, there is a separability provision in Section 7.0, and a conflicting laws provision in Section 9.0. All provisions related to the By-law’s general purpose, intent, and authority should be combined in Section 1.0.
- The purposes listed in Section 1.0 include most, but not all, of the purposes for zoning suggested in Section 2A of Chapter 808 of the Acts of 1975, the legislation that established the Zoning Act. Notably missing are: to secure safety from flooding; to encourage housing for persons of all income levels; to encourage use of land consistent with the recommendations of the Town’s Master Plan; to facilitate adequate provision of public water supply, drainage, and open space; conservation of natural resources, and prevention of blight and environmental pollution. I recommend expansion of the purposes described in Section 1.0 to cover the broadest possible zoning authority. Such an expansion will be useful for supporting new zoning initiatives related to implementation of the Master Plan.

Section 2.0 - Definitions

The definitions in the By-law require substantial attention, in my view.

- There are numerous definitions scattered throughout the By-law. Some are specialized definitions that pertain only to certain regulations (e.g., terms relating to Wireless Communication Facilities). In other instances, however, the definitions included in other Sections of the By-law are more general and are more properly included in Section 2.0.
- There are numerous terms used in the By-law that are not defined at all. In some instances, the undefined terms may be similar to, or even synonymous with, defined terms. It is unclear whether the use of different terms to describe the same subject is intentional. This issue is particularly apparent in the listings of permitted uses that appear in several sections of the By-law. For example, the terms restaurant, coffee shop, ice cream shop, drive-through food service, drive-in restaurant or refreshment stand, lunchroom, cafeteria, and snack bar are used in different sections without definition or distinction. A similar problem exists with respect to the several terms applied to various types of office uses and transient accommodations. The list of undefined terms provided to the Committee in June is attached to this Report as Exhibit B.
- Several of the existing definitions incorporate regulatory requirements. These requirements should be relocated to the appropriate use or dimensional regulation sections.
- A number of the existing definitions should be revised to eliminate ambiguous language. The Committee is directed to the preliminary editorial suggestions provided to the Committee members in April.

Section Three [sic] – Districts and Boundaries

This Section requires only minor adjustments and updates.

- List all overlay and special districts. Currently missing are the Mixed Use Overlay District, the Slade's Crossing District, the Business Industrial Overlay District, and the Large Scale Ground Mounted Solar Photovoltaic Installation Overlay District.
- List and describe (with title and latest revision date) each of the separate zoning district maps that, together, comprise the Official Zoning Map.
- Clarify the map interpretation rules. Eliminate the Section 3.2.5.e provision directing questions concerning district boundary locations to the Board of Appeals. The Building Inspector should make this call at the time of a building permit application. Appeals of that determination may then be taken to the Board of Appeals pursuant to G.L. c. 40A, § 8.

Section 4.0 – Use Regulations

This Section requires the most extensive revisions in order to improve the Bylaw's overall usability.

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- Section 4.0 consists primarily of the Table of Use Regulations for the six underlying zoning districts. As noted in the analysis of Section 2. Definitions, the By-law does not define or otherwise describe many of the uses listed in that Table, and many of the uses listed in the Table of Use Regulations are not consistent with the uses listed elsewhere in the By-law, such as in the Table of Off-Street Parking and Loading Requirements. A uniform list of permitted uses is an important basis for consistent interpretation and enforcement of the By-law.
 - The Table of Use Regulations groups the listed uses under general categories. Some of these categories, such as “Business, Open Air or Drive-In uses” are too narrow. The more general categories such as Residential, Institutional, Commercial, and Industrial allow for more logical grouping.
 - List the uses in the Table of Use Regulations alphabetically within each use major category. Where possible, avoid duplicative and overlapping use listings. For example, “office building, bank or similar institution” overlaps with both “bank, loan agency, financial services institution” and “business, professional or medical offices.”
 - Supplement the Table of Use Regulations with descriptions of the uses listed, including any unique substantive requirements for each particular use, such as the special restrictions applicable to Marine-related fabrication and docking facilities, or for outdoor storage of goods at a wholesale business.
 - The current list of permitted uses for each district should be reviewed to determine whether the uses are still appropriately permitted, and whether other uses should be added.
 - Organize the regulations for principal uses and accessory uses in separate sections, each section having its own use descriptions and table of use regulations.
 - As noted in the Audit Report, the current By-law does not adequately address the statutorily exempt uses set out in G.L. c. 40A. Section III of his Report includes a list of the exempt uses for the Committee’s consideration.
 - Section 4 of the By-law provides that no building or land may be used for any use denoted by the word “no” in the Table of Use Regulations, or for any use not specifically listed in the Table. There is no provision in Section 4 that prohibits specific activities such as open storage of junk and waste products, storage of inoperable vehicles, commercial extraction of sand and gravel, or similar uses that might be obnoxious, hazardous or injurious to the environment or to the enjoyment and value of surrounding properties. I am aware of recently submitted petitioned zoning articles, however, which seek to prohibit storage and processing of scrap metal and construction debris, as well as the storage of inoperable vehicles and equipment. Unless the Town Meeting adopts the petitioned amendments before the Committee completes its work, I recommend that consideration be given to proposing adoption of similar restrictions in conjunction with the recodification proposal.

Section 5.0 – Dimensional Requirements

Section 5.0 sets out all dimensional requirements in the form of a chart organized by “district or use.” However, Section 5.0 contains no separate provisions describing the dimensional regulations. The chart is dense and confusing to use. There are no diagrams illustrating dimensional measurements such as lot width in relation to frontage, or building height in relation to the surrounding ground. My recommendations are as follows:

- Convert the notes following the chart into separate dimensional regulations.
- Relocate any dimensional regulations that are currently incorporated as part of the definitions in Section 2.0 (such as measuring yard depth) to the Dimensional Section as distinct regulations.
- Since building height is regulated in relation to both the number of stories *and* the distance between the mean grade of the ground and the highest point of the roof, definitions of “story” and “roof” need to be added to Definitions Section.
- Include a dimensional regulation detailing how to determine the mean grade of the ground surrounding a building.
- Provide diagrams to illustrate dimensional terms and measurements.
- Since the current By-law ties the dimensional regulations to use, in some instances, revise the use descriptions in the dimensional chart to conform to the terminology employed in the Table of Use Regulations. For example, the chart contains a column labelled “non-exempt governmental use in any District.” However, the By-law does not define this term, and the term does not appear in the Table of Use Regulations.
- Consider separating the dimensional regulations for accessory buildings and structures from those pertaining to principal buildings and structures.
- The Section 5.2 General Requirements provision provides that “no building or structure shall be built or enlarged which does not conform to the requirements set forth in Section 5.2 (Dimensional Requirements)..., and as provided elsewhere in the By-law....” There are no provisions, however, stating that no lot may be divided from a larger lot, or that no building or structure may be altered, except in conformance with the By-law’s dimensional requirements. This omission should be corrected.
- The chart includes a column labelled “Alteration and expansion of Residences on Existing Lots.” There is no explanation in Section 5 concerning the applicability of this particular category. Is it intended to apply to existing *conforming* lots only, to *nonconforming* lots, or to both? Is it intended to apply to all residential buildings, whether or not conforming, and does it include multi-family buildings as well as single family residences?
- Note 4 in the chart states that the maximum lot coverage is to be determined by the Planning Board during the Planned Development Process. Because Planned Development is not a special permit use, this provision is problematic. More specifically, it violates the uniformity requirements of Chapter 40A. Consider

amending the By-law to provide Specific lot coverage requirements, in conjunction with the recodification.

- There is no definition of the term Maximum Lot Coverage. How is it calculated? Does the coverage include all buildings and structures, as well as all impervious surfaces such as paved patios, walkways, parking areas and driveways? The term should be defined.
- The By-law's maximum lot coverage requirement for single or two-family dwellings is not typical. The more usual approach is to regulate maximum floor area ratio to limit the total size of the dwelling structure in relation to the lot area, rather than limit only the coverage of the lot.
- Section 5.0 does not adequately explain how the maximum height of towers, water tanks, antennae, etc. is to be measured when the structure is sited on the top of a roof.

Section 6.0 – General Provisions

Section 6.0 appears to be a “catch-all” section covering a broad array of topics, including regulation of nonconforming building and uses, signs, accessory uses and structures, certain use and activity prohibitions, regulation of site plans for Planned Developments, Limited Business and Light Industrial Districts. The Section requires extensive revision.

- Limit the scope of Section 6.0 to regulation of nonconforming lots, uses and structures, and re-title the section accordingly.
- Relocate the general use regulations (Sections 6.4, 6.4.1, 6.4.2, and 6.9) to Section 4.
- Relocate the general dimensional regulations (Sections 6.4.3 6.6 and 6.8) to Section 5.
- Make the Sign regulations (Section 6.5) a new, stand-alone major section, and re-number accordingly
- Create new stand-alone sections for all parking regulations (currently Sections 6.7) and all site plan review regulations (including those in Sections 6.10 and 6.11).
- Revise the provisions in Section 6.1 through 6.3, regulating nonconforming uses, structures and lots, to ensure that the language is fully consistent with the applicable statutory language in Chapter 40A and the case law interpreting that language. Add definitions of the terms “Nonconforming use,” “Nonconforming Structures,” and “Nonconforming uses” to the Section 2.0 Definitions.
- The provisions in Section 6.3 relative to nonconforming single and two-family residential structures are inconsistent with State law, in that Section 6.3 delegates to the Building Inspector certain findings that only the Board of Appeals is authorized to make. If the intention is to allow certain reconstructions and modifications as a matter of right, the section may be re-written to specify non-discretionary criteria that, if met, will not increase the nonconforming nature of the existing structure. Otherwise, Board of Appeals review is required.

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- Eliminate Section 6.4.4 Swimming Pool Enclosures. It merely refers to the Massachusetts Building Code – a reference that is unnecessary.
 - The current Section 6.5 sign regulations are very detailed. These provisions will require some revisions in order to avoid potential violations of the First Amendment. At a minimum, certain revisions should be made to the Statement of Intent to clarify that the regulations are not intended to regulate sign *content*.
 - Several of the sign regulations call for the Building Inspector to make discretionary determinations (for example, Sections 6.5.3 (5) and 6.5.3(8)). This is not an appropriate role for the Building Inspector. Substitute specific, measurable performance standards for the subjective, case-by-case determinations.
 - A complete re-write of the sign regulations is not within the scope of this recodification process. However, several of the sign provisions are ambiguous and require clarification.
 - The Section 6.7 Table of Off-Street Parking and Loading Requirements is organized according to “class of allowed use.” Change the terminology employed to make the allowed use classes consistent with the Table of Use Regulations.
 - Some reorganization and clarification of the current parking and loading provisions is necessary to make the regulations more useable.
 - The By-law regulations concerning parking space size and aisle width do not address different types of parking space layouts (parallel vs. angled parking spaces), car size (full or compact), or open air parking vs. parking enclosed in a structure. Although substantive changes to the parking standards are outside the scope of this recodification project, some consideration should be given in the near future to updating the parking and loading standards, including adding landscaping/screening requirements, lighting regulations, and driveway/circulation standards.
 - The current parking regulations do not address handicapped parking requirements. Such requirements should be adopted in conjunction with the recodification.
 - The Section 6.10 Planned Development procedure is ambiguous and difficult to apply. It imposes certain site plan requirements to multi-tenant parking lots, but provides few “bright line” standards. Instead, it requires the Building Inspector to make discretionary judgment calls – an inappropriate delegation of power. If this section is retained, it should be amended either to make the Planning Board the review authority, or to provide the Building Inspector with specific, measurable standards and criteria.
 - I strongly recommend that the Committee consider eliminating the site plan review requirements in Section both 6.10 and 6.11, in favor of creating a new, uniform Site Plan Review requirement that can be applied to most commercial and institutional developments. A suggested site plan review applicability provision is attached to this report as Exhibit D. If the Committee decides to proceed in this direction, I recommend that the Committee work with the Town’s Planning Consultant to develop the site plan review procedures and standards.

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- The provisions regarding the Limited Business and Limited Industrial Districts primarily relate to site plan review requirements. As noted, all site plan review requirements should be consolidated in one uniform regulation.
 - Delete the second paragraph of Section 6.11.2. The procedural requirements for the rezoning of land to Limited Business or Limited Industrial Districts are inconsistent with Chapter 40A, and are unenforceable.

Section 7.0 - Administration

This section requires a significant amount of updating and reorganization.

- The By-law provides for criminal penalties only. Consideration might be given to providing non-criminal penalties in the future, as well.
- Section 7.3 requires a building permit for all changes in use of a building or lot. Requirements for building permits, however, are governed by the State Building Code. In some instances, a change of use may not involve any structural elements that are subject to a building permit requirement under that Code. One option is to require a certificate of zoning compliance for any new or changed use that does not involve a building permit.
- Revise Section 7.4 to conform to the language of Chapter 40A relative to the powers of the Board of Appeals.
- Eliminate the provision in Section 7.4 concerning continuation of the Board of Appeals established under prior law. It is outdated and no longer necessary.
- Update the 7.4 provision allowing appeals to Superior Court. Chapter 40A provides for appeals to the Housing and District Courts as well as to the land Court. Rather than list the courts, it is sufficient to state that appeals may be taken in accordance with Chapter 40A, Section 17 of the Massachusetts General Laws.
- Reorganize and streamline the Special Permit section (7.5). The current By-law addresses general special permit requirements, and describes each type of special permit authorized under the By-law with any special conditions required. Retain the general requirements in the Administrative Section, but relocate the descriptions of the different types of special permits to the Use Section. An exception to this recommendation is to move the provisions of Section 7.6.1 Adult Uses, Section 7.6.2 Telecommunication Facilities, and Section 7.6.3 Marijuana Establishments into a newly created Special Use and Development Section.
- The current provision requiring the special permit granting authority to condition special permits to lapse within a stated period not to exceed *two-years* is not inconsistent with the more generous, three-year period now allowed by Chapter 40A. However, increasing it to three years would give the special permit granting authority more flexibility.
- Revise the Section 7.7 provisions concerning variances to conform to statutory language.
- Move the Section 7.8 Separability provision to Section 1.0.

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- Delete the Section 7.9 provisions relative to the powers and duties of the Planning Board and the Board of Appeals under the Subdivision Control Law. This is not a proper subject for zoning regulation. The Subdivision Control speaks for itself.

Section 8.0 – Open Space Community

This is a stand-alone section. Consideration should be given to making it a subsection of a new Special Uses and Developments section covering marijuana establishments (current Section 7.6.3), telecommunications facilities (current Section 7.6.2), and adult uses (current Section 7.6.1), and Shared Housing for Elderly (current Section 10).

- Section 8.0 requires reorganization and consistency changes as part of the recodification.
- Expand the description of the Open Space Community purpose and applicability. For example, “Open Space Community Development is an alternative pattern of land development allowed by Special Permit in the Residence and Open Space Recreation Districts, that is intended to provide a higher density mix of residential housing types while preserving open space and protecting natural resources and unique features of the landscape.”
- The definitions in this section also appear in the Section 2.0 Definitions. Only definitions of terms that apply exclusively to Open Space Communities, such as “Individual Lot Area” and “Base Site Area” should be retained in Section 8.

Section 9.0 – Special Districts

Section 9.0 includes regulations for some, but not all of the overlay districts. Notably, the provisions for each overlay district in Section 9 vary in terms of organization and complexity.

- Consideration should be given to grouping all of the Section 9 overlay districts with the Section 11 overlay District in a single, overlay district section.
- Any definitions in Section 2.0 that are unique to a particular overlay district should be relocated to the related overlay district regulations.
- The titles and descriptions of the various overlay district maps should be relocated to Section 3.0.
- Organization and numbering of the regulations for each overlay district should be made consistent and relatively uniform.
- If a standard site plan review requirement is adopted, consider whether to apply the standard site plan review requirements to all of the overlay districts instead of imposing separate requirements.
- The Section 9.1 Watershed Protection District and the Section 9.2 Water Resources Protection District appear to have the same purposes. Is there a reason for these two separate overlay districts?
- The Section 9.1.4.a description of the uses permitted by right in the Watershed Protection needs clarification. It is not consistent with the Table of Use Regulations. Also, the phrase

“and other such uses that do not involve excavation, paved parking areas” is too ambiguous. Similar defect appear in the Section 9.2.3.a permitted uses provision.

- The provisions in Section 9 relative to adoption of rules and regulations by the special permit granting authority (such as in Section 9.1.6, 9.2.7 and 9.4.3) impermissibly delegate adoption of performance standards and special permit criteria to the SPGA. Such standards and criteria need to be part of the By-law, and not adopted as independent regulations.
- The provisions of Section 9.4 Mixed Use Overlay District require substantial reorganization and clarification.
- The list of uses permitted in the Mixed Use Overlay District includes several uses that are not specifically listed in the Table of use Regulations. The terms used for the allowed uses should be consistent.
- Similarly, the list of uses permitted in the Slade’s Ferry Crossing District do not correspond with the uses listed in the Table of use Regulations. Unless additional uses are to be permitted in the overlay district, the uses listed in Section 9.5.5 should be made consistent with the uses listed in the Table of use Regulations.
- The photographs used in Section 9.4.5 are not labelled. If they are intended to illustrate examples of architectural features or design elements to be encouraged in the Slade’s Ferry Crossing District, some explanation should be given.
- The provisions in Sections 9.5.10, 9.5.11 and 9.5.12 are administrative in nature and, therefore not appropriately included in Section 9. Such provisions will be included elsewhere in the By-law.

Section 10.0 - Shared Housing for the Elderly

Section 10 also requires some organizational work and editing for consistency purposes.

- As noted above in the comments concerning Section 8.0, the Shared Elderly Housing provisions should be grouped with the provisions for other special uses such as the Open Space Community.
- Also, as noted above in the comments concerning Section 9.0, the provisions for adoption of Rules and Regulations relative to special permit criteria and performance standards is an unlawful delegation of zoning authority. Any such criteria and standards should be adopted as part of the By-law.

Section 11 – Large-Scale Ground Mounted Solar Photovoltaic Installations

Section 11 primarily requires organizational work, including an improved numbering system.

- Relocate all definitions of general terms such as “Building Inspector” and “Building Permit” to Section 2.0.
- Delete the Section 11.7.2 provision subjecting the Installations to “reasonable regulations adopted by the Zoning Board after a public hearing concerning the bulk and height of structures, lot area, parking and building coverage requirements.” This provision is an

inappropriate delegation of Town Meeting’s zoning authority. Such regulations should be adopted as part of the By-law.

- This Overlay District should be grouped in the same section as all other overlay districts.
- The Official Zoning Map title information should be deleted. The Official Map will be defined and described in Section III.
- If standard site plan review requirements are adopted, consider applying the standard requirements to this and other overlay districts.

III. Policy Issues for Consideration

Exempt Uses

As addressed above and in the Audit Report, the current Bylaw does not address many of the exemptions for uses and structures that are spelled out in Sections 3 and 9 of Chapter 40A. Below is a list of the subjects that are included among the statutory exemptions. I have highlighted the items on the list that the Committee may wish to address specifically in the Recodified Bylaw. The Committee should determine whether to continue to treat some or all of the exemptions on a case-by-case basis, or whether to seek amendments to the By-law that will specifically regulate certain exempt uses, or expressly waive certain regulations for such uses.

- Building materials and construction regulated by State Building Code
- Commercial Agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture (not including growing of marijuana)
- Interior area of single family residences
- Use of land or structures for religious purposes
- Use of land or structures for educational purposes on land owned or leased by the Commonwealth or its subdivisions, or by a religious sect or denomination, or by a nonprofit educational corporation
- Certain lands or structures used by a public service corporation
- Use of land or structures for operating a child care center or a school-aged child care program (“child care facility”)
- Family day care and large family child care home are deemed allowable uses unless specifically regulated or prohibited by the local zoning by-law or ordinance
- Discrimination against disabled persons, including group home for persons with disabilities
- District zoning boundary change without amendment of the by-law or ordinance
- Temporary manufactured homes while residence destroyed by fire is rebuilt
- Handicapped access ramps

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- Installation of solar energy systems or building of structures that facilitate collection of solar energy
 - Construction of use of antennae by licensed amateur radio operator

Zoning Districts

Consider consolidation of the Water Resources Protection District and the Watershed Protection District, as both overlay districts share the same purposes.

Uses

- Listed permitted uses, as well as prohibited uses and special permit uses, should be reviewed to determine if they are still appropriate or needed, and a discussion should include identification of types uses that may be missing but are needed.
- Consider express prohibition of nuisance activities.
- Elimination of Planned Development use

Site Plan Review

Adopt new, uniform site plan review requirements in lieu of the various requirements scattered throughout the Bylaw.

- Consider whether the uniform site plan review process should apply only to by-right uses, or whether it should also apply to special permit uses. Moreover, if applied to special permit uses, should the site plan review be conducted by the designated special permit granting authority as an integral part of the special permit application process? Alternatively, should the special permit application and the site plan review application be separate? Is there an advisory role for the Planning Board in instances where the Board of Appeals is the special permit granting/site plan approval authority?
- Substitute Site Plan Review by the Planning Board for the current Planned Development procedures.
- Work with the Town's Planning Consultant to develop application and review procedures, as well as basic review criteria and standards.
- In the Table of Use Regulations, denote the site plan review requirement where applicable to a listed use.

Parking and Loading Requirements

- The current requirements should be reviewed to determine whether they are still appropriate. Consider revamping these regulations either in conjunction with the recodification, or in the near future.
- Consider including parking and circulation design standards such as lighting, paving, drainage and landscaping.

Performance Standards

While performance standards appear in several sections of the By-law pertaining to particular uses or districts. Consider working with the Town’s Planning Consultant to develop a new Bylaw section that specifies generally applicable performance standards for lighting, noise, erosion and sedimentation controls, etc.

EXHIBIT A

DRAFT TABLE OF CONTENTS

SECTION 1.0 PURPOSES AND CONSTRUCTION

- 1.1 Purpose**
- 1.2 Minimum Requirements**
- 1.3 Bylaw Construction and Conflict With Other Laws**
- 1.4 Severability Clause**

SECTION 2.0 DEFINITIONS

- 2.1 Interpretation**
- 2.2 Definitions (General)**

SECTION 3.0 DISTRICTS AND BOUNDARIES

- 3.1 Establishment of Districts**
 - 3.1.1 Use Districts
 - 3.1.1.1 Residence
 - 3.1.1.2 Business
 - 3.1.1.3 Limited Business
 - 3.1.1.4 Light Industrial
 - 3.1.1.5 Open Recreation
 - 3.1.1.6 Industrial
 - 3.1.2 Overlay Districts
 - 3.1.2.1 Large Scale Ground Mounted Solar Photovoltaic Installation
 - 3.1.2.2 Business Industrial
 - 3.1.2.3 Mixed Use Development
 - 3.1.2.4 Slade's Ferry Crossing
 - 3.1.2.5 Floodplain
 - 3.1.2.6 Water Resources Protection
 - 3.1.2.7 Watershed Protection
- 3.2 District Boundaries**
- 3.3 Boundary Interpretation**

SECTION 4.0 USE REGULATIONS

4.1 General

4.2 Exempt Uses

4.3 Principal Use Regulations

4.3.1 General Provisions

4.3.2 Principal Use Classifications and Descriptions

4.3.2.1 Institutional Uses

4.3.2.2 Extensive Uses

4.3.2.4 Residential Uses

4.3.2.5 Commercial Uses

4.3.2.6 Industrial Uses

4.3.3 Principal Use Table

4.4 Accessory Use Regulations

4.4.1 General Provisions

4.4.2 Accessory Use Descriptions

4.4.3 Accessory Use Table

4.5 Temporary Uses

4.6 Prohibited Activities

Section 5.0 Intensity Regulations

5.1 General Provisions

5.2 Interpretation and Measurement

5.3 Table of Dimensional Regulations

5.4 Exceptions

Section 6.0 Nonconforming Uses, Structures and Lots

6.1 Continuation of Existing Uses and Structures

6.2 Changes, Extensions or Alterations

6.2.1 Single – and Two-Family Residential Structures

6.3 Abandonment or Discontinuance

6.4 Restoration of Nonconforming Structures

6.5 Existing Lots

Section 7.0 Special Uses and Developments

7.1 Open Space Community

7.1.1 Purpose and Applicability

7.1.2 Definitions

7.1.3 Special Permit Required

7.1.3.1 Special Permit Granting Authority

7.1.3.2 Site Plan

7.1.3.3 Design Review

7.1.3.4 SPGA Rules and Regulations

7.1.4 Density of Residential Development

7.1.4.1 Base Site Area

7.1.4.2 Net Buildable Site Area

7.1.4.3 Maximum Number of Dwelling Units
and Site Capacity Calculation

7.1.5 Other Dimensional Requirements

7.1.5.1 Table of Dimensional Requirements - Individual Lots

7.1.5.2 Table of Dimensional Requirements - Townhouses
and Multi-Unit Developments

7.1.6 Common Open Space Requirements

7.1.6.1 Minimum Area

7.1.6.2 Access

7.1.6.3 Ownership and Perpetual Restrictions

7.1.6.4 Maintenance Responsibility

7.1.7 Other Requirements

7.1.7.1 Buffer Yards

7.1.7.2 Streets, Drainage, and Utilities

7.1.7.3 Parking

7.2 Shared Housing for the Elderly

7.2.1 Purpose

7.2.2 Applicability

7.2.3 Special Permit Granting Authority

7.2.4 Board of Health Review and Recommendations

7.2.5 Minimum Requirements

7.2.4.1 Density and Dimensional Requirements

7.2.4.2 Off-Street Parking

7.2.4.3 Occupancy

7.2.4.4 Site Plan

7.2.4.5 Management and Supervision Plan

7.2.4.6 Building Exterior

7.3 Adult Uses

7.3.1 Purpose and Applicability

7.3.2 Definitions

7.3.3 Special Permit Granting Authority

7.3.4 Special Permit Standards and Conditions

7.4 Telecommunication Facilities (with Communication Towers and/or Antennae)

7.4.1 Purpose

7.4.2 Applicability

7.4.2.1 New Towers and Facilities

7.4.2.1 Pre-existing Towers and Antennae

7.4.2.1 Exceptions

7.4.3 Definitions

7.4.4 General Conditions and Requirements

7.4.4.1 Principal or Accessory Use

7.4.4.2 Federal Regulations

7.4.4.3 Co-location of Equipment

7.4.4.4 Building Permits

7.4.4.5 Licensed Carriers

7.4.4.6 Liability Coverage

7.4.5 Design Standards

7.4.5.1 Setbacks and Separation

7.4.5.2 Aesthetics and Lighting

7.4.5.3 Landscaping and Fencing

7.4.5.4 Other

7.4.6 Special Permit

7.4.6.1 Special Permit Granting Authority

7.4.6.2 Application Procedures

7.4.6.3 Required Special Permit Findings

7.4.7 Maintenance and Discontinuance of Use

7.5 Marijuana Establishments

7.5.1 Purpose

7.5.2 Applicability

7.5.3 Definitions

7.5.4 Special Permit for Marijuana Establishment

7.5.4.1 Special Permit Granting Authority

7.5.4.2 Standards

7.5.4.3 Site Plan

7.5.4.4 Documentation

7.5.4.5 Conditions of Approval

Section 8.0 Environmental Standards

8.1 General

8.2 Hazardous Materials

8.3 Noise

8.4 Lighting

8.5 Screening

Section 9.0 Parking and Loading

9.1 Purpose

9.2 Applicability and Exceptions

9.3 Parking Computation

9.4 Table of Minimum Parking Requirements

9.5 Minimum Off-Street Loading Area Requirements

9.6 Relief from Minimum Parking and Loading Area Requirements

9.7 Parking Lot Design Standards

9.7.1 Parking Dimensions

9.7.2 Loading Space Dimensions

9.7.3 Circulation and Layout

9.7.4 Driveways

9.7.5 Handicapped Parking

9.7.6 Small Car Spaces

9.7.7 Surfacing, drainage and curbing

9.7.8 Landscaping

9.7.9 Lighting

9.7.10 Relief from Parking Lot Design Standards

9.8 Maintenance

9.9 Location

9.10 Shared Parking Facilities

9.11 Mixed Use Facilities

Section 10.0 Site Plan Review

10.1 Applicability

10.2 Definitions

10.3 Site Plan Application Contents

10.4 Procedures

10.3.1 Approval by Planning Board

10.3.2 Approval by Board of Appeals

10.5 Compliance with Site Plan

10.6 Term of Approval

Section 11 Sign Regulations

11.1 Statement of Intent

11.2 Definitions

11.3 Computation of Sign Area

11.4 Signs in Residential Districts

11.5 Signs in Business and Industrial Districts

11.6 Signs in Open Recreational District

11.7 Exceptions by Special Permit

11.8 Temporary Signs

11.9 Sign Illumination

11.10 Safety and Maintenance

11.8 Prohibited Signs

11.9 Nonconforming Signs

11.10 Abandoned Signs

Section 12.0 Overlay Districts

- 12.1 Large Scale Ground Mounted Solar Installations**
- 12.2 Watershed Protection District**
- 12.3 Water Resources Protection District**
- 12.4 Floodplain District**
- 12.5 Mixed Use Overlay District**
- 12.6 Slade's Ferry Crossing District**
- 12.7 Business Industrial Overlay District**

Section 13 Administration and Enforcement

- 13.1 Enforcement**
- 13.2 Building Permits**
- 13.3 Certificate of Compliance**
- 13.4 Board of Appeals**
- 13.5 Variances**
- 13.6 Appeals**
- 13.7 Special Permits**

Appendices

Index

EXHIBIT B

List of Undefined Terms Used in the By-law

Use Table:

Single-family Dwelling

Transient Accommodations (*only hotel, motel and lodging house? Also, inn, guesthouse, tourist house?*)

Customary Home Occupation

Public Land or Building

Hospital, Infirmary

Nursing Home, Convalescent Home

Club or Lodge

Essential Municipal Services, water works and pumping stations

Farm or Garden – Principal use” (*including exempt agricultural uses?*)

Office Building or Similar Institution – (*how does this differ from “business office, professional office, medical office?”*)

Consumer Service Establishments (*personal service?*)

Lunchroom, Restaurant, Cafeteria, Snack Bar (*principal and accessory uses?*)

Permanent Amusement Facility

Veterinary, Kennel, Pet Shop (*these are very different uses*)

Sale Place for New/Used Cars – Car dealerships?

Business Office, Professional Office, Medical Office and Clinics, including laboratories incidental

Bank, Loan Agency, Financial Services Institution – (*how does this differ from “Office Building, Bank or similar institution”?*)

Automobile Repair Garage/ Auto Body Shop

Medical Laboratories and Clinics

Vertical Mixed use

Drive-in restaurant or refreshment stand

Open Air or Drive-in Theater

Automobile Service Station or Car Washing Establishment (*can both be operated together?*)

Sale place for flowers

Marina – (*how is this different from “Marine-related docking facilities?”*)

Storage of Boats – commercial? (*Both as a primary use and accessory use?*)

Wholesale Business or Storage

Telephone Exchange, Transfer Station or Electric Substation

Underground Storage Tanks – (*as principal use? commercial only?*)

Printing or Publishing Operations – (*how does this differ from “Printing shop? Or printing operations?”*)

Electric Generating Plant

Genetic Engineering Laboratories – (*different from “Research & development laboratories and facilities?”*)

DIMENSIONAL TABLE

Lot Coverage

Story

Roof

Section 6 ACCESSORY USES

Trailer

Quonset Hut

Section 6.5

Premises

Public Way

Section 6.7

Tourist Home, guest house

Function Room and other Group Accommodations

Retail Business

Industry

Wholesale Business

Storage

Restaurant, Bar

Light Industrial

Bowling Alley, Tennis Court

Marina

Laundromat

Funeral Home,

Section 6.8

Street Elevation

Religious or Educational Institution (*exempt education only?*)

Section 7

Building Inspector

Board of Appeals

Special Permit Granting Authority

Off-street Parking Lot

Section 8

Open Space Community

Publicly accepted street (Public Way?)

Section 9.45 – the following uses are neither defined nor included in the table of uses

Rowhouse

Bakery, deli, coffee shop, ice cream shop

Drive-through food service

Governmental services

Personal services

Retail outlets

Laundromat

Inn or bed and breakfast facility

Automated drive-up facilities

Automated Teller Machine

Copying shop

Repair shop

Artist studio and galleries

Pharmacy

Section 9.55 – in addition to many of the uses listed for Section 9.45, the following are neither defined nor listed in the table of uses

Specialty shopping facilities

Offices for business or professional uses

Parking garage

Farmers market

Child care

Amphitheatre, bandstand

Municipal building

EXHIBIT C

Suggested Applicability Provisions For Site Plan Review

XX.1 Applicability

In all instances where the Table of Principal Use Regulations specifies that Site Plan Review is required, no building permit may be issued for construction of a new building or for a substantial alteration of a building, no change in use may be made of an existing building or lot, and no parking, loading, or vehicular access may be established or substantially altered on a lot unless a site plan has been approved in accordance with the requirements set forth below.

XX.2 Definitions

The following definitions shall apply to this Section XX:

1. Substantial alteration of a building means an alteration of a single building or a group of two or more buildings located on the same lot or contiguous lots under the same ownership, that results in an increase of either _____ square feet or _____% of the existing gross floor area, whichever is less. Calculation of the increase in gross floor area shall be based upon the aggregate of all increases in gross floor area made within the preceding five-year period.
2. Change of use means either a change in the use of all or part of a building or lot from one principal use category to another principal use category, or from an accessory use to a principal use, where the change in use results in an increase of required parking and/or loading spaces pursuant to the Section YY Parking and Loading Requirements.
3. Substantial alteration of parking, loading or vehicular access means a change in the layout or location of parking or loading spaces and/or access driveways, or an increase of 500 square feet or more in the area of the lot devoted to parking, loading and/or vehicular circulation. Resurfacing is not a substantial alteration unless it involves a change of surface material or a regrading.