

TOWN OF CARLISLE

ZONING BYLAWS



June 10, 2016

ZONING BYLAWS

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ZONING BYLAWS

1. PURPOSE AND AUTHORITY

1.1 Purpose

The purpose of this Bylaw is to promote the general health, safety, convenience and welfare of the Town of Carlisle and its inhabitants.

1.2 Authority

This bylaw is adopted in accordance with the provisions of Chapter 40A, as amended, of the General Laws of Massachusetts.

1.3 Definitions

1.3.1 A "single-family dwelling" is a detached building designed for, and occupied exclusively by, one family. Such dwelling is to be limited in use to only one family and not more than three roomers or boarders, and is not to be designed with features typical of two-family duplex houses such as separate sets of entrances and living areas.

1.3.2 A "multi-dwelling" is a building containing two or more dwelling units, each of which is complete with living facilities for one family. A multi-dwelling may be a series of attached or semi-detached townhouses or row houses or a garden apartment building (dwelling units sharing a common entry hall or stairway).

1.3.3 A "family" is a single individual, doing his own cooking and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a relationship based upon birth, marriage, adoption, or other domestic bond.

1.3.4 The word "erected" includes the words "built", "constructed", "reconstructed", "converted", "moved", and "placed".

1.3.5 The term "premises" means one or more abutting lots, or lots separated only by a street, in the same ownership or use, together with all buildings and structures thereon.

1.3.6 A "half story" is that portion of a building under a sloping roof, the cubic contents of which are not more than half of that of the story below.

1.3.7 An "accessory use" is a subordinate use of a building, structure or land customarily incidental to, and located on, the same premises with the principal building, structure or use and which does not constitute, in effect, conversion of the main use of the premises to one not permitted.

- 1.3.8. An "exterior sign" is any structure or part thereof, or any device attached to a structure or painted or represented on a structure which is located outdoors, or, if located inside a building, is readily visible from the outside thereof, and which displays or includes any letter, work, model, banner, pennant, insignia or representation used as, or which is in the nature of, an announcement, direction or advertisement.
- 1.3.9 "Side and rear lot lines" shall refer to those boundaries of a lot which are not in common with a public or private way.
- 1.3.10 "Frontage" of a lot is the horizontal length of the line having a radius of curvature of not less than ten (10) feet which most closely conforms to the continuous boundary between the lot and the street, as defined in M.G.L., C. 41, Sect. 81L, on which the frontage is located.

2 ESTABLISHMENT OF DISTRICTS

2.1 Types of Districts

For the purpose of this bylaw, the Town of Carlisle is hereby divided into seven classes of districts, which shall be known as:

- 2.1.1 General Residence District A
- 2.1.2 General Residence District B
- 2.1.3 Business District
- 2.1.4 Carlisle Center Business District
- 2.1.5 Wetland/Flood Hazard District
- 2.1.6 Residence District M - Multi-dwelling housing for the elderly
- 2.1.7 Solar Photovoltaic Facility Overlay District

The Town of Carlisle has also established an Historic District under the provisions of Chapter 40C of the Massachusetts General Laws. This district is not a zoning district but is shown on the Zoning District Map for informational purposes. For regulations related to the Historic District see Article IX of Carlisle bylaws.

2.2 Location of Districts

The Wetland/Flood Hazard District is shown on a map entitled “Property Maps, Carlisle, Massachusetts,” consisting of an index map and 36 sheets together with all amendments thereto subsequently adopted by the Town on file with the Town Clerk, the District being depicted as “Wetland/Flood Hazard Zoning District, adopted March 31, 1980,” amended on May 3, 1988, and further amended as required to be consistent with the Middlesex County Flood Insurance Rate Map (FIRM) dated June 4, 2010 and issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that show flood zones located wholly or partially within the Town include map panel numbers 25017C0242E, 25017C0244E, 25017C0253E, 25017C0254E, 25017C0261E, 25017C0262E, 25017C0263E, 25017C0264E, 25017C0266E and 25017C0268E dated June 4, 2010. The exact boundaries of the flood hazard areas within the Wetland/Flood Hazard District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are hereby made a part of the Zoning District Map of the Town of Carlisle.

Hazard District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 7, 2014. The FIRM and FIS report are incorporated herein by reference and are hereby made a part of the Zoning District Map of the Town of Carlisle,

2.3 Boundaries of Districts

The location of the boundary lines of the districts shown upon the aforesaid "Zoning District Map" shall be determined as follows:

- 2.3.1 Where a boundary is shown to coincide with a property or lot line and the exact location of said property or lot line is not indicated by means of a figure or otherwise, then the property or lot line shall constitute the district boundary line.
- 2.3.2 Where a boundary is shown upon a street, the line shall be the centerline thereof, unless otherwise indicated.
- 2.3.3 Where a boundary is shown outside a street and approximately parallel thereto, it shall be taken as parallel thereto; and where a figure on the map indicates the distance between such line and the street, said distance shall be measured between such line and the exterior line of the street, at right angle thereto.
- 2.3.4 The boundary between the General Residence District A and the General Residence District B shall be a line drawn in a circle with a radius of fifteen hundred (1500) feet from the Soldiers Monument in the center of the Town. General Residence District A is the area within such circle not included in a Business District.
- 2.3.5 In any case not covered by the other provisions of this paragraph, the location of a district boundary shall be determined by the distance in feet, if given, from other lines or points shown on the map or, if distances are not given, by the scale of the map.
- 2.3.6 Wherever any uncertainty exists as to the exact location of a district boundary line, the location of such line shall be determined by the Board of Appeals.

2.4 Lots in Two Districts

Where a district boundary line divides a lot existing at the time such boundary is established and the major portion of said lot is in the less restricted district, the regulations relating to the less restricted district may be considered as extending to that portion of the lot which is not more than thirty feet within the more restricted district.

3 DISTRICT USE REGULATIONS

3.1 Application of Use Regulations

No building or structure shall be erected or altered and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized by the Board of Appeals nor shall any building or structure be erected, altered or used, in whole or in part, on the Carlisle portion of a lot lying only partly in the Town of Carlisle unless the Carlisle portion of the lot shall meet all the zoning requirements hereinafter set forth, and the lot shall have effective, actual access from a way within the Town of Carlisle. Notwithstanding the foregoing, the non-Carlisle portion of a lot lying only partly in the Town of Carlisle may be used to satisfy minimum area requirements.

3.2 General Residence District Uses

3.2.1 Permitted Uses. In general Residence District A and in General Residence District B, the following uses are permitted as of right:

3.2.1.1 Single-family dwelling.

3.2.1.2 The alteration and use of a single-family dwelling existing on the effective date of this bylaw (May 11, 1962) as a dwelling for two families, provided that the lot on which it is located conforms to the area and width requirements for new lots in the same district.

3.2.1.3 Public school or use by a religious sect or denomination or non-profit educational corporation for educational purposes.

3.2.1.4 Municipal administrative, cultural, recreational, water supply or protective use operated by the Town of Carlisle.

3.2.1.5 Public utility building or facility (including a telephone exchange) with no service yard or garage.

3.2.1.6 Church or other place of worship, parish house, rectory or convent.

3.2.1.7 Agricultural, horticultural or floricultural uses (but not including a fur farm or piggery) provided that any building hereafter erected for or converted to such purpose shall, if covering more than 2000 square feet or containing more than 25,000 cubic feet, be located on a lot having an area of at least five acres and be placed at least forty feet from all street and lot lines and from all other buildings on the premises.

3.2.1.8 Showroom or stand for the sale of farm, garden, nursery, greenhouse or other agricultural products (including articles of home manufacture from such products) if the major portion of these products is raised on the premises (or made from products so raised), provided that any building so used and any open display of articles and products is located at least forty feet from all street and lot lines.

- 3.2.1.9 Exterior Signs provided:
- 3.2.1.9.1 In the case of a dwelling or use accessory thereto: there shall be not more than one sign not over nine (9) inches by twenty-four (24) inches for each family residing on the premises, indicating the name of the owner or occupant or pertaining to the permitted accessory use.
 - 3.2.1.9.2 In the case of a permitted or authorized use other than a dwelling or use accessory thereto, or to advertise the sale or lease of the premises: there shall not be more than two (2) signs, each not over thirty-six (36) inches by forty-eight (48) inches pertaining to such use, sale or lease.
 - 3.2.1.9.3 No sign shall be rotated, oscillated, or otherwise regularly moved, or shall be designed to turn or flutter in the wind, or shall in any other way be other than stationary.
 - 3.2.1.9.4 No sign shall be illuminated except by reflected white light emanating from a source external to the sign proper (but which may be attached thereto). The source of light shall be steady, and shall be shielded from direct view at normal eye level from streets and from adjacent premises.
 - 3.2.1.9.5 Any application of paragraphs # 3.2.1.9.1 and # 3.2.1.9.2, regulating the display of political signs beyond the time, place and manner restrictions set forth in paragraphs # 3.2.1.9.3 and # 3.2.1.9.4 is not approved by the Attorney General.
- 3.2.1.10 A way providing access to other land. However, no land in the Town, other than an accepted Town road or a way existing and in use at the time of adoption of this provision of this bylaw, shall be used as a way to provide access to a subdivision either within or outside the Town, unless this way has been approved by the Planning Board.
- 3.2.1.11 Accessory use incidental to a permitted main use on the same premises, including (but not limited to) the following:
- 3.2.1.11.1 Private family guest house, garage, stable, greenhouse, tool shed, play-house, tennis court, swimming pool or other similar building or structure for domestic storage or use.
 - 3.2.1.11.2 Customary agricultural buildings and structures subject to the limitations of paragraphs # 3.2.1.7 and # 3.2.1.8 above where applicable.
 - 3.2.1.11.3 Dwelling unit for temporary occupancy by persons employed on the premises by the immediate family.

- 3.2.1.11.4 The renting of rooms or the furnishing of table board in a dwelling to not more than three (3) persons, whether regular or transient.
- 3.2.1.11.5 The use of a portion of a dwelling or of the accessory building by a resident of the premises as an office, studio or workroom for the conduct of a profession or customary home occupation, subject to the conditions that:
 - 3.2.1.11.5.1 such use is clearly incidental and secondary to the use of the premises for dwelling purposes,
 - 3.2.1.11.5.2 not more than three (3) persons other than the residents of the premises are regularly employed thereon in connection with such use,
 - 3.2.1.11.5.3 no external change is made which alters the residential appearance of the buildings on the premises,
 - 3.2.1.11.5.4 no stock in trade is regularly maintained except for products of the occupation itself or for goods or materials which are customarily stored, used or sold incidental to its performance, and
 - 3.2.1.11.5.5 there is no outward evidence that the premises is being used for any purpose other than residential (except for an accessory sign, as hereafter permitted). In particular, uses permitted hereunder may include, but are not limited to the office of a lawyer, architect, engineer, real estate agent or insurance agent, the studio of an artist, musician or teacher (with regular instruction limited to not more than three (3) pupils at a time), or the workroom of a dress maker, milliner, or photographer, but do not include any uses hereafter set forth as permissible by special permit in the same district.

3.2.2 Uses Permissible on Special Permit

In General Residence District A and in General Residence District B, the Board of Appeals may, subject to the provisions of Section # 7.2, authorize by special permit any of the following additional uses:

- 3.2.2.1 Hospital, sanatorium, philanthropic or charitable institution (but not including any place requiring the restraint or detention of its occupants).
- 3.2.2.2 Private club, lodge, or other non-profit social cultural, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business).

- 3.2.2.3 Nursery school or other agency for the day care of children.
- 3.2.2.4 Convalescent or nursing home.
- 3.2.2.5 Municipal or private cemetery.
- 3.2.2.6 Any other governmental (including municipal) use not specifically set forth herein.
- 3.2.2.7 Commercial kennel, animal or veterinary hospital.
- 3.2.2.8 Any of the following commercial recreational uses:
 - 3.2.2.8.1 ski grounds
 - 3.2.2.8.2 recreation camp
 - 3.2.2.8.3 fishing or hunting grounds
 - 3.2.2.8.4 golf course (but not including a golf driving range or "miniature" golf course)
 - 3.2.2.8.5 picnic grounds
 - 3.2.2.8.6 riding academy or stable
- 3.2.2.9 The use of a portion of a dwelling or an accessory building by a resident of the premises as an antique, handicraft or gift shop, or as a tea room or other place for the serving of home-cooked meals: or by a resident artist, musician or teacher for the conduct of regular class instructions: or by a plumber, or other artisan for incidental work and storage in connection with his off-premise trade: provided that in each case:
 - 3.2.2.9.1 such use does not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property,
 - 3.2.2.9.2 no external change is made which alters the residential appearance of the buildings on the premises,
 - 3.2.2.9.3 there is no outside display of goods or products, storage of materials or equipment, or regular outside parking of commercial vehicles.
- 3.2.2.10 The storage, on land owned by the Town, of school buses under contract with the Carlisle school system.
- 3.2.2.11 The use of a portion of a dwelling or of the accessory building by a resident of the premises as a physician's or dentist's office, subject to the conditions that:

- 3.2.2.11.1 such use is clearly incidental and secondary to the use of the premises or dwelling purposes;
- 3.2.2.11.2 not more than (3) persons other than the residents of the premises are regularly employed thereon in connection with such use;
- 3.2.2.11.3 no external change is made which alters the residential appearance of the buildings on the premises;
- 3.2.2.11.4 no stock in trade is regularly maintained except for products of the occupation itself or for goods or materials which are customarily stored, used or sold incidental to its performance;
- 3.2.2.11.5 there is no outward evidence that the premises is being used for any purpose other than residential (except for and accessory sign, as hereafter permitted);
- 3.2.2.11.6 provision has been made for off-street parking for occupants, visitors and employees and parking is adequately screened from the street and surrounding neighborhood.

3.2.3 Uses Permissible on Special Permit in Historic Districts

The provisions of this Section # 3.2.3 shall apply to that part of General Residence District A that is located in the Historic District established by Article IX of the General Bylaws and is bounded and described as follows: The parcel of land at the southwesterly corner of Church and School Streets bounded Northerly by Church Street, 115 feet; Easterly by School Street 220.20 feet; Southerly by land now or formerly of Ethlyn Gerow, 127.50 feet; and Westerly by land now or formerly of John H. O'Connor, Jr., 215.40 feet, being the same premises described in Certificate of Title Number 21447 recorded in the Land Court, Middlesex North Registry District Book 110, Page 93.

- 3.2.3.1 The Board of Appeals may, subject to the provisions of Section # 7.2, authorize by special permit any of the following uses of the existing building, or any portion thereof, in addition to those specified in Sections # 3.2.1 and # 3.2.2:
 - 3.2.3.1.1 A dwelling for two families (as defined in Section # 1.3 of these bylaws);
 - 3.2.3.1.2 An antique, handicraft or gift shop;
 - 3.2.3.1.3 A retail establishment of the so-called "country store" variety;
 - 3.2.3.1.4 A store for the sale of drugs and pharmaceuticals;
 - 3.2.3.1.5 A tea room, restaurant or similar place for the preparation and serving of food or beverages only to persons completely enclosed within the building with no mechanical or live entertainment regularly furnished;

- 3.2.3.1.6 A business or professional office or agency; provided in each case specified in # 3.2.3.1.6 that:
 - 3.2.3.1.6.1 no external change is made which substantially alters the previous appearance of the building, and
 - 3.2.3.1.6.2 there is no outside display of goods or products, storage of materials or equipment, or regular outside parking of commercial vehicles; except that vehicles of occupants, employees, customers, clients or visitors may be parked on the premises notwithstanding the provisions of Section # 5.3.6
- 3.2.3.2 Special permits may be granted separately under Section # 3.2.2 and this Section # 3.2.3 authorizing the simultaneous exercise of the rights granted by each.
- 3.2.3.3 No special permit shall be granted under this Section # 3.2.3 unless the Board of Appeals shall find that the existing building on the premises is of historic or aesthetic value to the Town and that its use in the manner proposed is necessary as a practical matter for its preservation.
- 3.2.3.4 The rights granted by a special permit under this Section # 3.2.3 shall lapse if they are not exercised during any period of one year or if the existing building is destroyed by fire or other casualty.
- 3.2.4 Distinctive Structures Preservation
 - 3.2.4.1 The purpose of this Section is to foster the preservation of distinctive structures in the town, by allowing their re-use for activities which make their preservations economically feasible, without creating significant, negative impacts on the surrounding neighborhood.
 - 3.2.4.2 "Distinctive Structure" shall mean and refer to a non-residential building in existence on April 1, 1932, which contributes to the rural aesthetic of the Town and which enhances the Town's unique and sense of place, including, but not limited to, barns and other agricultural outbuildings and historic buildings.
 - 3.2.4.3 The Board of Appeals may authorize by special permit the alteration and re-use of a distinctive structure for one of the following purposes, either as an accessory use or as a lawful second principal use of a lot:
 - 3.2.4.3.1 any use permitted under Section 3.2.1;
 - 3.2.4.3.2 business or professional office, provided that:
 - 3.2.4.3.2.1 no external change is made which substantially alters the appearance of the building as a distinctive structure;

- 3.2.4.3.2.2 there is no outside display of goods or products, no outside storage of materials or equipment, and no outside parking of commercial vehicles with the exception of visitor parking;
 - 3.2.4.3.2.3 provision has been made for off-street parking for occupants, visitors and employees and parking is adequately screened from the street and surrounding neighborhood;
 - 3.2.4.3.2.4 adequate evidence is submitted that there will be no significant impact with respect to traffic, noise, air quality or exterior lighting caused by the use.
- 3.2.4.4 No special permit shall be granted under this Section unless the Special Permit Granting Authority shall find:
- 3.2.4.4.1 That the building significantly enhances the rural aesthetic of the Town;
 - 3.2.4.4.2 That the use of the structure is in keeping with the Action Recommendations of The Study Plan for the Town of Carlisle (April 25, 1995), particularly with respect to fostering and encouraging the vitality of local businesses and home businesses;
 - 3.2.4.4.3 That the integrity and appearance of the distinctive structure are to be retained in a reasonable manner;
 - 3.2.4.4.4 That, consistent with The Study Plan for the Town Carlisle, there will be no significant deleterious impact on the neighborhood or the rurality perceived by the passerby.
- 3.2.4.5 The alteration and re-use of a distinctive structure authorized by special permit under this Section shall be exempted from any minimum dimensional requirements applicable to the underlying district provided such alteration does not cause the structure to become dimensionally more non-conforming.
- 3.2.4.6 A special permit granted under this Section shall continue and apply to a structure which is substantially an identical reconstruction of a distinctive structure previously permitted under this Section which was substantially damaged or destroyed by casualty such as fire, provided such reconstruction is completed within three years of such casualty loss.

3.3 Business District Uses

3.3.1 Permitted Uses

In a Business District other than the Carlisle Center Business District, the following uses are permitted as of right:

- 3.3.1.1 Any of the uses permitted as of right in General Residence A or B Districts.

- 3.3.1.2 Store, for sale of goods at retail, limited to the following:
 - 3.3.1.2.1 dry goods and general merchandise
 - 3.3.1.2.2 groceries
 - 3.3.1.2.3 meats fish or seafoods
 - 3.3.1.2.4 fruits and vegetables
 - 3.3.1.2.5 dairy products
 - 3.3.1.2.6 hardware
 - 3.3.1.2.7 crafts, gifts, art works or supplies
 - 3.3.1.2.8 drugs and pharmaceuticals
 - 3.3.1.2.9 antiques
- 3.3.1.3 Showroom for sale of building supplies (including plumbing, heating and ventilating equipment), with storage limited to floor samples only.
- 3.3.1.4 Showroom for the sale of automobiles, boats, trailers, trucks, or farm implements, with no repair service unless authorized by the Board of Appeals, as hereinafter provided.
- 3.3.1.5 Any of the following service establishments dealing directly with the consumer:
 - 3.3.1.5.1 collection station for laundry or dry cleaning
 - 3.3.1.5.2 dressmaking or millinery shop
 - 3.3.1.5.3 household appliance repair shop
 - 3.3.1.5.4 interior decorating studio
 - 3.3.1.5.5 photographic studio (excluding photographic processing)
 - 3.3.1.5.6 shoe or hat repair shop
 - 3.3.1.5.7 tailor shop
 - 3.3.1.5.8 bicycle and/or sporting goods repair shop
- 3.3.1.6 Shop of builder, carpenter, cabinetmaker, caterer, electrician, printer, paperhanger, plumber, painter, sign painter or upholsterer, with not more than one thousand (1000) square feet of gross floor area per establishment used for work and storage (exclusive of area used for office and sales purposes).

- 3.3.1.7 Business or professional office or agency, bank or other monetary institution.
- 3.3.1.8 Exterior signs provided:
 - 3.3.1.8.1 They pertain to the business conducted on the premises.
 - 3.3.1.8.2 In the case of signs attached flat against the wall of a building, there shall not be more than one (1) such sign for each separate and distinct establishment on the premises, or for each two hundred (200) linear feet of lot frontage on the principal street (whichever allows the greater number of signs), provided that each such sign does not exceed twenty (20) square feet in area.
 - 3.3.1.8.3 No sign shall be rotated, oscillated, or otherwise regularly moved, or shall be designed to turn or flutter in the wind, or shall in any other way be other than stationary.
 - 3.3.1.8.4 No sign shall be illuminated except by reflected white light emanating from a source external to the sign proper (but which may be attached thereto). The source of light shall be steady, and shall be shielded from direct view at normal eye level from streets and from adjacent premises.
 - 3.3.1.8.5 Any application of paragraphs # 3.3.1.8.1 and # 3.3.1.8.2, regulating the display of political signs beyond the time, place and manner restrictions set forth in paragraphs # 3.3.1.8.3 and # 3.3.1.8.4 is not approved by the Attorney General.
- 3.3.1.9 Accessory uses, such as parking and landscaping, which are clearly incidental to the primary use of the property.
- 3.3.1.10 Nursery school or other agency for the day care of children.
- 3.3.1.11 Municipal or private cemetery.
- 3.3.1.12 Any other governmental (including municipal) use not specifically set forth herein.
- 3.3.1.13 The use of a portion of dwelling described in Section # 3.2.2.9
- 3.3.1.14 The storage, on land owned by the Town, of school buses under contract with the Carlisle school system.
- 3.3.2 Uses Permissible on Special Permit in Business District other than Carlisle Center Business District

In a Business District other than the Carlisle Center Business District, the Board of Appeals may, subject to the provisions of Section # 7.2, authorize by special permit any of the following additional uses:

- 3.3.2.1 Automobile repair garage; or the regular furnishing of repair services incidental to a gasoline filling station or to a showroom for boats, trailers, trucks, or farm implements. These uses are permissible provided that in each case repair services are conducted within a completely enclosed building.
- 3.3.2.2 The storage of school buses under contract with the Carlisle school system.
- 3.3.2.3 Private club, lodge, or other non-profit social, cultural, civic or recreational use, but excluding any use the chief activity of which is one primarily conducted as a business.
- 3.3.2.4 Commercial kennel, animal or veterinary hospital.
- 3.3.2.5 Any of the following service establishments dealing directly with the consumer:
 - 3.3.2.5.1 barber or beauty shop
 - 3.3.2.5.2 funeral home
- 3.3.2.6 Restaurant or similar place for the serving of food or beverages only to persons inside a completely enclosed building with no mechanical or live entertainment regularly furnished.
- 3.3.2.7 Gasoline filling station, with services limited to the dispensing of fuels and lubricants and to incidental minor repairs (such as replacing spark plugs and batteries).
- 3.3.2.8 Light manufacturing, the major portion of the products of which are sold at retail on the premises, and the manufacturing of which is carried on in the same building in which they are sold. This use is permissible provided that:
 - 3.3.2.8.1 Not more than two thousand (2000) square feet of gross floor area per establishment are used for work and storage (exclusive of area used for office and sales purposes),
 - 3.3.2.8.2 Such manufacturing is not obnoxious, offensive or injurious to the vicinity by dust, noise, smoke, fumes, odor, vibration, gas, chemicals or other objectionable features and
 - 3.3.2.8.3 Such manufacturing is not of danger to the vicinity through fire, explosion or any other cause.

In a Business District other than the Carlisle Center Business District, the Planning Board may, subject to the provisions of Section #7.2 and Section #5.10, authorize by special permit the following additional use:

- 3.3.2.9 Medical Marijuana Treatment Center (RMD).

3.3.3 Lights

In a business district, all lights and other sources of illumination (whether interior or exterior), and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from streets and from general residence districts.

3.3.4 Enclosures of Uses

In a business district, all uses permitted as of right or permissible on special permit, and all uses accessory thereto, shall be conducted within a completely enclosed building, except the following:

- 3.3.4.1 Uses permitted as of right or permissible on special permit in General Residence A or B Districts.
- 3.3.4.2 The dispensing of fuel and lubricants at a filling station.
- 3.3.4.3 The dispensing of food, beverage or goods at a drive-in or stand, where authorized by special permit.
- 3.3.4.4 Plants growing in the soil.
- 3.3.4.5 Automobile parking lots.
- 3.3.4.6 Exterior signs, as hereinafter permitted.
- 3.3.4.7 Exterior lights, as heretofore regulated.
- 3.3.4.8 The open display or storage of goods, products, materials or equipment, where accessory to a permitted main use conducted in a completely enclosed building on the same premises, subject to the condition that the total ground area devoted to such open use does not exceed twenty-five (25) percent of the ground area covered by said building.

3.4 Carlisle Center Business District

3.4.1 Permitted Uses

In the Carlisle Center Business District the following uses are permitted as of right:

- 3.4.1.1 Any use permitted as of right in a Business District except the following:
 - 3.4.1.1.1 Showroom for the sale of building supplies.
 - 3.4.1.1.2 Showroom for the sale of automobile, boats, trailers, trucks or farm implements.
 - 3.4.1.1.3 Nursery school or other agency for the day care of children.

3.4.1.1.4 Any governmental (including municipal) use not specifically set forth herein.

3.4.1.1.5 The storage of school buses.

3.4.1.2 Business establishments shall not exceed two thousand (2000) square feet of gross floor area.

3.4.2 Uses Permissible on Special Permit

In the Carlisle Center Business District, the Board of Appeals may, subject to the provisions of Section # 7.2, authorize by special permit any of the following uses:

3.4.2.1 The storage, on land owned by the Town, of school buses under contract with the Carlisle school system.

3.4.2.2 Private club, lodge, or other non-profit social, cultural, civic or recreational use (not excluding any use the chief activity of which is one primarily conducted as a business).

3.4.2.3 Barber or beauty shop.

3.4.2.4 Restaurant or similar place for the serving of food or beverages only to persons inside a completely enclosed building with no mechanical or live entertainment regularly furnished.

3.4.2.5 Gasoline filling station, with services limited to the dispensing of fuels and lubricants and to incidental minor repairs (such as replacing spark plugs and batteries).

3.5 Interim Regulations for medical marijuana uses

3.5.1 Purpose:

3.5.2 Definition:

3.5.3 Exclusion of Other Marijuana Uses:

3.5.4 Exclusion of Accessory Uses:

In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products, be considered accessory to any use.

3.5.5 Interim Restrictions:

3.5.6 Expiration:

3.5.7 Study Committee:

4. INTENSITY AND DIMENSIONAL REQUIREMENTS

4.1. Regulations for lots laid out as dwelling sites

No buildings shall be erected on a lot and used as a dwelling unless said lot conforms to the requirements of section 4.1 of these bylaws or is expressly exempted therefrom by statute.

4.1.1 Area Requirements for Lots Laid Out as Dwelling Sites in General Residence Districts

4.1.1.1 Each lot in Residence District A shall have an area of at least one (1) acre.

4.1.1.2 Each lot in Residence District B shall have an area of at least two (2) acres.

4.1.2 Frontage Requirements for Lots Laid Out as Dwelling Sites in General Residence Districts

4.1.2.1 Definition of frontage: A frontage of a lot is the horizontal length of the line having a radius of curvature of not less than ten (10) feet which most closely conforms to the contiguous boundary between the lot and the street, as defined in M.G.L. C. 41, Sect, 81L, on which the frontage is located.

4.1.2.2 Each lot in Residence District A shall have, at a minimum, a frontage on one street of at least one hundred and fifty (150) feet.

4.1.2.3 Each lot in Residence District B shall have, at a minimum, a frontage on one street of at least two hundred and fifty (250) feet.

4.1.2.4 Exception for Larger Lots (Pork Chop Lots).

Notwithstanding the requirements of sections # 4.1.2.2 and # 4.1.2.3, a lot need not have more than a frontage of forty (40) feet provided:

4.1.2.4.1 The area of the lot exceeds by at least two acres the minimum area required in sections # 4.1.1.1 and # 4.1.1.2.

4.1.2.4.1.1 Any area of a lot that is less than 40 feet wide and any area that is separated from the site of the dwelling thereon by a portion of the lot that is less than 40 feet wide cannot be used in the calculation of the minimum area required by Section 4.1.2.4.1. This requirement shall not apply to lots of record on the effective date of this section, May 2, 2000.

4.1.2.4.2 The frontage is not located, as determined by a majority of the Planning Board, so as to block the possible future extension of a dead end street.

- 4.1.2.4.3 The site of the dwelling shall be completely within a two hundred and fifty (250) foot diameter circle which circle shall be completely within the lot.
- 4.1.2.4.4 There is not more than one other such "Pork Chop Lot" with frontage contiguous to it.
- 4.1.2.4.5 Any other lot with frontage contiguous to it conforms with the requirements of Section # 4.1.2 Sections # 4.1.2.1, # 4.1.2.2, and # 4.1.2.3 or is otherwise allowed under General Laws Chapter 40A as a dwelling site.

4.1.3. Shape Requirements for Lots Laid Out as Dwelling Sites in General Residence District B

- 4.1.3.1. The width of any lot shall not be less than forty (40) feet at any point between the street which provides its frontage and the site of the dwelling thereon.
- 4.1.3.2 The depth of a lot shall be at least forty (40) feet measured normal to the street at all points along at least eighty percent (80%) of the frontage used to satisfy the minimum requirements.
- 4.1.3.3 The site of the dwelling shall be completely within an ellipse, which ellipse shall
 - 1) be completely within the lot;
 - 2) have an area of at least 1.12 acres;
 - 3) have a minor diameter of at least one hundred fifty feet (150');
- 4.1.3.4 This requirement shall not apply to lots of record on May 2, 1988, effective date of this section of the zoning bylaw.

The shape of all lots shall conform to the following requirement:

$$16A/P^2 > 0.4$$

Where

A= the lot area in square feet

P= the lot perimeter in feet

- 4.1.3.4.1 The formula may be applied only to that portion of the lot that conforms to the minimum dimensional requirements of the bylaw (frontage and area), thus allowing greater irregularity on large parcels where that irregularity is not used to meet minimum requirements.

4.1.3.4.2 This requirement shall not apply to lots subject to the exceptions of Section 4.1.2.4 (Pork Chop Lots), or to Conservation Clusters, as provided in Section 5.5, or to lots of record on or before May 2, 2000, and such lots shall not be considered to be non-conforming for purposes of this Section 4.1.3.4.

4.1.4. Requirements in Business Districts

In a business district, no building shall be erected and used as a dwelling on a lot having less area and frontage than the amount required for its erection in the abutting general residence district.

One Dwelling Per Lot

In all districts, not more than one building shall be erected as a dwelling or so used on each lot, unless specifically authorized herein.

4.1.5. Reduction of Occupied Lots

No lot on which a building is located in any district shall be subdivided, reduced in area, or changed in size or shape so that the building or lot fails to comply with the area, frontage, setback, yard or other provisions of this bylaw. This prohibition shall not apply, however, when a portion of a lot is taken by eminent domain or conveyed for a public purpose for which the land could have been taken.

4.2. Street Setback

4.2.1. Building Setback

No building shall be erected or altered so as to extend nearer to the line of any street or nearer to its front lot line, where different, than forty (40) feet in General Residence A or B Districts or Residence District M, or twenty (20) feet in a Business District; provided further, that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to the street centerline.

4.2.2. Signs and Accessory Structures Setback

In all districts, no sign over thirty-six (36) inches by forty-eight (48) inches, and, except for a flag, utility or light pole, no other structure over (5) feet in height shall be located nearer to the line of any street than the distances from such line required above for a building on the same lot.

4.3 Side and Rear Setbacks

4.3.1. Residence District A

No building shall be erected or altered in General Residence District A so as to extend nearer to any side or rear lot line of its lot than twenty (20) feet, except that

a building having a floor area of less than one hundred eighty (180) square feet, a height of less than fifteen (15) feet and a setback from the street of at least forty (40) feet may be constructed not less than five (5) feet from said lines.

4.3.2. Residence District B and M.

No building shall be erected or altered in General Residence Districts B and M so as to extend nearer to any side or rear lot line of its lot than forty (40) feet, except that a building have a floor area of less than one hundred eighty (180) square feet, a height of less than fifteen (15) feet and a setback from the street of at least one hundred (100) feet may be constructed not less than ten (10) feet from said lines.

4.3.3. Business Districts

No building in the Business District or the Carlisle Center Business District shall be erected or altered to be nearer than five (5) feet to a side or rear line of its lot unless the wall of the building on the adjacent lot is either a party wall or a wall with its outer face coincident with the common property line. In a Business District no building used for residential purposes shall extend nearer to a lot line than twenty (20) feet.

4.4 Lot Coverage.

No building shall be erected to cover, together with all other buildings on the lot, more than twenty-five per cent (25%) of the total area of the lot if in General Residence A or B Districts, or more than seventy-five percent (75%) of the total area of the lot if in Residence District M or a Business District.

4.5 Projections.

Nothing herein shall prevent the projection of eaves, chimneys, cornices, uncovered steps, unroofed porches, window sills, and the like into any required yard or other open space, provided that such projection does not extend more than three and one-half (3 1/2) feet into such yard or space.

4.6. Building Height.

In all districts, no building shall be erected or altered so as to contain more than two and one-half (2 1/2) stories or to exceed more than forty (40) feet in height. The height in each case shall be measured vertically from the average finished grade of the ground adjoining such building to the highest point of the roof thereof.

However, where the setback of the building from the street and the minimum distance of the building from each lot line all exceed the minimum distances required above by at least ten (10) feet, said building may be erected or altered to contain three (3) stories and to have a height of not over forty-five (45) feet.

4.7 Height Exceptions

The limitations of height shall not apply to chimneys, spires, ventilators, skylights, tanks, domes and similar accessory features that usually are carried above the roof line, provided that such features are in no way used for human occupancy.

5 SUPPLEMENTARY REGULATIONS

5.10 Medical Marijuana Treatment Centers

5.10.1 **Definitions**

“Medical Marijuana Treatment Center” or “RMD”: A not-for-profit entity registered under Massachusetts 105 CMR 725.100, and licensed by the Department of Public Health, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers as defined by 105 CMR. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of Marijuana.

“Marijuana for Medical Use”: Marijuana that is designated and restricted for use, by and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as defined by 105 CMR.

“Marijuana”: The same substance as defined as “marihuana” under Chapter 94C of the Massachusetts General Laws; and the substance as defined as “marijuana” by 105 CMR, “including marijuana infused products (MIPs)”, as defined by 105 CMR, except where context clearly indicates otherwise.

“Special Permit Granting Authority”: The Town board charged with the responsibility for granting special permits for RMDs shall be the Carlisle Planning Board (“Planning Board”). The Planning Board may convene an *ad hoc* committee to assist it in reviewing an application for an RMD.

5.10.2 **Purpose**

The purposes of this Section are:

- 5.10.2.1 To provide for the establishment of RMDs in appropriate locations within the Town;
- 5.10.2.2 To minimize the adverse impacts associated with RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with RMDs; and
- 5.10.2.3 To regulate the siting, design, placement, security, safety, monitoring, and discontinuance of RMDs.

5.10.3 **Applicability**

- 5.10.1.1 The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Section 5.10.
- 5.10.1.2 No RMD shall be established except in compliance with the provisions of this Section 5.10.
- 5.10.1.3 Nothing in this Section 5.10 shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- 5.10.1.4 If any provision of this Section or the application of such provisions to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to thus the provisions of this Section 5.10 are severable.
- 5.10.1.5 RMDs are allowed only in a Business District other than the Carlisle Center Business District, by a special permit granted by the Planning Board, provided the RMD meets the requirements of this Section 5.10.
- 5.10.1.6 The granting of a special permit under this Section does not supersede federal, state or local laws or exempt an applicant from complying with all relevant federal, state and local requirements.

5.10.2 General Requirements and Conditions for all RMDs

- 5.10.3.1 A special permit for an RMD shall be limited to one or more of the following uses as prescribed by the Planning Board:
 - 5.10.4.1.1 cultivation of Marijuana for Medical Use;
 - 5.10.4.1.1 processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; and
 - 5.10.4.1.2 retail sale or distribution of Marijuana for Medical Use to Qualifying Patients.
- 5.10.3.2 All RMDs shall be contained within a building or structure having a gross floor area of not more than 20,000 s.f.
- 5.10.3.3 An RMD shall not be located: (i) in a building that contains any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical Marijuana; (ii) in a building that contains residential units, including transient housing such as motels and dormitories;

(iii) within a lot that contains a residential dwelling or (iv) inside a movable or mobile structure, such as a van or truck.

- 5.10.3.4 An RMD shall not be located within 1,000 feet of any: (i) school or licensed child care facility; (ii) drug or alcohol rehabilitation facility; (iii) correctional facility, half-way house, or similar facility; (iv) public playground, public athletic field or other public recreational land or facility; (v) religious facility; or (vi) any other RMD. Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child care establishment or places where minors frequent to the nearest point of the building in which the RMD is located.
- 5.10.3.5 Cultivation and storage of Marijuana for Medical Use shall be in a secure, enclosed, locked area. There shall be no visibility of activities, products or treatment occurring within or on the premises of a RMD from the exterior of such facility or premises. No outside storage of Marijuana or related supplies is permitted.
- 5.10.3.6 All sales and distribution of Marijuana for Medical Use by a licensed RMD shall occur only upon the permitted premises, except in the case of home delivery, in which an order may be delivered only to a registered qualifying patient or personal caregiver who possesses valid photo identification, consistent with 105 CMR.
- 5.10.3.7 The special permit shall require as a condition that a designated contact person for the RMD shall be required to respond by phone or email within twenty-four hours of the time of contact and inquiry by a town official regarding operation of the RMD.
- 5.10.3.8 The RMD shall annually file an affidavit with the Building Commissioner demonstrating that it is in good standing with respect to all applicable state licenses and all conditions contained in the special permit.
- 5.10.3.9 The applicant shall demonstrate proper licensure by the Massachusetts Department of Public Health as part of its application for a special permit. All special permits granted pursuant to this Section shall include a condition requiring the RMD to maintain its license or registration in good standing at all times, and establish that any suspension or revocation of a license by the Massachusetts Department of Public Health shall constitute a violation of the special permit.
- 5.10.3.10 The term of the special permit shall be determined by the Planning Board but shall be limited to the duration of the applicant's ownership of, or tenancy at, the premises and shall not be transferable. The special permit shall lapse if not exercised within one year of issuance.

- 5.10.3.11 The hours of operation of RMDs shall be set by the Planning Board. In no event shall an RMD be open and/or operating between the hours of 8:00 p.m. and 8:00 a.m.
- 5.10.3.12 No smoking, burning or consumption of any product containing Marijuana or Marijuana-related products shall be permitted on the premises of an RMD.
- 5.10.3.13 In addition to signage required by law and/or as a condition of the special permit, a sign with the following language shall be posted at a conspicuous location at the public entrance to the RMD: “Registration card issued by the MA Department of Public Health required.” The required text shall be a minimum of two inches in height.
- 5.10.3.14 RMDs shall have a designated contact for purposes of communicating with the Town, and shall provide the Carlisle Police Department and the Building Commissioner with the name, phone numbers and email address of said contact, along with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.

5.10.4 Special Permit Procedures

- 5.10.4.1 Pre-Application Conference. Applicants are strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed application for a new RMD and to discuss in general terms the proposed RMD prior to the formal submission of an application.
- 5.10.4.2 Application, Review and Recommendations. An Applicant seeking a special permit under this section shall file a written application and submit a site plan to the Planning Board, furnishing a copy to the Town Clerk. The Planning Board shall promulgate or amend Rules and Regulations Regarding Special Permits for Medical Marijuana Treatment Centers (“Rules and Regulations”), which shall be consistent with this Section 5.10 of the Zoning Bylaw. The Rules and Regulations shall further detail the required contents of the application and the process for review of the special permit application. The application shall be submitted in accordance with the requirements of said Rules and Regulations. The applicant shall be required to pay such fees, as determined by the Planning Board, as are necessary to cover any expenses connected with a public hearing and review of the application, including but not limited to the costs of all notices and the employment of outside consultants. Copies of the application shall also be submitted to the Board of Selectmen, the Board of Health, Police Department, and contingent upon their respective jurisdictions over the site, to the Conservation Commission and /or Historical Commission. The foregoing agencies may make recommendations as they deem appropriate and shall send copies thereof to the Planning Board and the applicant; provided that failure of any such agency to make

recommendations within thirty five (35) days of receipt by said agency of the application shall be deemed lack of opposition thereto.

5.10.4.3 The application and each copy shall meet the application requirements for a special permit per Section 7.2 and as may be adopted by the Planning Board, and should include, at a minimum, the following information:

5.10.5.3.1 The name and address of each owner of the RMD;

5.10.5.3.2 Copies of all required licenses and permits for the RMD issued to the applicant by the Commonwealth of Massachusetts and any of its agencies;

5.10.5.3.3 Evidence that the Applicant has site control and the right to use the site for a RMD in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

5.10.5.3.4 In addition to what is normally required in a site plan, details showing all exterior proposed security measures for the premises, including, but not limited to lighting, fencing, gates and alarms to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity; and

5.10.5.3.5 A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of Marijuana for Medical Use and related products.

5.10.5 Notice and Hearing

The Planning Board shall give notice, in a manner provided by Chapter 40A of the General Laws, as amended, of a public hearing to be held within sixty five (65) days after filing of the application and shall act within ninety (90) days following the public hearing. Failure of the Planning Board to take action within said 90 days shall be deemed to be a grant of the permit applied for.

5.10.6 Approval and Findings

A special permit shall be issued under this section only if the Planning Board shall find that the project is in harmony with the general purpose and intent of this Section. Prior to the issuance of a special permit, the Planning Board shall make the following findings:

5.10.6.1 The RMD meets a demonstrated need;

5.10.6.2 The RMD satisfies the requirements of the zoning bylaw;

- 5.10.6.3 The RMD meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations;
- 5.10.6.4 The RMD is designed to minimize any adverse impacts on the residents of the Town with regard to the general safety, welfare, and quality of life in the community (such as, but not limited to, attractive nuisance and noise);
- 5.10.6.5 The RMD provides a secure indoor waiting area for qualifying patients;
- 5.10.6.6 The storage and/or location of cultivation of Marijuana is adequately secured in enclosed, locked facilities within the RMD; and
- 5.10.6.7 The RMD adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

5.10.7 **Abandonment or Discontinuance of Use**

An RMD shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state issued licenses or permits or within six months of ceasing operations, whichever comes first.

5.1 Residence District M - Multi-Dwelling Housing for the Elderly

5.1.1 Purpose

The purpose of Residence District M is to provide for the demonstrated needs of the Town for housing the elderly by making provision for appropriately located, specially designed and appropriately priced housing for occupancy by elderly persons who otherwise would not have such housing opportunities within the Town.

5.1.2 Designation of District

The Zoning District Map of the Town of Carlisle, referred to in Section # 2.2, is hereby amended by changing the following locus from General Residence District A to Residence District M:

A parcel of land located on the northeasterly side of Church Street in Carlisle and show as Lots No. 7 and 14-A on a plan entitled "Plan of Land on Church Street in Carlisle, Massachusetts, Lots No. 7-A, 7 and 14-A" by Cleverdon, Varney & Pike, Consulting Engineers, dated February 22, 1980, a copy of which is filed with the Town Clerk.

The parcel comprising Lots No. 7 and 14-A is bounded and described as follows, as shown on said plan:

SOUTHWESTERLY by Church Street 350.88 feet;

WESTERLY by Lot No. 7-A by three distances measuring, respectively, 133.28 feet, 83.87 feet and 125.23 feet;

NORTHERLY by land of the Town of Carlisle 201.37 feet;

EASTERLY by land now or formerly of White 244.20 feet

NORTHERLY again by said land now or formerly of White by two distances measuring, respectively, 147.61 feet and 163.23 feet;

WESTERLY again by said land now or formerly of White 13.21 feet;

NORTHERLY again by land now or formerly of Kennedy by two distances measuring, respectively, 42.87 feet and 90.13 feet and by land nor or formerly of the Roman Catholic Archbishop of Boston by three distances measuring, respectively, 26.77 feet, 77.03 feet and 9.43 feet;

EASTERLY again by land now or formerly of Wilkins (Porter) 171.41 feet;

SOUTHWESTERLY again by land now or formerly of the Town of Carlisle and Gill 310.05 feet;

EASTERLY again by said land now or formerly of Gill 21.99 feet;

SOUTHERLY by land now or formerly of Boynton 268.99 feet; and

SOUTHEASTERLY by said land now or formerly of Boynton 75.45 feet.

Lots No 7 and 14-A together contain 4.46 acres, more or less, according to said plan.

5.1.3 Uses Permissible on Special Permit in Residence District M

The use of land within Residence District M for multi-dwelling housing for the elderly is not permitted as of right but may be authorized by special permit as provided in Section # 5.1.4

5.1.4 Special Permit Procedure

5.1.4.1 Special Permit Granting Authority

The Planning Board is designated as the special permit granting authority for Residence District M.

5.1.4.2 Preliminary Plan

A Preliminary Development Plan shall be prepared for consideration by the Planning Board at least sixty (60) days before filing the application as set forth below. The plan shall show in a general manner, but to scale, the boundaries and topography of the tract; access and vehicular and pedestrian circulation; type and mass of buildings; wetland and watercourses; proposed grading, drainage and open space. In addition, the Planning Board may require such further data as proposed dwelling unit density, total floor area, dwelling size and parking areas to be shown on the plan.

5.1.4.3 Application, Review and Recommendations

A person desiring such a permit shall file a written application with the Planning Board, furnishing a copy to the Town Clerk.

The application and each copy shall be accompanied by a Final Development Plan which shall be prepared in the manner required for a Definitive Plan under the Planning Board's Rules and Regulations governing the subdivision of land and shall include:

- 5.1.4.3.1 A survey showing metes and bounds, and existing site features including wetlands and watercourses.
- 5.1.4.3.2 Site development plan with proposed grading, drainage, buildings, open space, location of drives, parking, walkways and buffer areas and any other items generally required for definitive plans.
- 5.1.4.3.3 Architectural plans, showing building locations, typical floor plans, elevations and landscaping.
- 5.1.4.3.4 Summary of building statistics indicating number of units, floor area, dwelling units per building and per acre, percentage of site coverage: provided that no Final Development Plan shall contemplate more than five (5) dwelling units per acre or more than two (2) bedrooms in any one dwelling unit.
- 5.1.4.3.5 Developer information giving a legal description of the development entity with documented financial information sufficient to establish the ability of the project to meet the purposes of the Residence District M classification and the developer's capability to complete all aspects of the project.

Copies of the application shall also be submitted to and reviewed by the Board of Selectmen and the Board of Health and, contingent upon their respective jurisdictions over the site, to the Conservation Commission and/or the Historical Commission. Such reviews may be held jointly. The foregoing agencies shall make such recommendations as they deem appropriate and shall send copies thereof to the Planning Board and to the applicant; provided that failure of any such agency to make recommendations within thirty-five (35) days of receipt by such agency of the application shall be deemed lack of opposition thereto.

5.1.4.4 Notice and Hearing

The Planning Board shall give notice, in the manner provided by Chapter 40A of the General Laws, as amended, of a public hearing to be held within sixty-five (65) days after the filing of the application and shall act within ninety (90) days following the public hearing. Failure by the Planning Board to take action within said ninety (90) days shall be deemed to be a grant of the permit applied for; otherwise, the issuance of special permits shall require a two-thirds vote of the Planning Board, failing which the permit shall be denied.

5.1.4.5 Necessary Findings

No special permit shall be granted hereunder unless the Planning Board shall make the applicable findings required by Section # 7.2.1 and shall further find that the multi-dwelling housing proposed by the applicant is consistent with the purpose of Residence District M set forth in Section # 5.1.1 and with the Preliminary Development Plan referred to in Section # 5.1.4.2 and, in particular that

5.1.4.5.1 The final Development Plan complies in all respects with the provisions of the general bylaws, including Articles IV and XI thereof, these zoning bylaws and the Regulations of the Board of Health.

5.1.4.5.2 The building and site layout are specially designed for the needs of the elderly and handicapped; access to the Town Center should be a major consideration.

5.1.4.5.3 The architectural design is in harmony with the scale, character and nature of the Town.

5.1.4.5.4 All improvements are place so as to preserve, as far as practicable, the unique natural features of the site, including watercourses, rock outcroppings, stone walls, major trees and wooded areas; and

5.1.4.5.5 The tract of land contains at least four (4) acres.

5.1.4.6 Conditions

The Planning Board may attach to special permits such conditions as, in its judgement, are designed to further the purposes set forth in Section # 5.1.1, and shall attach a condition limiting the occupancy of the housing to families at least one member of which is 62 years of age or older.

5.2 Wetland/Flood Hazard District

5.2.1 Definitions

5.2.1.1 Wetland/Flood Hazard District.

Wetland/Flood Hazard District is defined in Section # 2.2

5.2.1.2 Wetlands

Wetlands are wet meadows, marshes, swamps, bogs and wet areas of flowing or standing water. Wetlands are characterized by the presence of wetland soils and of plant communities which require the presence of water at or near the ground surface for a significant portion of the year.

5.2.1.3 Flood Hazard Areas

The special "flood hazard area" is the land within a community in the flood plain which is most likely to be subject to severe flooding.

5.2.1.4 FEMA Regulations

"FEMA Regulations" shall mean the provisions of 44 C.F.R. Ch. I, §§ 59 and 60 issued by the Federal Emergency Management Agency (FEMA), including but not limited to §§ 60.3(b), (c) and (d), related to emergency and flood plain management criteria for flood-prone areas.

5.2.2 Purposes

The purposes of the Wetland/Flood Hazard District are:

5.2.2.1 To provide that lands in the Town of Carlisle subject to seasonal or periodic flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof.

5.2.2.2 To protect, preserve and maintain the ground water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety of the residents of the Town.

5.2.2.3 To assure the continuation of the natural flow pattern of the water courses within the Town in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

5.2.2.4 To protect the community against the costs which may be incurred when unsuitable developments occur in wetlands, or flood hazard areas.

5.2.3 Overlying District

5.2.3.1 The Wetland/Flood Hazard District shall be considered as overlying other districts and any use permitted in the portions of the districts so overlaid shall continue to be permitted in the same manner, subject to the provisions of Subsections # 5.2.4 and # 5.2.5 below.

5.2.3.2 The portion of any lot within the area delineated on the Wetland/Flood Hazard District may be used to satisfy the dimensional requirements for the district overlaid.

5.2.4 Permitted and Prohibited Uses

In the Wetland/Flood Hazard District the following uses are permitted as of right, provided that any and all permits, orders, or approvals required by state or federal law shall have been obtained.

5.2.4.1 Outdoor agricultural uses as permitted by Section # 3.3.1.7, including drainage and ponding for strictly agricultural purposes as regulated under Chapter 131 of the General Laws, but excluding dumping or filling, or the covering of earth with impervious materials such as, but not limited to, permanent structures or pavement.

5.2.4.2 Non-conforming uses as permitted by Section # 6.1, including without limitation, maintenance of existing ponds and water control devices.

5.2.4.3 The following uses not involving the removal, transfer, relocation, dumping or filling of earth or other materials, nor the covering of earth with impervious materials, nor drainage, ditching, or diking.

5.2.4.3.1 Outdoor accessory uses as permitted in the underlying district.

5.2.4.3.2 Outdoor recreational uses, excluding permanent structures except those listed in 5.2.4.3.4 below, as permitted in the underlying district.

5.2.4.3.3 Conservation.

5.2.4.3.4 Foot, bicycle and horse paths and bridges; duck walks, duck blinds; piers and docks.

- 5.2.4.3.5 Outdoor storage of materials such as wood piles or hay and of equipment; temporary shelters such as tents; all as accessory to uses permitted in the underlying district, provided that any such storage between the Concord River and an elevation of 121 feet above sea level is secured to prevent its flotation.
- 5.2.4.4 The following uses involving the installation of impervious materials, or the removal of earth as permitted by # Article VIII of the general bylaws.
 - 5.2.4.4.1 Enlargement of the ground floor area of a residential structure in a Wetland/Flood Hazard District, subject to a determination by the Planning Board that all proposed utilities associated with the additional structure are located, elevated and constructed so as to minimize or eliminate flood damage and that proposed methods of disposal for sewage, refuse and other wastes and for providing drainage are adequate to reduce flood hazards provided the residence is otherwise permitted in the underlying district.
 - 5.2.4.4.2 Accessory structures not for human occupancy as permitted in the underlying district, provided these do not cover more than one hundred and eighty (180) square feet in the aggregate.
 - 5.2.4.4.3 Governmental uses related to water control or water supplies.
 - 5.2.4.4.4 Public fire holes and fire holes approved as part of a subdivision.
 - 5.2.4.4.5 Private water supplies and fire holes and ponds for recreational and scenic purposes, provided that such fire holes and ponds:
 - 5.2.4.4.5.1 are intended for the private use of the owner or owners of the land on which located;
 - 5.2.4.4.5.2 do not comprise more than 0.5 acre;
 - 5.2.4.4.5.3 comply with the requirements of Chapter 131, Section 40 of the General Laws.
 - 5.2.4.4.6 Unpaved access ways or unpaved accessory parking lots, substantially at grade.
 - 5.2.4.4.7 Private paved driveways where alternative means of access are inappropriate and not reasonable feasible.
 - 5.2.4.4.8 Paved roads constructed as part of an approved division or providing access to a governmental use.

5.2.4.5 In Zones AE, as defined by the FEMA Regulations, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels during the occurrence of the base flood discharge along watercourses that have a regulatory floodway designated on the Middlesex County FIRM.

5.2.5 Uses Permissible on Special Permit in the Wetland/Flood Hazard District

The Planning Board is designated as the special permit granting authority for the Wetland/Flood Hazard District and the performance of its functions hereunder shall be governed by the following provisions.

5.2.5.1 The Planning Board may authorize by special permit any of the following additional uses:

5.2.5.1.1 Private ponds and water control devices not permitted as of right.

5.2.5.1.2 Paved and/or elevated boat launching areas.

5.2.5.1.3 Accessory structures described in Subsection # 5.2.4.4.2 above, having an aggregate ground floor area in excess of one hundred and eighty (180) feet.

5.2.5.2 A person desiring such permit shall file a written application with the Planning Board containing a description of the proposed use or structure, accompanied by sufficient plans, maps, or other drawings to fully describe the proposal and shall forthwith furnish a copy thereof to the Town Clerk. Copies shall also be submitted to and reviewed by the Board of Selectmen, the Board of Health and the Conservation Commission. Such agencies shall make such recommendations as they deem appropriate and shall send copies thereof to the Planning Board and to the applicant; provided, however, that failure of any such agency to make recommendations within thirty-five (35) days of receipt by such agency of the application shall be deemed lack of opposition thereto.

The Planning Board shall give notice, in the manner provided by Chapter 40A of the General Laws, as amended, of a public hearing to be held within sixty-five (65) days after the filing of the application and shall act within ninety (90) days following the public hearing. Failure by the Planning Board to take action within said ninety (90) days shall be deemed to be a grant of the permit applied for; otherwise, the issuance of special permits shall require a two-thirds (2/3) vote of the Planning Board.

5.2.5.3 No special permit shall be granted under this paragraph # 5.2.5.1 of Section # 5.2.5 unless the Planning Board shall find that:

5.2.5.3.1 The proposed use will not be detrimental to the public health, safety and welfare, and will be in harmony with the general purpose and intent of this bylaw.

5.2.5.3.2 The proposed use will comply in all respects with the provisions of this bylaw that are applicable to the underlying district or districts within which the land is located.

5.2.5.4 The Board may further attach to special permits such conditions, safeguards and limitations on time and use as will insure, in its judgement, that the proposed use will not cause undue disruption of the natural flow, absorption and storage of water and will avoid the risks of pollution, siltation or flotation within the remainder of the Wetland District.

5.2.5.5 A special permit granted under this Section # 5.2 shall lapse if, within two (2) years from the grant thereof (not including such time as is required to pursue or await the determination of an appeal) a substantial use of the permit has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not sooner commenced except for good cause.

5.2.6 Special Permit for uses in Underlying Districts.

In addition to the uses described in # 5.2.5 a above, a special permit may be granted by the Planning Board with respect to a parcel of land for any and all uses permitted in the underlying district, subject to the following conditions:

5.2.6.1 The provisions of # 5.2.5.2, 4, and 5. shall apply.

5.2.6.2 The Planning Board shall make the findings required by # 5.2.5.3 above and shall also find that the land has been shown, on the basis of competent engineering data and/or observation, not to be unsuitable for the proposed use because of being subject to seasonal flooding, 100-year floods as defined by the Federal Flood Insurance Administration, or unsuitable hydrological and/or topographic conditions. Such data may include by are not limited to:

5.2.6.2.1 Seasonal flooding or permanent high water table as indicated by recorded observations of surface water during periods of high water and/or by typical wetland vegetation.

5.2.6.2.2 Evidence of pollution affecting underlying aquifers.

5.2.6.2.3 Calculations refining the Flood Insurance Rating Maps.

5.2.7 Base Flood Elevation and Floodway Data

5.2.7.1 In Zones A and AE, as defined by the FEMA Regulations, along watercourses that have not had a regulatory floodway designated,

encroachments are prohibited in regulatory floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

5.2.7.2 Base flood elevation data is required for all new subdivision proposals and other new proposed developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

5.2.8 Subdivision Proposals and Developments in Flood-Prone Areas

All subdivision proposals wholly or partially in Zones A and AE shall be designed to assure that:

- (i) such proposals minimize flood damage;
- (ii) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- (iii) adequate drainage is provided to reduce exposure to flood hazards.

5.2.9 Notification of Watercourse Alteration

In a riverine (meaning relating to, formed by, or resembling a river, tributary, stream or brook) situation, the Town Administrator or his agent shall notify adjacent communities and the NFIP State Coordinator and NFIP Program Specialist at the following addresses of any alteration or relocation of a watercourse.

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

5.2.10 FEMA Regulations

Notwithstanding any provision in this Section # 5.2 to the contrary, if any provisions of this Section #5.2 are inconsistent with the FEMA Regulations, then to the extent they are inconsistent the provisions of the FEMA Regulations shall govern; except, however, to the extent the Town, acting through its applicable permit granting authority, determines that such provisions of this Section 5.2 inconsistent with the FEMA Regulations are more stringent than the FEMA Regulations, then the provisions of this Section # 5.2 shall govern.

Prior to any new (i) construction, (ii) substantial improvements, or (iii) other developments being undertaken or implemented wholly or partially within the

Wetland/Flood Hazard District, all persons undertaking or implementing such construction, improvements, or developments shall ensure that the same comply with the FEMA Regulations, and any permit, special permit, variance, order, license or other approval issued pursuant to the Town’s Zoning Bylaws and related to new (i) construction, (ii) substantial improvements, or (iii) other developments undertaken or implemented wholly or partially within the Wetland/Flood Hazard District, may, in addition to other conditions and requirements, include a condition requiring compliance with the FEMA Regulations (but shall not be necessary to be included to require such compliance).

5.3 Parking and Loading

5.3.1 There shall be provided and maintained on all premises, off-street automobile parking space adequate in area to accommodate under all normal conditions the cars of occupants, employees, members, customers, clients, or visitors of the premises, as the case may be.

5.3.2 Specifically, whenever a building or use is constructed, reconstructed, established, or expanded so as to increase its floor area or design capacity, there shall be provided on the same lot a sufficient number of open or covered parking spaces to satisfy the following requirements for the new or increased floor area or design capacity:

Uses	<u>Spaces Required</u>
Per dwelling unit	2 ¹
All other places with sleeping accommodations, (dormitories, hospitals, etc.)	1 for each 2 beds
Places of public assembly	1 for each 3 seats ²
Funeral homes	1 for each 3 seats
Nonprofit club	1 for each 3 seats
Retail stores	6.6 spaces per 1,000 sq. ft. of gross floor area

¹ If to be occupied by a 1 or 2 person family whose head is age 65 or older, may be reduced to one per dwelling unit. In Residence District M, may be reduced to .75 per dwelling unit with approval of Planning Board.

² Here and elsewhere in this section, "seats" may be interpreted to mean "persons to be accommodated" where specific sitting areas are not set aside or do not reflect design capacity.

Service establishments	6.6 spaces per 1,000 sq. ft. of gross floor area
Business, or professional office, bank	6.6 spaces per 1,000 sq. ft. of gross floor area
Schools	2.0 for each classroom
Light manufacturing or wholesaling	1.0 for each employee in a maximum working shift plus a space for each company owned vehicle

5.3.3 A parking space shall mean a specified rectangular area of not less than 9X20 feet accessible from an access driveway laid out in full recognition of vehicular and pedestrian safety. No space shall be entered directly from a public way.

5.3.4 Parking area shall mean the collective spaces for parking and the aisles directly serving them. Driveways leading from the street to parking areas shall not be considered part of such parking areas unless they also serve as aisles directly serving parking spaces.

5.3.5 Any off-street parking area located in a general residence district accommodating more than three automobiles shall be placed at least forty (40) feet from all street and lot lines and shall, if visible at normal eye level from any point on any abutting lot within forty (40) feet of the lot line, be screened from such view by a dense evergreen planting, fence, or other suitable barrier.

Any such parking area located in a business district accommodating more than three (3) automobiles shall be placed at least twenty (20) feet from all lot lines adjoining residential districts. When adjoining residential premises, a business parking or loading area shall be screened from the residential premises in the same manner as described above.

5.3.6 Parking for a business use shall not be located in a residence district except as provided in Section # 2.4 or as may be authorized by special permit issued under Section 3.2.4 for a distinctive structure.

5.3.7 Access driveways serving spaces shall be twenty-two (22) feet wide if designed for two-way traffic, or the following widths in the case of one-way traffic.

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	12 feet
30 to 45 degrees	15 feet
46 to 60 degrees	18 feet
61 to 90 degrees	22 feet

- 5.3.8 Off-street loading bays shall be required for buildings of 5,000 square feet of area or larger. One loading bay shall be provided for the first 5,000 to 20,000 square feet of building area plus one additional bay for each additional 50,000 square feet of area. Loading bays shall be not less than 12 feet by 30 feet in size and shall be designed to permit loading and unloading operations without interfering with areas set aside for parking and access by the general public.
- 5.3.9 Lighting used to illuminate parking and loading areas shall be directed as to prevent glare from the light source into any public way or onto adjacent property. (See also Section # 3.3.3)
- 5.3.10 Surfacing of parking and loading areas shall be of durable, dust-free, all-weather materials and shall provide drainage of surface water in a manner which does not deposit water on public ways or adjacent private property.
- 5.3.11 The Board of Appeals may grant a use variance for the number of parking spaces required under this section in all business districts upon the showing of competent evidence that the specific business use proposed will not need parking to the extent required, or that part of the required parking will be permanently accommodated at another site, or at times when on-site parking provided for other uses is unoccupied.

5.4 Private Driveways

5.4.1 Purpose

It is the purpose of this Section # 5.4 to provide all lots safe and convenient access so as to secure safety in case of fire, flood, panic, and other emergencies.

5.4.2 Location

Except as provided in Section # 5.4.4, a private driveway shall be located entirely within the lot that it serves and shall not serve another lot.

5.4.3 Drainage

Private driveways shall be configured to prevent the flow of water and water-borne debris both onto the public way from the driveway and onto the driveway from the public way. This shall not prevent a portion of the driveway apron within the public right-of-way from sloping towards the public roadway.

5.4.4 Special Permits

The Planning Board may authorize by special permit, subject to the applicable provisions of Section # 7.2, the construction or alteration of a private driveway in such a manner that it may be shared by more than one lot, but not more than six lots, within which it is entirely contained. The planning Board shall impose such conditions, to be made a part of the special permit, as in its opinion are necessary to provide sufficient access for fire, police, ambulance/rescue and other vehicles, including conditions that assign responsibility for maintenance, snow removal and drainage. The special permit, by its terms, shall run with the land and shall not

become effective until a copy, certified by the Town Clerk as provided by Chapter 40A, Section 11 of the General Laws, has been recorded with Middlesex North District Registry of Deeds.

5.5 Conservation Clusters

A lot in Residence District B may meet the dimensional requirements for the construction of a single family dwelling if said lot is located in a Conservation Cluster, as hereinafter defined, although said lot does not meet the size, frontage, and shape requirements of Sections # 4.1.1, #4.1.2, and #4.1.3 of these zoning bylaws. For the purposes of this section, a Conservation Cluster is a division of land into building lots and Open Space, as hereinafter defined, in accordance with the requirements of this Section. As used herein, the term "Open Space" shall mean any land within the Conservation Cluster which is not designated as a building lot and encompasses the "natural resource", as also hereinafter defined, for which preservation would be accomplished by the grant of a special permit hereunder.

5.5.1 Purpose

The purpose of this Section is to provide a method for the preservation of natural resources which would not otherwise be preserved when private landowners seek to divide their land into building lots. A "natural resource" means open space, agricultural land or point of historic interest which serves one or more of the following objectives:

5.5.1.1 Maintain the rural or historic character of the Town.

- 5.5.1.1.1 Preserve the most significant woods, fields and streams.
- 5.5.1.1.2 Protect selected views, vistas and buffer areas.
- 5.5.1.1.3 Protect points of historic interest.

5.5.1.2 Maintain the shape, image and function of the Town center.

- 5.5.1.2.1 Preserve and enhance open space within or near the center.
- 5.5.1.2.2 Preserve the natural and historic backdrop around the center

5.5.1.3 Protect natural resources, especially water supplies.

- 5.5.1.3.1 Protect individual well water supplies.
- 5.5.1.3.2 Preserve natural habitats.
- 5.5.1.3.3 Provide for conservation management.
- 5.5.1.3.4 Protect watershed areas.

5.5.1.4 Improve facilities for active and passive recreation.

- 5.5.1.4.1 Provide suitable areas for active sports.
- 5.5.1.4.2 Expand areas for passive recreation
- 5.5.1.4.3 Encourage linkage of conservation land.

5.5.1.5 Encourage preservation of agriculture.

- 5.5.1.5.1 Protect farmland from development.
- 5.5.1.5.2 Encourage active farming.

5.5.2 Requirements

Any person seeking to divide a parcel of land having ten (10) or more acres, and having one or more natural resources which merit preservation, may apply to the Planning Board for a special permit under this Section to have the parcel designated as a Conservation Cluster.

Each application for a special permit hereunder shall be accompanied by a plan of the land, showing division thereof pursuant to the Approval Not Required procedures promulgated by the Planning Board under M.G.L. c. 41 Sections 81 L and 81 P, which plan shall demonstrate how division of the land would be accomplished in accordance with the requirements of Sections # 4.1.1, # 4.1.2, and # 4.1.3 of these Zoning Bylaws and without resort to this Section. The applicant shall identify on the plan the natural resource or resources of which preservation will be accomplished if a special permit is granted hereunder.

Notwithstanding the requirements of Sections # 4.1.1, #4.1.2, and # 4.1.3 of these zoning bylaws, the Planning Board may grant a special permit which allows certain lots (hereinafter referred to as "building lots") within a Conservation Cluster to meet area, frontage, and shape requirements for lots laid out as dwelling sites, provided:

- 5.5.2.1 The total area of land included within the parcel to be designated as a Conservation Cluster contains ten (10) acres or more;
- 5.5.2.2 The maximum number of building lots shall not exceed one plus the number of building lots into which the requirements of Sections # 4.1.1, #4.1.2, and #4.1.3 of these Zoning Bylaws and the provisions of M.G.L. c 41, section 81L without being considered a "Subdivision" thereunder; provided, however, that in determining the number of building lots into which the parcel could otherwise be divided, each building lot therein shall have at least three-quarters (3/4) of an acre of contiguous land which is not in a Wetland/Flood Hazard District, as defined in Section # 2.2 of the zoning bylaws.
- 5.5.2.3 Every building lot shall have an area of at least two (2) acres;
- 5.5.2.4 Every building lot shall have:
 - 5.5.2.4.1 the site of the dwelling completely within an ellipse, which ellipse shall
 - 5.5.2.4.1.1 be completely within the lot;
 - 5.5.2.4.1.2 have an area of at least 1.12 acres; and
 - 5.5.2.4.1.3 have a minor diameter of at least one hundred fifty feet (150')

- 5.5.2.4.2 a minimum street frontage of not less than twenty (20) feet, and
- 5.5.2.4.3 a minimum width of twenty (20) feet between the street which provides its frontage and the site of the dwelling thereon;
- 5.5.2.5 Open space within the Conservation Cluster is in a location, is of a size and shape and has a means of access approved by the Planning Board and its area equals or exceeds thirty (30%) percent of the parcel to be designated as a Conservation Cluster; provided, however, that not more than half of the thirty (30%) percent minimum shall include land within the Wetland/Flood Hazard District;
- 5.5.2.6 A Conservation Cluster shall be separated from adjacent property and other Conservation Clusters by intervening open space and adequate setbacks;
- 5.5.2.7 All open space is either:
 - 5.5.2.7.1 conveyed to the Town of Carlisle and accepted by it for park or open space use or
 - 5.5.2.7.2 conveyed to a non-profit organization the principal purpose of which is the conservation of open space or
 - 5.5.2.7.3 held in corporate or trust ownership by the owners of building lots within the development (or adjacent thereto, if admitted to the corporation).
- 5.5.2.8 In the case of corporate or trust ownership, beneficial rights in said open space shall be deeded to the owners and a restriction enforceable by the Town pursuant to M.G.L. Ch. 184, Section 32 providing that such land shall be kept in open or natural state shall be recorded at the Middlesex North District Registry of Deeds. All deed restrictions with respect to ownership, use and maintenance of open space shall be subject to approval by the Planning Board and thereafter referenced on, and recorded with, the special permit and the plan;
- 5.5.2.9 Wherever possible, all building lots within the Conservation Cluster shall be served by common driveways for which special permits shall be sought in accordance with the requirements of Section # 5.4, but, notwithstanding the limitation of Section # 5.4, the Planning Board may allow the number of lots in a Conservation Cluster to be served by a common driveway to be the maximum number allowed by Section # 5.4 plus one. The Planning Board shall impose conditions prohibiting the construction of any driveway or other means of access to building lots in the Conservation Cluster apart from the common driveway;

5.5.2.10 The developer shall, by appropriate restrictions or covenants which shall run in favor of the town and the owners of the open space, prohibit further division of the land within the Conservation Cluster.

5.5.3 Planning Board Action

The Planning Board shall notify the Conservation Commission, the Board of Health, the Historical Commission and the Selectmen of the application for a special permit hereunder and allow them a reasonable time to inspect and comment upon said application. The Planning Board may grant a special permit under this Section upon written findings that the request is compatible with the purpose of this Section, meets the minimum requirements hereunder and will in fact result in the preservation of a particularly identified natural resource upon the parcel for which the special permit is granted.

5.6 Accessory Apartments

5.6.1 Purpose

To increase the availability of moderately priced housing for town employees, the young, the elderly, people of low and moderate income, and dependent relatives of town residents by permitting the creation of accessory apartments by:

- 5.6.1.1 Providing an opportunity for homeowners who can no longer physically or financially maintain their single family home to remain in homes that they might otherwise be forced to leave;
- 5.6.1.2 Making housing units available to low and moderate income households who might otherwise have difficulty finding homes within the town;
- 5.6.1.3 Provide a variety of housing to meet the needs of its residents;
- 5.6.1.4 Protect stability, property values, and the single-family residential character of a neighborhood;
- 5.6.1.5 Legalize conversions to encourage the Town to monitor conversions for compliance with the State Building Code; and
- 5.6.1.6 Create incentives and modify regulations to encourage the creation of affordable accessory apartments that will count towards meeting the Town's Planned Production goals under the provisions of MGL Chapter 40B.

5.6.2 Considerations

The Town has limited water resources, lacks a significant aquifer, does not have municipal water and sewage systems, and as a result, must be sensitive to the burden and impact of any increase in housing density. Limiting the number of the accessory apartments is intended to minimize the impact on those finite resources,

although the scope of the impact hereunder is believed to be offset by the public benefit afforded by this permitted use.

5.6.3 Definitions

5.6.3.1 An "accessory apartment" is a distinct portion of a single-family dwelling, having its own kitchen and bathroom facilities, and subordinate in size to the principal part of said dwelling.

5.6.3.2 An "affordable accessory apartment" ("AAA" unit) is a distinct portion of a single-family dwelling, a unit in an accessory structure on a single family lot, or a unit accessory to a non-residential use, in all cases having its own kitchen and bathroom facilities, being subordinate in size to the principal part of said dwelling or structure, and meeting the affordability requirements under the provisions of MGL Chapter 40B.

5.6.4 Special Permits

An owner or owners may apply to the Planning Board for a special permit for the construction and occupancy of one (1) accessory apartment or AAA unit (as defined in Section 5.6.3) in a single-family or in a non-residential structure, the accessory apartment thus created being hereinafter referred to in this subsection #5.6 as an apartment.

5.6.5 Procedure

The Planning Board shall notify the Board of Health of the application for a special permit hereunder and allow them a reasonable time to inspect and comment upon said application. The Planning Board may grant a special permit under this Section upon findings that the request is compatible with the purpose of this Section, meets the minimum requirements hereunder.

After notice and public hearing as may be required by the General Laws of the Commonwealth, the Planning Board may grant such a special permit for the creation of an accessory apartment provided that:

5.6.5.1 no more than 75 special permits for accessory apartments shall be issued;

5.6.5.2 the apartment is accessory to the principal residence and will be a complete, separate housekeeping unit that functions as a separate unit from the original single-family dwelling. AAA units may be placed in detached structures, including pre-existing structures and new structures, providing the new structures are appropriate to the single family character of the neighborhood and comply with all other provisions of the zoning bylaws.

5.6.5.3 the floor area of the apartment does not exceed 1200 square feet;

- 5.6.5.4 the floor area of the apartment is less than 35% of the floor area of the principal residence and the proposed apartment combined, as measured after conversion, except that for AAA units, the floor area is less than 50% of the floor area of the single family structure or non-residential structure and the proposed apartment combined.
- 5.6.5.5 either the apartment or the principal residence is occupied by the owner(s) of the lot on which the apartment is to be located, except for bona fide temporary absences. If the lot on which the apartment is to be located is owned by the Town of Carlisle or used for non-residential purposes, the owner-occupancy requirement of this paragraph shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Carlisle or used for non-residential purposes.
- 5.6.5.6 adequate provision has been made for the disposal of sewage, waste and drainage generated by the occupancy of such apartment in accordance with the requirements of the Commonwealth or the Carlisle Board of Health, whichever is applicable;
- 5.6.5.7 in consideration of the neighborhood and the existing access to the street of the single family dwelling adequate provision has been made for ingress and egress to the apartment from said street;
- 5.6.5.8 the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located or injurious to persons or property;
- 5.6.5.9 the lot on which the apartment and principal residence are located contains at least two (2) acres; except that an AAA unit shall be permitted on any legal building lot provided the owner complies with all other provisions of the zoning bylaw.
- 5.6.5.10 no more than two bedrooms are allowed for lots less than three (3) acres in area;
- 5.6.5.11 adequate provision has been made for off street parking of motor vehicles in such a fashion as is consistent with the character of a single family residence;
- 5.6.5.12 there is no other apartment on the lot on which the apartment is to be located;
- 5.6.5.13 the external appearance of said house before or after the creation of the apartment is that of a single family residence. In general, any new entrances shall be located on the side or rear of the building. Any new additions or structures associated with the AAA unit may be permitted providing they are appropriate to the character of the principal residence; and
- 5.6.5.14 the construction of any accessory apartment must be in conformity with the State Building Code requirements.

- 5.6.6 No accessory apartment shall be used unless the owner or owners of the building have a permit issued hereunder or as otherwise provided in the Bylaws. The renewal of any accessory apartment permit previously granted shall not be denied by reason of amendments to Section #5.6 after the granting of the original permit, notwithstanding the failure of the apartment to conform to said Section as thus amended.
- 5.6.7 A special permit granted under this Section #5.6 shall lapse if, within one (1) year from the grant thereof (not including such time as is required to pursue or await the determination of an appeal) a substantial use of the permit has not sooner commenced except for good cause.
- 5.6.8 The special permit shall not become effective until a copy, certified by the Town Clerk as provided by Chapter 40A, Section 11 of the General Laws, has been recorded with Middlesex North District Registry of Deeds.
- 5.6.9 For AAA units, a Deed Restriction/Regulatory Agreement (“Agreement”) with the following provisions shall be signed and recorded with the Middlesex North Registry of Deeds by the owner of an AAA unit:
- 5.6.9.1 The Agreement is for a minimum of 15 years.
- 5.6.9.2 The Agreement will terminate upon sale of the property, provided, however, that the new owner may elect to keep the Agreement in force and effect by executing a notice to that effect, provided that said new owner applies for and is or has been granted reapproval of the special permit in accordance with the provisions of Section 5.6.10. Such reapproval of the special permit shall be recorded with the Registry of Deeds simultaneously with the above notice. Absent such reapproval of the special permit by the Planning Board pursuant to an application by the new owner or owners, the apartment must be removed
- 5.6.9.3 An owner may terminate the Agreement prior to its expiration, which will revoke the special permit. Thereupon, the apartment must be removed unless the owner applies for and receives a new special permit,
- 5.6.9.4 Upon termination of this Agreement, additional restrictions shall apply regarding repayment to the Town of any funds received from the Town pursuant to a grant or loan agreement,”
- 5.6.9.5 An owner must rent to income-qualified tenants selected through an open process to be defined by the Local Initiative Program (760 CMR 45.03) guidelines,
- 5.6.9.6 An owner must set the rent according to the methodology prescribed in the Local Initiative Program guidelines.

5.6.10 The special permit authorizing an accessory apartment shall terminate upon the sale of the property or transfer of title of the building; provided, however, that a sale or transfer of title shall not dispossess the then resident(s) of the accessory apartment of their tenancy. The new owner or owners may apply for a reapproval of the special permit which, if the Planning Board finds that conditions at the time of the original application remain substantially unchanged, shall be approved without a hearing. A special permit granted hereunder shall not terminate upon a transfer of title which converts an owner's individual title to a tenancy by the entirety or a joint tenancy for the owner and his or her spouse or to otherwise provide for said spouse to share in the ownership of the property.

5.6.11 The Planning Board shall adopt reasonable rules and regulations for the submission of applications for a special permit hereunder. Said rules and regulations shall be concise, easily understood and will contain a step by step explanation of the procedure to obtain the special permit. In order to assure that such rules and regulations may be easily understood and followed, the Planning Board will submit them to and consult with the Housing Authority, the Council on Aging, the Building Inspector, the Board of Health and the Selectmen and allow a reasonable time before adoption by the Planning Board for such boards to comment.

5.6.12 The Carlisle Housing Authority shall adopt reasonable guidelines for administering and monitoring AAA units in accordance with the Local Initiative Program.

5.7 Senior Residential Open Space Community

Tracts of land in Residence District B may be considered eligible for this special permit.

5.7.1 Purpose

The Senior Residential Open Space Community is intended: to encourage residential development which meets the physical, emotional and social needs of senior citizens, and to encourage the preservation of rurality, open areas and natural settings, and to encourage energy efficient and cost effective residential development.

5.7.2 Definition

For the purposes of this section, dwelling unit is defined as a portion of a building, which portion is designed as the residence of one family.

5.7.3 Special Permit Granting Authority

The Planning Board shall be the Special Permit Granting Authority for the purposes of this section. It will develop rules and regulations governing the process whereby the special permit for a Senior Residential Open Space Community may be granted.

5.7.4 Conditions for Grant of Special Permit

In order to grant a permit for a Senior Residential Open Space Community, the Planning Board must find:

- 5.7.4.1 That the number of dwelling units will be no greater than 1.5 times the number of lots which the Planning Board, incorporating wetland considerations, determines would be allowed on the parcel were it to be developed as a subdivision according to the Rules and Regulations for the Subdivision of Land in Carlisle; but that the number of dwelling units will not exceed one half the number of acres in the tract.
- 5.7.4.2 That the total number of dwelling units permitted under this bylaw has not exceeded 3% of the total number of constructed dwelling units in the Town.
- 5.7.4.3 That the total tract area is at least 10 acres.
- 5.7.4.4 That the width of any lot shall be at least 40 feet between the point of physical access on a way which is acceptable for frontage under Chapter 41 and any building containing a dwelling unit.
- 5.7.4.5 That the entire Senior Residential Open Space Community tract is separated from adjacent property by intervening Open Space.
- 5.7.4.6 That the Open Space shall constitute at least 1.2 acres for every dwelling unit.
- 5.7.4.7 That the Open Space meets at least one of the following criteria:
 - 5.7.4.7.1 It preserves some component of Carlisle's farm community, such as agricultural fields.
 - 5.7.4.7.2 It preserves areas of open meadow, woodland, water bodies or ecotone.
 - 5.7.4.7.3 It creates or preserves vistas or buffer areas.
 - 5.7.4.7.4 It preserves valuable habitat for identifiable species of fauna and flora.
 - 5.7.4.7.5 It preserves an artifact of historic value.
- 5.7.4.8 That the Open Space is of such shape, size and location as are appropriate for its intended use. In making this finding, the Planning Board may find it appropriate that the Open Space be used, in part, to create a visual buffer between the Senior Residential Open Space Community and abutting uses, and for small structures associated with allowed uses of the Open Space.
- 5.7.4.9 That the Open Space does not include any residential structures, or any appurtenant structures such as carports, septic systems, roads, driveways or parking, other than those which the Planning Board may allow under #5.7.4.8 above.

- 5.7.4.10 That the Open Space shall be conveyed to the Town of Carlisle for park or open space use, or conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or conveyed to a corporation or trust composed of the owners of units within the Senior Residential Open Space Community. In the case where such land is not conveyed to the Town, the Board must find that beneficial rights in said Open Space shall be deeded to the owners, and a permanent restriction enforceable by the Town pursuant to M.G.L. Ch. 184, Section 32, providing that such land shall be kept in open or natural state, shall be recorded at the Middlesex North District Registry of Deeds.
- 5.7.4.11 That access from a way, of suitable width and location, has been provided to the Open Space.
- 5.7.4.12 That the Senior Residential Open Space Community will be composed of attached dwelling units which nevertheless reflect, in size and architecture, the character of Carlisle's single family residences. The buildings shall not have the appearance of apartments.
- 5.7.4.13 That each building in the Senior Residential Open Space Community has no more than four dwelling units, averaging no more than two bedrooms each, that no unit has more than three bedrooms, and that no building measures more than 6000 square feet. This calculation includes the area within the building that may be devoted to garage spaces.
- 5.7.4.14 That all residential buildings will have safe access from ways.
- 5.7.4.15 That provision has been made for at least two parking spaces per unit inclusive of any garage spaces.
- 5.7.4.16 That all residential buildings are located at least 100 feet from the boundary of the land subject to this special permit, and at least 50 feet from the Open Space, and at least 30 feet from other residential buildings.
- 5.7.4.17 That a Homeowners' Association will be formed which will have the legal responsibility for the management and maintenance of the development. This responsibility includes but is not limited to exterior maintenance of buildings, plowing, driveway, parking lot and road maintenance, landscape maintenance, and maintenance of common utilities, including septic systems and wells. In addition, the Homeowners' Association must accept responsibility for the maintenance of the Open Space if the Open Space is to be conveyed to a corporation or trust either of which is composed of unit owners.
- 5.7.4.18 The following age restrictions shall apply:

5.7.4.18.1 That each dwelling unit shall have in residence at least one person who has reached the age of 55 within the meaning of M.G.L.c.151B section 4, paragraph 6, and 42 USC section 3607(b)(2)(C).

5.7.4.18.2 That no resident of a dwelling unit shall be under the age of 18.

5.7.4.18.3 That in the event that there is no longer a qualifying resident of a unit, a two-year exemption shall be allowed for the transfer of the unit to another eligible household pursuant to Section 5.7.4.18.1

5.7.4.18.4 All condominium deeds, trusts or other documents shall incorporate the age restrictions contained in this Section 5.7.4.18.

5.7.5 Submission Requirements

An applicant which desires a Special Permit under this section shall submit an application to the Town Clerk and to the Planning Board, accompanied by the following plans and documents:

5.7.5.1 A plan of the whole tract giving such information as the Planning Board requires in order to determine how many lots would be allowed were the tract to be divided under the Rules and Regulations Governing the Subdivision of Land in Carlisle.

5.7.5.2 A Land Use Plan for the entire Senior Residential Open Space Community, drawn in accordance with the rules and regulations of the Planning Board, which includes, but is not limited to, the following information: 1) the location, size, ownership, and uses of the proposed Open Space, designating the natural resources to be preserved; 2) the location and form of the access to the Open Space; 3) the lots to be developed; 4) a table including the number of residential buildings and dwelling units proposed, the maximum number of bedrooms, and the square footage of each dwelling unit and building; 5) the layout and placement of all roads, driveways, access ways, parking spaces, residential buildings, accessory buildings, septic tanks, leaching fields,

wells, and any other proposed construction, including landscaping and lighting; 6) typical architectural plans and renderings, including plan, elevation and perspective views of a typical Senior Residential Open Space Community building; and 7) draft documents for the conveyance of the Open Space if it is to be given to the Town, or permanent restriction if it is not to be conveyed to the Town, a Homeowners' Maintenance agreement, an Open Space Maintenance Agreement, and a document detailing the ownership and maintenance of common areas.

5.7.6 Additional Conditions

- 5.7.6.1 Lots subject to a special permit under Section #5.7 shall be exempt from Sections #4.1, #4.2, and #4.3 of these zoning bylaws.
- 5.7.6.2 As a condition of approval, the Board may require such changes in the proposed development plans and may impose such conditions and safeguards as it deems necessary to secure the objectives of this bylaw, and to protect the health, safety and welfare of the inhabitants of the neighborhood and of the Town of Carlisle.
- 5.7.6.3 No tract for which a special permit under this Section #5.7 has been granted shall be further subdivided unless and until the special permit lapses.
- 5.7.6.4 Change in Plans after grant of Special Permit

No change in any aspect of the approved plans shall be permitted. A new special permit will be required for any change.
- 5.7.6.5 Notwithstanding the requirements of Section #7.2, a special permit granted under this section shall lapse if, within two years from the grant thereof, a substantial use of the permit has not commenced. The Planning Board may extend the special permit for a period of no more than two years if it finds good cause.

5.8 Solar Photovoltaic Overlay District

5.8.1 The purpose of this Section 5.8 is to promote the creation of new large-scale Ground-Mounted Solar Photovoltaic Facilities by: establishing a Solar Photovoltaic Facility Overlay District for construction of a Ground-Mounted Solar Photovoltaic Facility; providing standards for the placement, design, construction, operation, monitoring, modification and removal of such facilities, which standards address public safety and minimize impacts on scenic, natural and historic resources; and providing adequate financial assurance for the eventual decommissioning of such facilities.

5.8.2 Definitions. As used in this Section, the following terms shall have the meanings indicated:

Ground-Mounted Solar Photovoltaic Facility or “Facility”– A solar photovoltaic system and all associated equipment and structures which has a minimum nameplate capacity of 250 kW DC that is structurally mounted on the ground, and is not larger than 1.5 acres in aggregate.

5.8.3 Modifications. All provisions of this Section also pertain to physical modifications that materially alter the type, configuration, or size of a Ground-Mounted Solar Photovoltaic Facility.

5.8.4 Location. The Solar Photovoltaic Facility Overlay District shall consist of an area of approximately 7 acres comprised of Assessor's Map 21 Parcels 10 & 11 and a 200 ft x 200 ft portion of Map 20 Parcel 1 along its boundaries with Map 21 Parcels 10 & 9, which shall be shown on a map entitled "Property Maps, Carlisle, Massachusetts." The location of renewable energy generation facilities in the form of a Ground-Mounted Solar Photovoltaic Facility shall be permitted as of right in this district.

5.8.5 Site Plan Review. No building permit shall be issued for a Ground-Mounted Solar Photovoltaic Facility and no modifications as described in Section 5.8.3 above shall be allowed without prior approval by the Board of Selectmen pursuant to the Site Plan Review process set forth in Section 7.6 of these Bylaws. Notwithstanding Section 7.6.2 of these Bylaws, (1) the Board of Selectmen shall not take final action on an application for a Ground-Mounted Solar Photovoltaic Facility until it has received a report and recommendation from the Planning Board and (2) a Site Plan shall be deemed constructively approved if not acted upon within one year after submission of complete plans and other materials required by Section 7.6 of these Bylaws.

5.8.5.1 Applications for Site Plan Review shall include evidence that the utility company that operates the electrical grid where the Facility is to be located has been informed and consents to the Ground-Mounted Solar Photovoltaic Facility owner's or operator's plan to connect to the electrical grid. Off-grid systems are exempt from this requirement.

5.8.6 Compliance with Laws. The construction and operation of a Ground-Mounted Solar Photovoltaic Facility shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of or associated with a Ground-Mounted Solar Photovoltaic Facility shall be constructed in accordance with the State Building Code.

5.8.7 Dimensional and Other Requirements. The height of all structures comprising a Ground-Mounted Solar Photovoltaic Facility shall not exceed 12 feet above the pre-existing natural grade. For a Ground-Mounted Solar Photovoltaic Facility, all setbacks from lot lines shall be at least 40 feet. As part of Site Plan Review, the Board of Selectmen may require larger setbacks if appropriate for screening, provided, however, that such larger setbacks shall not have the effect of rendering a Ground-Mounted Solar Photovoltaic Facility infeasible.

5.8.7.1 All structures included within a Ground-Mounted Solar Photovoltaic Facility shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking,

and building coverage requirements. All such structures, including but not limited to equipment shelters, storage facilities, transformers, and substations shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to minimize adverse visual impacts.

5.8.7.2 All utility connections to the Ground-Mounted Solar Photovoltaic Facility shall be via underground lines. Electrical transformers for utility interconnections may be above ground if required by the utility provider; however, they shall be screened from view.

5.8.7.3 Lighting of a Ground-Mounted Solar Photovoltaic Facility shall be consistent with local, state, and federal law. Lighting of other parts of the Facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the Facility shall be directed downward and away from residential structures and shall incorporate full cut-off fixtures to reduce light pollution.

5.8.7.4 A sign at the Facility shall be required to identify the owner and operator of the Facility and provide a 24-hour emergency contact phone number. The Facility shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Facility.

5.8.7.5 The Facility owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Carlisle Fire Department. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Facility shall be clearly marked. The owner or operator shall identify and provide the Town with contact information for a responsible person for public inquiries throughout the life of the Facility.

5.8.7.6 Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Ground-Mounted Solar Photovoltaic Facility, or otherwise prescribed by applicable laws, regulations, and bylaws.

5.8.8 Maintenance. The owner, operator, successors, and assigns of the Ground-Mounted Solar Photovoltaic Facility shall maintain the Facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and ensuring the integrity of security measures, and otherwise shall be maintained as set forth in any Operations and Maintenance Plan approved pursuant to Site Plan Review. Site access shall be maintained by the owner or operator of the Facility at its sole cost, unless any access road(s) are accepted as a public way.

5.8.9 Abandonment or Decommissioning

5.8.9.1. Removal Requirements: Any Ground-Mounted Solar Photovoltaic Facility that has reached the end of its useful life or has been abandoned consistent with sub-section 5.8.9.2 of this section shall be removed. The owner or operator shall physically remove the Facility no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning of the Facility shall consist of:

- a. Physical removal of the Facility and all associated structures, equipment, security barriers, and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. With prior written authorization from the Board of Selectmen, the owner or operator of the Facility may leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

5.8.9.2 Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Facility shall be considered abandoned when it fails to operate for more than one year without the written consent of the Board of Selectmen. If the owner or operator of the Facility fails to remove the Facility in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the Facility.

5.8.9.3 Financial Surety: The owner or operator of the Facility shall provide a form of surety acceptable to the Board of Selectmen, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the Facility and restore the landscape, in an amount and form determined to be reasonable by the Board of Selectmen, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for a municipally- or state-owned Facility. The project owner or operator shall submit a fully inclusive estimate of the costs associated with removal of the Facility, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

5.9 Personal Wireless Communication Facilities.

5.9.1 Purpose. The purpose of this Section is to permit the siting of Personal Wireless Service Facilities within the Town, to regulate their impacts, their location and use in a manner that complies with federal and state laws and regulations regarding the placement of such Facilities, including the National Wireless Telecommunications Siting Policy of the Telecommunications Act of 1996, Section 332 (c) (47 U.S.C. 332 (c)), and to the extent feasible:

- 5.9.1.1 protects the scenic, historic, natural and man-made resources of the Town;
- 5.9.1.2 minimizes the impact on the character of the community while facilitating beneficial use of Personal Wireless Services;
- 5.9.1.3 minimizes any adverse impacts on the residents of the Town with regard to the general safety, welfare and quality of life in the community (such as, but not limited to, attractive nuisance, noise, and falling objects);
- 5.9.1.4 minimizes any adverse impacts on property values;
- 5.9.1.5 minimizes any adverse impacts on the environment and existing vegetation;
- 5.9.1.6 minimizes the collective impact of Personal Wireless Facilities throughout the Town by controlling the quantity, height, visibility and appearance of Facilities in a fashion that is compatible with their surroundings; and
- 5.9.1.7 minimizes the visual impact on the community to the extent practicable by:
 - (a) encouraging Facilities to be Concealed within pre-existing structures;
 - (b) encouraging Facilities attached to pre-existing structures to be Camouflaged;
 - (c) encouraging, where location on or within pre-existing structures is not feasible, the co-location of Facilities, including, but not limited to, the location of Facilities on Utility Poles;
 - (d) discouraging the construction of new Towers; and
 - (e) encouraging the use of the least visually intrusive technology available in the industry.

5.9.2 Definitions.

As used in this Section, the following terms shall have the meanings indicated:

5.9.2.1 *Act:* The Federal Telecommunications Act of 1996.

- 5.9.2.2 *Antenna*: A device that emits and/or receives radio waves propagating through the air.
- 5.9.2.3 *Associated Antenna Equipment*: Any Antenna and equipment that is mounted with or in proximity to the Antenna and supporting the purpose of the Antenna, such as cables, in-line mounted amplifiers, filters, sensors, actuators, hardware and the like.
- 5.9.2.4 *Base Station*: The point of communication between one Personal Wireless Service Provider and its mobile subscribers. It consists of a Personal Wireless Service Provider's transmission and reception equipment, along with any related equipment including; Antennas, Associated Antenna Equipment, and any Communication Equipment Shelters.
- 5.9.2.5 *Camouflaged*: A Facility disguised, shielded, hidden, painted or otherwise made to appear as part of an existing or proposed structure or to resemble an architectural feature of an existing or proposed structure or building on which it is placed.
- 5.9.2.6 *Communication Equipment Shelter*: A building designed principally to enclose equipment used in connection with the provision of Personal Wireless Services.
- 5.9.2.7 *Concealed*: A Facility that is entirely contained within an existing building or structure and is not visible from the outside of the structure, but this definition does not include a Concealed Antenna Monopole.
- 5.9.2.8 *Concealed Antenna Monopole or CAM*: A Monopole that fully contains Antennas and cables concealed within its tubular outer surface.
- 5.9.2.9 *Facility Site or Site*: A parcel of land that on any part thereof one or more Personal Wireless Service Providers operate one or more Personal Wireless Service Facilities.
- 5.9.2.10 *Monitoring*: The evaluation of the emissions and operation of a Personal Wireless Service Facility for compliance with applicable standards or requirements.
- 5.9.2.11 *Monopole*: A Tower that is self-supporting vertical pole, with no guy wires, that supports Antennas and through the interior of which Antenna and control cables are routed to maintain an uncluttered continuous exterior surface. Antennas are mounted to Monopoles in several fashions, including those mounted on wide frames or platforms extending from the Monopole surface, surface-mounted to the pole exterior (sometimes called "flush mounts"), concealed within the pole's surface (see *Concealed Antenna Monopole*) or disguised by materials such as those emulating natural vegetation.

- 5.9.2.12 *Overall Tower Height*: the height of a Tower, measured from the ground level surrounding the base of the Tower to the higher of the top of the Tower itself or any appurtenance extending beyond the top of the Tower.
- 5.9.2.13 *Personal Wireless Services*: Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange services, as defined in 47 U.S.C. sec. 332(c)(7)(C)(i). These services include but are not limited to: cellular services, personal communication services (PCS), specialized mobile radio services and paging services.
- 5.9.2.14 *Personal Wireless Service Facility or Facility*: the arrangement of any of the following at a location (Facility Site, building or other structure) that enables the provision of Personal Wireless Services; Base Stations, Antennas, Associated Antenna Equipment, Communication Equipment Shelters and Personal Wireless Towers.
- 5.9.2.15 *Personal Wireless Service Provider or Provider*: An entity engaged in the business of providing Personal Wireless Service(s).
- 5.9.2.16 *Personal Wireless Tower*: A Tower or Monopole that is primarily intended to support Antenna(s) and Associated Antenna Equipment for Personal Wireless Service.
- 5.9.2.17 *Repair of an existing Personal Wireless Service Facility*: The replacement or repair of any part of a Personal Wireless Service Facility with a part that has similar visual and technical characteristics, for the purpose of improving the reliability or performance of Personal Wireless Service.
- 5.9.2.18 *Small Form Factor Technologies (collectively, or individually, "SFFT")*: such as, without limitation, the following:
- A. Repeater*: A small relay transceiver and associated Antennas designed to provide general extension of Personal Wireless Service coverage by repeating communications through the use of an over-the-air link with a host Personal Wireless Service Facility. Repeater electronics packages are typified by their self-containment, low volume (5 cubic feet or less) and ability to be attached to an existing structure such as a building or Utility Pole.
 - B. Distributed Antenna System (DAS)*: A network of components that employs a multiplicity of small Antennas distributed throughout an area, often mounted to Utility Poles, each of which is served by a small (3 to 30 cubic feet., typical) electronics package mounted with the Antenna, and which Antennas and electronics packages are linked to a central Base Station facility by intermediate media such as fiber, wire, or wireless links.

C. *Distributed Network Elements*: A means of distributing Antennas throughout an area in manner that does not employ the central Base Station of a DAS and instead employs small (5 cubic feet., typical) Base Station packages mounted locally with each Antenna.

5.9.2.19 *Special Permit Granting Authority*: The Town board charged with the responsibility for granting special permits for personal wireless service facilities shall be the Carlisle Planning Board (“Planning Board”). The Special Permit Granting Authority may be assisted by an *ad hoc* committee convened by the Planning Board.

5.9.2.20 *Tower*: Any structure that is uninhabitable and exceeds the height limit for habitable structures in the applicable zoning district.

5.9.2.21 *Utility Pole*: A pole installed for the purpose of conveying one or more utilities. For the purposes of this Bylaw, a Utility Pole is considered a structure and is not considered a Tower or a Personal Wireless Tower, unless its overall height is in excess of 60 feet.

5.9.3 Priorities.

If requested by the Planning Board, Applicants shall demonstrate to the satisfaction of the Planning Board that they have investigated locations or Facilities higher in priority ranking than the one they are applying for and that such higher priority ranked alternative(s) is (are) not available to provide coverage that would be substantially similar to the coverage that would be provided by the Facility which is proposed or that any such higher ranked alternative is singly or in the aggregate more visible or otherwise will have a more detrimental impact on the community than the proposed Facility. The following are the priority rankings from highest to lowest rankings:

- (a) Concealed, per Section 5.9.5;
- (b) Camouflaged in connection with an existing building or structure, per Section 5.9.5;
- (c) Co-located with an existing Facility;
- (d) SFFT located on a Utility Pole or other structure;
- (e) Camouflaged in connection with a proposed building or structure;
- (f) A Concealed Antenna Monopole located on land owned or leased by the Town of Carlisle;
- (g) A Concealed Antenna Monopole not located on land owned or leased by the Town of Carlisle.

5.9.4 General Requirements.

- 5.9.4.1 Pre-Application Conference. Applicants are strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed application for a new Facility and to discuss in general terms the proposed facility prior to the formal submission of an application.
- 5.9.4.2 Application Process. Each Personal Wireless Service Provider desiring to construct or install a Personal Wireless Service Facility shall submit a written application for a special permit including without limitation a plan of the site of the proposed Personal Wireless Service Facility to the Planning Board. The application shall be submitted in accordance with the requirements of the Rules and Regulations regarding Special Permits for Personal Wireless Communications Facilities, adopted by the Planning Board, as the same may be amended from time to time (“Rules and Regulations”). Except for Repairs of existing Personal Wireless Service Facilities as defined in Section 5.9.2.17, a special permit is required for the installation of any new Personal Wireless Service Facility. The applicant must demonstrate to the Planning Board a significant lack of service currently being provided. The applicant must prove to the Planning Board the need for the particular proposed Facility. As part of the Application Process, the applicant must demonstrate the need for the proposed Facility as detailed in the Rules and Regulations.
- 5.9.4.3 New Personal Wireless Service Facilities shall be permitted in the Town of Carlisle only when the applicant has demonstrated that the provision of its Personal Wireless Service cannot be achieved with existing Facilities or with an adjustment of those Facilities.
- 5.9.4.4 Applications for new Personal Wireless Service Facilities shall be reviewed by the Planning Board in accordance with the Priorities set forth in Section 5.9.3 above. Any Monopoles shall be designed to camouflage, minimize, or conceal their appearance. Facilities within or attached to an existing building or structure shall comply with Section 5.9.5. Other Antenna supporting structures such as truss (also known as lattice) or guyed Personal Wireless Towers shall not be permitted. Any Tower existing for another purpose may be employed for Personal Wireless Service Antennas and Associated Antenna Equipment in a fashion consistent with this paragraph and this Bylaw.
- 5.9.4.5 The proposed Facility must be designed and constructed in accordance with the Commonwealth of Massachusetts building code, laws, rules and regulations, and any other applicable Federal, State building codes, laws, rules and regulations. The designer of record of the Facility must be a registered professional engineer in the Commonwealth of Massachusetts. The Planning Board may, at its discretion, hire a professional engineer to review the design of the Facility, the cost of such verification to be borne by the applicant.

- 5.9.4.5.1 Without limiting Section 5.9.4.5, proposed Facilities located within the current mapped Priority Habitat and Estimated Habitat of State Listed Rare Wildlife shall comply with the review process required by the Natural Heritage and Endangered Species Program of the Massachusetts Division of Fisheries and Wildlife, as the same may be amended from time to time, and applicants of proposed Facilities located within the review area of the Wild and Scenic River Corridor shall notify the Sudbury, Assabet and Concord Wild and Scenic River Stewardship Council.
- 5.9.4.6 The Personal Wireless Service Facility shall have, to the maximum extent feasible, negligible adverse visual effects on the environment.
- 5.9.4.6.1 The Planning Board may impose reasonable conditions to ensure this result, including painting, landscaping and lighting requirements or limitations, provided that no such requirement conflicts with any Federal standard, including those of the FAA. Personal Wireless Service Facilities, collectively and individually, shall be developed in a manner that to the greatest extent possible avoids FAA lighting requirements.
- 5.9.4.6.2 If, in the opinion of the Planning Board, the Facility Site is in a vegetated area, and protection of a vegetated buffer will prevent or minimize detrimental changes in the visibility of the Facility, the Planning Board may require protection of a vegetated buffer with specifications of its choosing.
- 5.9.4.6.3 To the extent feasible, all utility connections to the Personal Wireless Service Facility shall be via underground lines unless the use of above-ground lines on any portion of the route has no detrimental impact to the safety or the visual effects of the surrounding environment as determined by the Planning Board.
- 5.9.4.6.4 Existing on-site vegetation shall be preserved to the maximum extent practicable. Any and all plans for construction in connection with the Facility, including, but not limited to, Personal Wireless Towers, roads and utility trenches, shall, where applicable, be reviewed and approved by the Carlisle Conservation Commission, as well as by the Planning Board and the Building Commissioner.
- 5.9.4.7 Traffic associated with and access to the proposed Personal Wireless Service Facility shall not adversely affect abutting ways.

5.9.4.8 The applicant shall obtain written, legally valid and binding authorization for the use of each Facility Site from the owner thereof; or, where applicable, from the utility companies whose facilities are used; or from the Carlisle Board of Selectmen with respect to public ways and Town-owned facilities, and shall provide such evidence to the Planning Board.

5.9.4.9 Unless the Planning Board determines that safety and aesthetic concerns are not served by the installation of such fencing, the area around a Personal Wireless Tower and Facility and associated Communication Equipment Shelters shall be completely fenced and gated for security, with fencing acceptable to the Planning Board. Personal Wireless Towers shall be inherently inaccessible to unauthorized climbers or shall maintain anti-climbing devices the first twenty feet of the Personal Wireless Tower.

A sign shall be posted adjacent to the entry point indicating the Facility owner(s) and a 24-hour emergency telephone number. Advertising on any part of the Facility or Site, including but not limited to, any Antenna, Personal Wireless Tower, fencing, accessory building or Communication Equipment Shelter is prohibited.

5.9.4.10 All Personal Wireless Service Facilities shall be powered from electric company distribution lines. Transportable emergency generators may be deployed to and used at the site only in the event of a sustained outage. A permanent generator to be used for supplying backup power in the event of a power outage will only be considered by the Planning Board if the sound created by such a generator is compliant with Commonwealth of Massachusetts Department of Environmental Protection Noise Control Regulation 310 CMR 7.10, or any successor regulation, as the same may be amended from time to time or any more stringent applicable requirement, as demonstrated by a thorough evaluation conducted and reported by a qualified acoustical engineer.

5.9.4.11 All radio frequency emissions from any Personal Wireless Service Facility shall comply with Federal Communications Commission (FCC) requirements codified in 47 CFR §1.1307 *et seq* as further interpreted by FCC Office of Engineering and Technology Bulletin 65, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields*, or any successor regulation or bulletin, as the same may be amended from time to time.

5.9.4.12 Communication Equipment Shelters shall be designed to be architecturally similar and compatible with each other and the surrounding area. The Personal Wireless Service Provider shall use the Communication Equipment Shelter only for the housing of equipment related to the Facility, and shall not use the Communication Equipment Shelter or the Facility Site for storage, maintenance, office, manufacturing or other purposes unless such use is permissible under the Carlisle Zoning Bylaw and all necessary permits and approvals have been obtained. Changes to the proposed Communication Equipment Shelter design, as

well as additional supplemental screening, may be required by the Planning Board to lessen adverse visual or auditory impacts.

- 5.9.4.13 If a substantial amount of Personal Wireless Service provided by the proposed Personal Wireless Service Facility is outside the Town of Carlisle, the Planning Board may deny the application in favor of solutions that address the coverage requirements in the Town of Carlisle in a fashion that better satisfies the purposes of this Bylaw.
- 5.9.4.14 The Facility shall be designed and constructed so as to provide adequate emergency access to the Facility and the Facility Site. The Planning Board shall request input from the Carlisle Fire and Police Departments and other town emergency services regarding the adequacy of emergency access to the site.
- 5.9.4.15 In coordination with the Planning Board, an applicant for a new Tower or an extension to an existing Tower shall perform a visibility test. The visibility test shall be as set forth in the Planning Board's Rules and Regulations. The applicant shall publish advance notice of the test in a manner directed by the Planning Board. The applicant shall submit to the Planning Board a visibility analysis of a proposed Personal Wireless Service Facility as set forth in the Rules and Regulations.
- 5.9.4.16 The Planning Board may require that the equipment of all Providers on a Facility shall be subject to relocation to another nearby Facility if such relocation, when considered individually or in concert with existing or potential new Facilities, does not create a significant gap or gaps in the Provider's coverage as determined by the Planning Board as set forth in the Rules and Regulations when so directed by the Planning Board at a later time in its effort to maximize co-location of Providers. The Planning Board may then order the removal of a Tower if such is no longer required for wireless service after the relocation is completed.
- 5.9.4.17 The Planning Board may require that the equipment of all users of a Facility shall be subject to rearrangement on the Site if so directed by the Planning Board at a later time in its effort to maximize co-location of Providers. This may result in different vertical Antenna locations, reduced vertical separation of Antennas, and changes of Antenna arrangements, to the extent feasible without causing technically unacceptable radio frequency signal interference between the Antennas of the co-locators and without creating new significant gap or gaps in the existing coverage of incumbent Providers on the Facility.
- 5.9.5 Installation of SFFT or a Personal Wireless Service Facility in or on an Existing Building or Structure.

5.9.5.1 Notwithstanding Sections 5.9.6 and 5.9.7, the Planning Board may permit a Personal Wireless Service Facility to be installed in a manner that is not visible or easily recognizable to the public provided the proposed Facility meets the following criteria:

(a) The proposed Facility must be Concealed or Camouflaged as part of an existing building or structure and such shall not substantially alter the external appearance of the building or structure or site, as viewed from the street or any adjacent building, or must be a SFFT Facility. However, architectural features that are customarily applied in Carlisle for other purposes may be applied to the building or structure in a manner that is in keeping with the architecture of the structure and the character of the surroundings. For example, a cupola might be added to conceal Antennas, or an attached addition or detached shed might be installed for a Base Station or Communication Equipment Shelter if they maintain the character of the site. The Planning Board may require a pictographic analysis of the proposed Facility, or other demonstration of the anticipated appearance of the Facility, as a condition before granting a special permit hereunder.

5.9.6 Height Limitations.

5.9.6.1 New Personal Wireless Towers shall not exceed the height necessary to address provision of Personal Wireless Service requirements specified in the application under consideration unless the Planning Board determines that the benefits of approving a greater height to accommodate co-location outweigh the detriments of the increased height, provided such increased height shall not exceed the height limitations set forth in Sections 5.9.6.2 through 5.9.6.4 below.

5.9.6.2 Subject to Sections 5.9.5 and 5.9.7.3.1, in areas where there is no significant tree cover or vegetative screening, the maximum Overall Tower Height of a new Personal Wireless Tower shall not exceed eighty (80) feet above finished grade of the ground elevation. Such finished grade shall not be distorted above the pre-existent natural grade as a way to achieve additional height.

5.9.6.3 Subject to Sections 5.9.5 and 5.9.7.3.1, the maximum Overall Tower Height of a new Personal Wireless Tower may exceed eighty (80) feet in areas where there is significant tree cover, and the maximum Overall Tower Height of a new Personal Wireless Tower in such area shall not exceed ten (10) feet above the average height of the natural preexistent tree canopy within a one-hundred fifty (150) foot radius of the proposed Personal Wireless Tower.

5.9.6.4 Notwithstanding the height limitations in Sections 5.9.6.2 and 5.9.6.3 should an applicant or applicants propose a Facility with more than one Provider seeking to co-locate Facilities on an existing or proposed Personal Wireless Tower, the installation of which would require or cause an increase in the overall height of said Tower, that increase shall be the

smallest height increase required to address the provision of Personal Wireless Service requirement established by the applicant to the satisfaction of the Planning Board; however the increased height shall not exceed by more than 10 feet the 80 foot height as specified in Section 5.9.6.2 or by more than 10 feet the height as specified in Section 5.9.6.3., as applicable. Once a Facility has been increased in height for co-location, no additional co-location shall be allowed that would require a height increase beyond the total 10 foot increase allowance for co-location set forth herein.

5.9.6.5 Should the height of a Facility be increased because of co-location pursuant to Section 5.9.6.4 or 5.9.7.3.1, and should one or more Providers on such Facility cease to operate, and therefore the Facility ceases to have co-location, the holder of the Special Permit for the Facility shall provide Notice to the Planning Board within 30 days of the cessation of such operation. Within 90 days from said notification, an application for a new co-locator on the Facility must be filed. If approval for a Special Permit for a new co-locator is not obtained within 1 year of the date one or more of the Providers ceased to operate, the additional height granted the Facility because of the co-location must be removed and the Facility shall be subject to the maximum height limitations set forth in this Bylaw as if there was no co-location.

5.9.7 Setbacks.

5.9.7.1 Subject to Section 5.9.5, new Personal Wireless Towers shall be set at a distance at least equal to 1.5 times the maximum planned height of the Personal Wireless Tower from all lot lines of the site on which the Personal Wireless Tower is to be located, provided that the Planning Board may allow a setback less than 1.5 times the maximum planned height if it finds that a substantially better design will result with such reduction, provided, however, such set back shall in any event not be less than the maximum planned height of the proposed Facility, nor less than the setback required for structures within the zoning district that the Personal Wireless Tower is proposed. In making such finding, the Planning Board shall consider the visual and safety impacts of the proposed Facility.

5.9.7.2 Subject to Section 5.9.5, no Personal Wireless Service Facility, except as may be allowed by waivers under Section 5.9.7.3, shall be located within:

5.9.7.2.1 nine-hundred (900) feet, on a horizontal plane, to the structure of an existing child care facility or to any existing structure which is, or is able to be, occupied or habitable on the property of any school;

5.9.7.2.2 nine-hundred (900) feet, on a horizontal plane, to the structure of an existing residence, or the footprint of a future residence for which a Building Permit has been issued, not including those residential buildings located at the Site;

5.9.7.2.3 nine-hundred (900) feet, on a horizontal plane, to any structure in a Historic District, or listed, or eligible to be listed, on the State or Federal Register of Historic Places.

5.9.7.2.4 one-hundred (100) feet, on a horizontal plane, to any Massachusetts certified vernal pool.

5.9.7.3 The Planning Board may waive any setback requirement of Section 5.9.7.2 for the implementation of a Personal Wireless Facility if the Planning Board determines that the purposes of this Bylaw, as set forth in Section 5.9.1 are substantially satisfied. Justification for granting waivers under this section shall include the following

(a) Documented evidence that the proposed provision of Personal Wireless Service cannot be substantially obtained by means not requiring such waivers, or documented evidence that the provision of such service by such means is substantially more detrimental to the purposes of this Bylaw than with the grant of the exceptions;

(b) Demonstration that the proposed Facility or Facilities substantially satisfy the purposes of this Bylaw, including without limitation Section 5.9.3; and

(c) Documented proof that any exceptions requested will not violate or exceed the limits of any federal, state environmental laws or regulations.

5.9.7.3.1 If a waiver is granted by the Planning Board pursuant to Section 5.9.7.3, any Concealed Antenna Monopole shall not exceed 60 feet in height, provided, however, if the Facility shall be subject to co-location by one or more Personal Wireless Service Provider, the height of such CAM shall not exceed 80 feet.

5.9.8 Approval criteria.

5.9.8.1 A special permit shall be issued under this section only if the Planning Board shall find that the project is in harmony with the general purpose and intent of this Bylaw.

5.9.8.2 The Planning Board, with the advice of outside review consultants and/or an advisory committee, if requested, shall make all the applicable findings before granting the special permit, as follows:

5.9.8.2.1 that the applicant has demonstrated that a substantial improvement in its provision of Personal Wireless Service in Carlisle will be obtained with the proposed Facility;

- 5.9.8.2.2 that the applicant has demonstrated to the satisfaction of the Planning Board that the use of existing Personal Wireless Service Facilities and Facility Sites, or the adjustment of same, does not eliminate or substantially diminish the need for the proposed Facility;
 - 5.9.8.2.3 that the applicant has complied with Section 5.9.3 of this Bylaw;
 - 5.9.8.2.4 that the proposed Personal Wireless Service Facility minimizes to the extent possible any adverse impact on historic resources, scenic views, residential property values, and natural or man-made resources;
 - 5.9.8.2.5 that the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Facility;
 - 5.9.8.2.6 that the Planning Board has been presented satisfactory evidence that the proposed Facility will be compliant with FCC requirements regarding human exposure to radio frequency energy; and
 - 5.9.8.2.7 that, if the application is for a Personal Wireless Tower, the applicant has agreed to provide any available space on its Personal Wireless Tower to other Personal Wireless Service Providers, on a reasonable and non-discriminatory basis.
- 5.9.8.3 If a special permit is granted, the Planning Board may impose any such additional conditions and safeguards as public safety, welfare and convenience may require, either as recommended by consultants or upon its own initiative.
- 5.9.9 Monitoring, Structural Evaluation and Modifications.
- 5.9.9.1 Requirements for the monitoring of Personal Wireless Service Facilities for compliance with federal emissions standards shall be specified in the Planning Board's Rules and Regulations.
 - 5.9.9.2 Requirements for the structural evaluation of Personal Wireless Service Facilities for compliance with applicable state building codes shall be specified in the Planning Board's Rules and Regulations.
 - 5.9.9.3 The owners of all Personal Wireless Service Facilities shall notify the Planning Board, in writing, prior to any modifications to an existing Facility or Facility Site that would substantially change its appearance or visibility, or otherwise change its performance under this Bylaw and/or the terms of its Special Permit, and such proposed modifications must receive prior approval from the Planning Board. The Board may elect, depending on the significance of the proposed changes, to require the owner(s) of the Facility to submit an application to amend their Special Permit. In any event, all proposed modifications, including repairs as set

forth in Section 5.9.2.17, must receive all appropriate permits and approvals including, but not limited to those required by the Building Commissioner.

5.9.10 Removal of Facilities.

When a Personal Wireless Service Facility ceases to operate, it must be removed by the permittee or owner and the site restored to its original condition as described below. "Ceases to operate" is defined as not providing Personal Wireless Service for a period of one year. Prior to the removal of a Personal Wireless Facility, the owner or permittee shall notify the Planning Board in writing of its intent to remove the Facility. At the time of removal, the Facility Site shall be restored such that all Personal Wireless Service Facility improvements that have ceased to operate shall be removed and the site shall be restored to its original condition unless otherwise required by the owner of the Site and/or the Planning Board. Existing trees shall only be removed if necessary to complete the required removal. If all Facilities on a Personal Wireless Tower have ceased to operate, the Personal Wireless Tower (including the foundation) and all associated Antenna Equipment and any Communication Equipment Shelter(s) shall also be removed and the site shall be restored by the owner of the Personal Wireless Tower or Facilities and/or the owner of the site to the condition it was in prior to the installation of such Facilities. The Planning Board may, in connection with the granting of any special permit, require the providing of funds, posting of a bond, insurance certificate, or other financial instrument (collectively "Collateral") as designated by the Planning Board to fund the removal of the Facility and restoration of the Site in the event the Facility ceases to operate, and the permittee or owner fails to comply with this section or lawful orders to remove the Facility. If, following lawful notice given to the owner of the site and/or Facility owner(s) demanding removal of the Facility, the owner fails to do so, the Planning Board or the Building Commissioner may initiate removal at the owners' expense and may utilize the Collateral provided for the removal of the Facility and restoration of the Site under the terms of this Bylaw. At the discretion of the Planning Board, removal shall either be done by the Facility owner, under the supervision of the Town of Carlisle, or by the Town of Carlisle.

5.9.11 Exemptions. The following types of wireless communications facilities are exempt from this Section 5.9:

- 5.9.11.1 Amateur radio transmitting and receiving structures used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission and protected by Massachusetts General Laws c. 40A, sec. 3, provided that the transmitting and receiving structure is not used or licensed for any commercial purpose;
- 5.9.11.2 Non-commercial satellite dishes and antennas used only for reception of radio, television and data signals; and
- 5.9.11.3 Communication facilities employed by police, fire, ambulance and other emergency dispatch.

5.9.12 Term of Permit.

Any special permit issued for a Facility shall be valid for not more than 3 years, unless such is extended by the Planning Board for a period not to exceed 2 years, provided, however, the Planning Board may provide longer terms for Facilities set forth in Section 5.9.3(a)-(f).

5.11 Medical Marijuana Treatment Center (RMD)

5.10.3 Definitions

“Medical Marijuana Treatment Center” or “RMD”: A not-for-profit entity registered under Massachusetts 105 CMR 725.100, and licensed by the Department of Public Health, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers as defined by 105 CMR. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of Marijuana.

“Marijuana for Medical Use”: Marijuana that is designated and restricted for use, by and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as defined by 105 CMR.

“Marijuana”: The same substance as defined as “marihuana” under Chapter 94C of the Massachusetts General Laws; and the substance as defined as “marijuana” by 105 CMR, “including marijuana infused products (MIPs)”, as defined by 105 CMR, except where context clearly indicates otherwise.

“Special Permit Granting Authority”: The Town board charged with the responsibility for granting special permits for RMDs shall be the Carlisle Planning Board (“Planning Board”). The Planning Board may convene an *ad hoc* committee to assist it in reviewing an application for an RMD.

5.10.4 Purpose

The purposes of this Section are:

- 5.10.4.1 To provide for the establishment of RMDs in appropriate locations within the Town;
- 5.10.4.2 To minimize the adverse impacts associated with RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with RMDs; and

5.10.4.3 To regulate the siting, design, placement, security, safety, monitoring, and discontinuance of RMDs.

5.10.5 Applicability

5.10.5.1 The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Section 5.10.

5.10.5.2 No RMD shall be established except in compliance with the provisions of this Section 5.10.

5.10.5.3 Nothing in this Section 5.10 shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

5.10.5.4 If any provision of this Section or the application of such provisions to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to thus the provisions of this Section 5.10 are severable.

5.10.5.5 RMDs are allowed only in a Business District other than the Carlisle Center Business District, by a special permit granted by the Planning Board, provided the RMD meets the requirements of this Section 5.10.

5.10.5.6 The granting of a special permit under this Section does not supersede federal, state or local laws or exempt an applicant from complying with all relevant federal, state and local requirements.

5.10.6 General Requirements and Conditions for all RMDs

5.10.6.1 A special permit for an RMD shall be limited to one or more of the following uses as prescribed by the Planning Board:

5.10.4.1.3 cultivation of Marijuana for Medical Use;

5.10.4.1.2 processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; and

5.10.4.1.3 retail sale or distribution of Marijuana for Medical Use to Qualifying Patients.

5.10.6.2 All RMDs shall be contained within a building or structure having a gross floor area of not more than 20,000 s.f.

5.10.6.3 An RMD shall not be located: (i) in a building that contains any medical doctors' offices or the offices of any other professional practitioner authorized to prescribe the use of medical Marijuana; (ii) in a building that contains residential units, including transient housing such as motels and dormitories; (iii) within a lot that contains a residential dwelling or (iv) inside a movable or mobile structure, such as a van or truck.

5.10.6.4 An RMD shall not be located within 1,000 feet of any: (i) school or licensed child care facility; (ii) drug or alcohol rehabilitation facility; (iii) correctional facility, half-way house, or similar facility; (iv) public playground, public athletic field or other public recreational land or facility; (v) religious facility; or (vi) any other RMD. Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child care establishment or places where minors frequent to the nearest point of the building in which the RMD is located.

5.10.6.5 Cultivation and storage of Marijuana for Medical Use shall be in a secure, enclosed, locked area. There shall be no visibility of activities, products or treatment occurring within or on the premises of a RMD from the exterior of such facility or premises. No outside storage of Marijuana or related supplies is permitted.

5.10.6.6 All sales and distribution of Marijuana for Medical Use by a licensed RMD shall occur only upon the permitted premises, except in the case of home delivery, in which an order may be delivered only to a registered qualifying patient or personal caregiver who possesses valid photo identification, consistent with 105 CMR.

5.10.6.7 The special permit shall require as a condition that a designated contact person for the RMD shall be required to respond by phone or email within twenty-four hours of the time of contact and inquiry by a town official regarding operation of the RMD.

5.10.6.8 The RMD shall annually file an affidavit with the Building Commissioner demonstrating that it is in good standing with respect to all applicable state licenses and all conditions contained in the special permit.

5.10.6.9 The applicant shall demonstrate proper licensure by the Massachusetts Department of Public Health as part of its application for a special permit. All special permits granted pursuant to this Section shall include a condition requiring the RMD to maintain its license or registration in good standing at all times, and establish that any suspension or revocation of a license by the Massachusetts Department of Public Health shall constitute a violation of the special permit.

5.10.6.10 The term of the special permit shall be determined by the Planning Board but shall be limited to the duration of the applicant's ownership of, or tenancy

at, the premises and shall not be transferable. The special permit shall lapse if not exercised within one year of issuance.

5.10.6.11 The hours of operation of RMDs shall be set by the Planning Board. In no event shall an RMD be open and/or operating between the hours of 8:00 p.m. and 8:00 a.m.

5.10.6.12 No smoking, burning or consumption of any product containing Marijuana or Marijuana-related products shall be permitted on the premises of an RMD.

5.10.6.13 In addition to signage required by law and/or as a condition of the special permit, a sign with the following language shall be posted at a conspicuous location at the public entrance to the RMD: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.

5.10.6.14 RMDs shall have a designated contact for purposes of communicating with the Town, and shall provide the Carlisle Police Department and the Building Commissioner with the name, phone numbers and email address of said contact, along with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.

5.10.7 Special Permit Procedures

5.10.7.1 Pre-Application Conference. Applicants are strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed application for a new RMD and to discuss in general terms the proposed RMD prior to the formal submission of an application.

5.10.7.2 Application, Review and Recommendations. An Applicant seeking a special permit under this section shall file a written application and submit a site plan to the Planning Board, furnishing a copy to the Town Clerk. The Planning Board shall promulgate or amend Rules and Regulations Regarding Special Permits for Medical Marijuana Treatment Centers ("Rules and Regulations"), which shall be consistent with this Section 5.10 of the Zoning Bylaw. The Rules and Regulations shall further detail the required contents of the application and the process for review of the special permit application. The application shall be submitted in accordance with the requirements of said Rules and Regulations. The applicant shall be required to pay such fees, as determined by the Planning Board, as are necessary to cover any expenses connected with a public hearing and review of the application, including but not limited to the costs of all notices and the employment of outside consultants. Copies of the application shall also

be submitted to the Board of Selectmen, the Board of Health, Police Department, and contingent upon their respective jurisdictions over the site, to the Conservation Commission and /or Historical Commission. The foregoing agencies may make recommendations as they deem appropriate and shall send copies thereof to the Planning Board and the applicant; provided that failure of any such agency to make recommendations within thirty five (35) days of receipt by said agency of the application shall be deemed lack of opposition thereto.

5.10.7.3 The application and each copy shall meet the application requirements for a special permit per Section 7.2 and as may be adopted by the Planning Board, and should include, at a minimum, the following information:

5.10.5.3.6 The name and address of each owner of the RMD;

5.10.5.3.7 Copies of all required licenses and permits for the RMD issued to the applicant by the Commonwealth of Massachusetts and any of its agencies;

5.10.5.3.8 Evidence that the Applicant has site control and the right to use the site for a RMD in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

5.10.5.3.9 In addition to what is normally required in a site plan, details showing all exterior proposed security measures for the premises, including, but not limited to lighting, fencing, gates and alarms to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity; and

5.10.5.3.10 A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of Marijuana for Medical Use and related products.

5.10.8 Notice and Hearing

The Planning Board shall give notice, in a manner provided by Chapter 40A of the General Laws, as amended, of a public hearing to be held within sixty five (65) days after filing of the application and shall act within ninety (90) days following the public hearing. Failure of the Planning Board to take action within said 90 days shall be deemed to be a grant of the permit applied for.

5.10.9 Approval and Findings

A special permit shall be issued under this section only if the Planning Board shall find that the project is in harmony with the general purpose and intent of this Section. Prior to the issuance of a special permit, the Planning Board shall make the following findings:

- 5.10.9.1 The RMD meets a demonstrated need;
- 5.10.9.2 The RMD satisfies the requirements of the zoning bylaw;
- 5.10.9.3 The RMD meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations;
- 5.10.9.4 The RMD is designed to minimize any adverse impacts on the residents of the Town with regard to the general safety, welfare, and quality of life in the community (such as, but not limited to, attractive nuisance and noise);
- 5.10.9.5 The RMD provides a secure indoor waiting area for qualifying patients;
- 5.10.9.6 The storage and/or location of cultivation of Marijuana is adequately secured in enclosed, locked facilities within the RMD; and
- 5.10.9.7 The RMD adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

5.10.10 Abandonment or Discontinuance of Use

An RMD shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state issued licenses or permits or within six months of ceasing operations, whichever comes first.

6 NON-CONFORMING BUILDINGS AND USES

6.1 Buildings and Uses Already in Existence

Any lawful building or structure, or use of a building, structure or land, existing at the time this bylaw or any amendment thereto takes effect which does not conform to the provisions thereof may be continued unless and until abandoned or not used for a period of two (2) years or more.

6.2 Change of Non-Conforming Use

The Board of Appeals may issue a special permit to allow a non-conforming use of a building, structure, or land to be changed to a specified use not substantially more detrimental to the neighborhood than the existing non-conforming use.

6.3 Extension of Non-Conforming Use

The Board of Appeals may authorize by special permit, subject to the provisions of Section # 7.2, the extension or other enlargement of a non-conforming use of a building, structure or land, provided that no such extension shall be made which increases the total of all floor area plus open ground area devoted to such use by more than fifty (50%) percent over the total so devoted at the time the use first became non-conforming. The Board must also find that such extension shall not be substantially more detrimental to the neighborhood than the existing non-conforming use.

6.4 Restoration of Non-Conforming Buildings

A building or structure devoted to a non-conforming use (whether in whole or in part) and a building or structure non-conforming as to height, setback, yards or other provisions, may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot and used as before, provided that such repair or reconstruction is commenced within six (6) months after the issuance of a building permit and continued through to completion as expeditiously as is reasonable.

7 ADMINISTRATION

7.1 Permits

7.1.1 Building Permit.

The Building Commissioner shall not issue a building permit for construction or alteration of a building if the building or the use of the land would be in violation of this zoning bylaw.

7.1.2 The Building Commissioner shall not issue a building permit for construction or alteration of a building or structure in any way that affects exterior architectural features of such building or structure located in the Historic District as established pursuant to Article IX of the Carlisle General Bylaws unless the Historical Commission has issued a certificate of appropriateness, certificate of non-applicability, or certificate of hardship with respect to such construction or alteration.

7.2 Special Permits

Where a special permit may be issued under this bylaw, the person desiring such special permit shall make written application to the special permit granting authority and shall submit a copy to the Town Clerk. Where, in the opinion of the special permit granting authority, the special permit may be granted if accompanied by conditions specially designed to safeguard persons and property in the vicinity and the Town, it shall impose such conditions in writing and make them a part of the special permit. The rights granted by a special permit under this bylaw shall lapse if they are not exercised within a period of one (1) year.

The Board of Appeals shall be the special permit granting authority for all special permits except as provided in Section #5.1 (Residence District M), Section #5.2 (Wetland/Flood Hazard District), Section #5.4 (Private Driveways), Section #5.5 (Conservation Clusters), Section #5.6 (Accessory Apartments), Section #5.7 (Senior Residential Open Space Community), Section # 5.9 (Personal Wireless Service Facilities), and Section #5.10 (Medical Marijuana Treatment Centers).

As authorized by the General Laws, Chapter 40A, Section 9, there shall be up to two Associate Members of the Planning Board. Where the Planning Board is designated as the special permit granting authority, such Associates shall act on special permit applications when designated to do so by the Chair of the Planning Board in 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. The Associate Members shall each be appointed for a three-year term by a majority vote of the Selectmen and the members of the Planning Board, as in the same manner as for filling a vacancy on a board consisting of two or more members pursuant to Chapter 41, Section 11 of the General Laws of the Commonwealth. The Planning Board, upon written charges and after a public hearing, may remove Associate Members for cause.

7.2.1 Findings for Special Permits.

No special permit shall be granted hereunder unless the Board shall find that the premises in question are reasonable adaptable to the proposed use and will allow proper layout thereof (including adequate separation of buildings, structures and open areas from adjacent premises), and that the proposed use will not be contrary to the best interests of the town.

For this purpose, a use shall be considered contrary to the best interest of the Town which:

7.2.1.1 will be injurious or dangerous to the public health or hazardous because of traffic congestion, danger of fire, explosion or other reasons;

7.2.1.2 if located in General Residence A or B Districts, will produce vibration, noise, smoke, fumes, odor, dust, gas, chemicals, or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property, or if located in business districts, will produce any such effects observable at any boundary of the district in amounts substantially greater than would normally result from any of the uses specifically permitted as of right within the same district; or

7.2.1.3 if located in General Residence A or B Districts, will be injurious to the character or amenities thereof because of its design or appearance.

7.2.2 Scientific Research or Scientific Development or Related Production

Uses, whether or not on the same parcel as activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

7.2.3 Public Hearing and Action on Special Permit

Special permits shall be issued only following a public hearing held within sixty-five (65) days following the filing of an application. Action on special permits shall be taken within ninety (90) days following the public hearing.

7.3 Board of Appeals

7.3.1 Appointment.

There shall be a Board of Appeals composed of three (3) members and four (4) associate members who shall be appointed by the Board of Selectmen under the provisions of Chapter 40A of the General Laws as amended. Said board shall have

all of the powers and duties of boards of appeals under said Chapter and in addition, all of the powers and duties herein prescribed.

7.4 Appeals

Appeals to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit under this bylaw, or may be taken by any officer or board of the Town or other person aggrieved by an order or decision of any administrative official under this bylaw. In any case, no such appeal shall be heard by said Board unless, within thirty (30) days after the refusal of a permit or the issuance of the order of decision, a notice of said appeal, specifying the grounds thereof, is filed with the Board of Appeals and with the Town Clerk.

7.5 Variance

Appeals and petitions for variances from the terms of the applicable zoning provisions relating to intensity and dimensional requirements may be granted by the Board of Appeals if they meet the requirements of Chapter 40A of the General Laws, as amended. Chapter 40A states that a variance may be granted "where such permit granting authority 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 the ordinance or bylaw would involve substantial hardship financial or otherwise, to the petitioner or applicant, and the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw".

7.6 Site Plan Review

7.6.1 For the purpose of administering the provisions of the bylaw relating to non-residential and certain other uses in all districts, not including a senior residential open space community as allowed under Section 5.7 of these bylaws, personal wireless communication facilities as allowed under Section 5.9 of these bylaws, accessory apartments as allowed under Section 5.6 of these bylaws and accessory uses permitted in General Residence Districts under Section 3.2.1.11 of these bylaws, and to ensure the most advantageous use of all properties within the same district and for the reasonable protection of the legitimate interests of adjoining property owners, site plan approval shall be required prior to the:

7.6.1.1 Construction of a new building or structure, the principal use of which is non-residential;

7.6.1.2 Construction of an addition to or alteration of any existing building, the principal use of which is non-residential;

7.6.1.3 Establishment of a principal non-residential use in an existing building not theretofore used for such purposes;

- 7.6.1.4 Establishment of a more intensive non-residential use on the site of a previous non-residential use, including, but not limited to, the establishment of or alteration to any parking, loading or vehicular access, or the increase in number of employees at the site or proposed pedestrian traffic to and from the site;
 - 7.6.1.5 Construction of a new building or structure, or an addition or alteration of any existing building or structure, for use as multifamily housing; or
 - 7.6.1.6 Construction or alteration of a municipal parking, cultural, recreational, water supply or protective use pursuant to this Section 7.6 in addition to any special permits or other approvals required under these bylaws.
- 7.6.2 No building permit shall be issued for the purposes described in Section 7.6.1.1 through 7.6.1.6 unless a site plan has been submitted and approved by the Board of Selectmen as provided in this Section 7.6.

Any person desiring approval of a site plan shall submit an application for such containing the information set forth herein or in the Rules and Regulations governing the Site Plan Review (“Rules and Regulations”) to the Board of Selectmen and to the Planning Board. The Board of Selectmen shall not take final action on such plan until it has held a public hearing thereon in accordance with the provisions of Chapter 40A of the General Laws and has received a report and recommendations from the Planning Board or until the Planning Board has allowed forty-five (45) days to elapse from the date on which the site plan and all accompanying materials required herein or in the Rules and Regulations have been submitted to the Planning Board without submission of a report, unless such timeframe is extended by the Chair of the Board of Selectmen. The Rules and Regulations shall, among other things, provide that the Planning Board will seek input from other Town boards, committees and departments concerning the application. The Board of Selectmen may also request a report and recommendations from the Board of Appeals, Fire Department, Police Department, Department of Public Works, Conservation Commission, Board of Health and any other Town board or committee.

Failure of the Board of Selectmen to take final action on such site plan review application within sixty (60) days following the close of the public hearing held by the Board of Selectmen shall be deemed to be an approval thereof and it shall forthwith make an endorsement to this effect on such plan, and on its failure to do so the Town Clerk shall issue a certificate to the same effect.

- 7.6.3 In considering a site plan the Board of Selectmen shall assure to a degree consistent with a reasonable use of the site for the purpose permitted either by the regulations of the district in which it is located or by special permit:
- 7.6.3.1 Compliance with all provisions of the zoning bylaw;
 - 7.6.3.2 Protection of adjoining premises against detrimental or offensive use of the site;

- 7.6.3.3 Convenience and safety of vehicular and pedestrian movement on the site and in relation to adjacent streets, property or improvements and for the location of driveway openings in relation to street traffic;
- 7.6.3.4 Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed uses of the premises;
- 7.6.3.5 Adequacy as to the arrangement of proposed buildings, structures, free-standing signs, siting, screening and landscaping;
- 7.6.3.6 Adequacy of the methods on the site for sewage, refuse and other waste disposal, and for surface and sub-surface drainage;
- 7.6.3.7 Protection of the Town's resources, including the effect on public or private water supply and groundwater resources;
- 7.6.3.8 Protection of the public health and safety, and maintenance of ways against extraordinary wear or damage that may be caused by construction operations, as well as minimization of the impact of construction operations on the quality of daily life in the Town;

and may impose such appropriate conditions, limitations and requirements as will insure compliance with the terms of the Board's approval.

- 7.6.4 The Board of Selectmen shall promulgate or amend Rules and Regulations which pertain to the contents of the site plan approval process, which Rules and Regulations shall be consistent with this Section 7.6 of the Zoning Bylaw.
- 7.6.5 Any applicant seeking site plan approval shall submit an Application pursuant to this Section and the Rules and Regulations and pay such fees as shall be determined by the Board of Selectmen to cover any expenses connected with a public hearing and review of the application, including, but not limited to, the costs of any engineering or planning consulting services necessary for review purposes, as set forth in the Board's Rules and Regulations pertaining thereto.
- 7.6.6 In applications for which a special permit pursuant to Section 7.2 must be obtained in addition to site plan approval, the applicant must obtain and file such special permit with the application for site plan review pursuant to this Section 7.6.
- 7.6.7 A copy of the decision bearing the approval of the Board of Selectmen shall be filed in the office of the Town Clerk within fifteen (15) days after the approval of said site plan.
- 7.6.8 The Board of Selectmen shall have power to modify or amend its approval of a site plan on petition of the applicant or his assigns, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of this Section 7.6 applicable to approval shall, where appropriate, be applicable to such modification or amendment.
- 7.6.9 Site plan approval shall lapse if construction or in the case of a change or intensification in use, the substantial use thereof, is not commenced within two (2)

years from the date of approval. An extension may be granted by the Board of Selectmen for good cause. The Board of Selectmen may include as a condition of approval an outside date for substantial completion of construction.

7.6.10 Any approval or condition of approval of a site plan by the Board of Selectmen shall be made in accordance with Section 7.4 of these bylaws and M.G. L., Ch. 40A, S. 17.

7.7 Validity

The invalidity of any provision or feature of this bylaw shall not affect the validity of any other provision or feature not manifestly inseparable therefrom.

7.7.1 Relationship to Other Regulations.

Nothing in this Bylaw shall be construed as repealing or modifying any other existing bylaw or regulation of the Town, but shall be in addition thereto.

7.8 Reconsideration of Appeals, Applications or Petitions.

No appeal, application or petition which has been unfavorably and finally acted upon by the special permit granting or permit granting authority shall be acted favorably upon within two (2) years after the date of final unfavorable action unless said special permit granting authority or permit granting authority finds, by a unanimous vote of a board of three (3) members or by a vote of four members of a board of five (5) members or two-thirds (2/3) vote of a board of more than five (5) members, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

8 ENFORCEMENT

8.1 Procedure

This bylaw shall be enforced by the Board of Selectmen either directly or through the Building Commissioner. If the Building Commissioner or the Board of Selectmen is requested in writing to enforce this zoning bylaw against a person allegedly in violation and he declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen (14) days of receipt of such request.

9 AMENDMENTS TO ZONING BYLAW

This bylaw may be amended from time-to-time by a two-thirds (2/3) vote at an annual or special Town Meeting in accordance with the provisions of Chapter 40A of the General Laws, as amended.

TABLE 1

SUMMARY OF USE REGULATIONS

For informational purposes only
See Section 3 of Zoning Bylaw for
detailed use regulations³

Y=Permitted
N=Not Permitted
SP=Special Permit
Required

D I S T R I C T S

<u>Permitted Uses</u>	<u>General Residence⁴</u>	<u>Business⁵</u>	<u>Center Business⁶</u>
One-family dwelling	Y	Y	Y
Conversion to 2-family ⁷	Y	Y	Y
Non-Profit school-public/private	Y	Y	Y
Municipal administration, recreation	Y	Y	Y
Public utility without service yard	Y	Y	Y
Church, parish house	Y	Y	Y
Agricultural use	Y	Y	Y
Showroom, stand for on-site products	Y	Y	Y
Resident's home occupation	Y	Y	Y
Hospital, charitable institution	SP	N	N
Non-profit club, civic use	SP	SP	SP
Nursery school, day care	SP	Y	N
Convalescent or nursing home	SP	N	N
Municipal or private cemetery	SP	Y	Y
Other town or government use	SP	Y	N
Kennel, animal hospital	SP	SP	N
Commercial, open recreation	SP	N	N
Resident's small business	SP	Y	Y
School buses on town land	SP	Y	SP
School buses not on town land	N	SP	N
Retail stores	N	Y	Y
Showroom for building supplies	N	Y	N
Showroom for autos, boats, etc. (no repairs)	N	Y	N

³ Certain additional regulations may apply depending on location. See the following:

- overlay flood hazard and wetland districts (Section #5.2):
- land under 121 foot elevation (Board of Health regulations #1.1).

⁴ See Section #3.2 of Bylaw for detailed description of permitted uses

⁵ See Section #3.4 of Bylaw for detailed description of permitted uses

⁶ See Section #3.3. of Bylaw for detailed description of permitted uses

⁷ Dwellings existing on May 11, 1962 (See Section #3.2.1.2.)

Laundry or cleaning drop	N	Y	Y
Dressmaking or milliner	N	Y	Y
Household appliance repair	N	Y	Y
Interior decorating studio	N	Y	Y
Photographer's studio	N	Y	Y
Shoe or hat repair	N	Y	Y
Tailor shop	N	Y	Y
Bicycle or sporting goods repair	N	Y	Y
Barber or beauty shop	N	SP	SP
Funeral home	N	SP	N
Artisan's shop (with 1000 sq. ft. work area limit)	N	Y	Y
Business or professional office, bank	N	Y	Y
Auto or boat repair (enclosed)	N	SP	N
Restaurant (indoors)	N	SP	SP
Gas station	N	SP	SP
Light manufacturing related to retail (2,000 sq. ft. limit)	N	SP	N

TABLE 2

SUMMARY OF DIMENSIONAL REQUIREMENTS

For informational purposes only
See Section 4 of Zoning Bylaw for
detailed dimensional requirements

	<u>General Residence A</u>	<u>General Residence B</u>	<u>Business</u>	<u>Center Business</u>
Lot Area (min. area)	1 acre	2 acres	none ⁸	none ¹
except pork chop lots ⁹	3 acres	4 acres	--	--
Lot Frontage (min. feet)	150	250	none ¹	none ²
except pork chop lots ²	40	40	--	--
Front Setback (min. feet) ¹⁰	40	40	20	20
Side and Rear Setbacks (min. ft.)	20 ¹¹	40 ⁴	5	5 ¹²
Lot Coverage (max. %)	25	25	75	75
Large agricultural buildings see Section # 3.2.1.7				
Height ¹³ : (max. stories)	2 1/2	2 1/2	2 1/2	2 1/2
(max. feet)	40	40	40	40

TABLE 3

⁸ See Section #4.1.4. for dwellings in a business district.

⁹ See Section #4.1.2.4. for details of frontage exceptions.

¹⁰ See Section #4.2.1 for streets having a right-of-way with less than forty feet.

¹¹ See Sections #4.3.1 and #4.3.2 for special exceptions for small buildings.

¹² See Section #4.3.3. for exceptions related to dwellings.

¹³ Where all setbacks exceed minimum requirements by ten (10) feet or more, height may be increased to three (3) stories not exceeding forty five (45) feet.

CHRONOLOGY OF BYLAW CHANGES

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
April 1, 1932	3/7/33	Zoning bylaw adopted and one (1) acre zoning established.
February 3, 1937	4/2/37	Selectmen made enforcers of bylaw. Building Inspector created. [Art. 28]
February 14, 1938	4/11/38	Portion of Concord St. rezoned residential from business. [Art. 18.]
October 14, 1939	11/3/39	Business district expanded in the center to include the Russell property. [Art. 1]
February 9, 1942	4/1/42	Sec. II - no building can be erected, altered or used, or land used, for other than stated specified purposes in Residence district or Business district. [Art. 22]
February 12, 1945	4/9/45	Business district increased in property of Kinsman from 30 X 50 to 35 X 75. [Art. 16]
April 26, 1948	5/19/48	Gravel removal on Board of Appeals permit. [Art. 6]
March 6, 1950	9/29/50	Section 9 added - loam and gravel removal. [Art. 27]
March 6, 1950	9/29/50	Amend Art. VI add Sec. 9 - appeal procedure against rulings of Bldg. Inspector. [Art. 28]
March 5, 1951	4/11/51	Section VIII added, firearms regulations. [Art. 20]
March 2, 1953	6/8/53	Road construction regulations and width for accepted town road set at 40' R.O.W. and 16' finished. [Art. 29]
March 1, 1954	3/24/54	Amend Section V. 5 - a minimum building size. [Art.28]
June 18, 1956	8/13/56	Residential Districts A and B established. Two (2) acre zoning adopted. Zoning Map approved. [Art. 8]

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
November 26, 1957	12/11/57	Art. IX loam and gravel bylaw amended. [Art. 1]
March 2, 1959	4/8/59	Section 5a, Article V increased from 500' minimum building area to 700'. [Art. 24]
March 2, 1959	4/8/59	24' paved surface for accepted town ways. [Art. 25]
March 13, 1961	4/6/61	Wiring Inspector established. [Art. 25]
March 12, 1962	5/2/62	Fireproofing for attached garages. [Art. 17]
March 26, 1962	5/11/62	Entire new section bylaw. Art. VI accepted, establishment of district lot size and use requirements - two-family house restricted. [Art. 1]
March 26, 1962	5/11/62	New zoning map accepted. [Art. 2]
March 9, 1964	4/6/64	Gas inspector established. [Art.24]
March 15, 1965	4/22/65	Amend Art. VI establishment of pork chop lots. [Art. 22]
March 10, 1969	6/2/69	Roadway - 40' R.O.W., 24' paved for acceptance. [Art. 21]
March 10, 1969	6/2/69	Street frontage must be on one street. [Art. 22]
March 10, 1969	7/3/69	Historic District established. [Art. 23]
March 9, 1970	6/2/70	Pork chop lots not to block roadway extension. [Art. 31]
March 9, 1970	6/2/70	Delete Article V of building bylaw, add new section. [Art. 33]
June 14, 1971	9/13/71	Site plan approval bylaw. [Art. 9, 10, 11]
March 13, 1972	5/8/72	No more than two contiguous porkchop lots. [Article 24]
March 14, 1973	5/18/73	Amend Section 12 increased R.O.W. for roads to 50'. [Art. 30]
November 5, 1973	11/15/73	Section 13 established scenic roads. [Art. 10]
May 14, 1974	8/2/74	Industrial district deleted, Carlisle Center business district established and permitted uses-0 600' from monument. [Art. 1]
May 14, 1974	8/2/74	Parking bylaw established. [Art. 2]

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
May 6, 1975	8/25/75	Flood hazard district established uses and restrictions. [Art. 14]
May 5, 1976	8/16/76	Wetland district established uses and controls. [Art. 1]
April 4, 1978	7/26/78	Private driveways. Sec. 5H. [Art. 14]
April 4, 1978	7/26/78	Building permit. Sec. 7A & 7B. [Art. 14]
March 31, 1980	6/24/80	Residence District M - Multi-dwelling housing for the elderly. Sec. 5.A. [Art. 23]
March 31, 1980	6/24/80	Street corner clearance. Section 4.B.3. [Art. 32]
March 31, 1980	6/24/80	New clause (f) Sec. 4.A.2. [Art. 34]
March 31, 1980	6/24/80	Uses permissible on special permit in Historic District. Sec. 3.B.2-1. [Art. 39]
March 31, 1980	6/24/80	Wetland/Flood Hazard District, revised. Sec. 5.B. [Art. 40]
May 10, 1982	8/12/82	Lot width. Sec. 4.A.1. [Art. 27]
May 10, 1982	8/12/82	Conservation Clusters. Sec. 5.1. [Art. 26]
April 22, 1985	6/6/85	Appointment amendment. Sec. 7.C.1. [Art. 9]
May 19, 1986	6/20/86	Sections 4.A.2.a, 4.A.2.d & 4.A.3.b. [Art. 41]
May 19, 1986	6/20/86	Section 5.H.2.a - Drainage. [Art. 42]
May 19, 1986	6/20/86	Section 5.E - Junk Bylaw. [Art. 44]
April 6, 1987	7/28/87	Section 1.C. Definitions " 3.B.1 Signs " 3.C.1 " 3.C.3 Lights " 3.C.4 Enclosures of uses " 4.C.1.a. Residence District A " 4.C.1.b. Residence District B & M Repealed " 4.B.3. Street Corner clearance " 5.E. Junk (These sections now appear in in the General Bylaws)

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
May 2, 1988	7/6/88	Sec. 2.2 Wetland/Flood Hazard District revised. [Art. 25] Sec. 4.1.3.3 Lot Shapes - Ellipse requirement added. [Art. 26]
May 1, 1989	6/23/89	Section 3.23 Council on Aging composition changed. [Art. 32]
May 1, 1989	6/23/89	Section 5.6 Accessory Apartments. [Art. 33]
May 7, 1990	6/25/90	Section 13.6 Regulation of Dogs. [Art. 9]
April 29, 1991	7/16/91	Section 1.4.2 Non-Criminal Disposition (Conservation Commission) [Article 26]
April 29, 1991	7/16/91	Section 3.1.3 Town Contract Authorization [Article 22]
April 27, 1992	7/23/92	Section 10.1 Firearms, Explosives and Hunting [Article 28]
April 27, 1992	7/23/92	Section 3.25 Personnel Board Duties and Responsibilities (personnel records, classification) [Article 23]
April 27, 1992	7/23/92	Section 13 Wetlands Protection (new section; subsequent sections renumbered) [Article 22]
April 27, 1993	7/14/93	Zoning, Section 5.5.2.7.3, Open Space Rights, [Art. 25]
April 27, 1993	7/14/93	Zoning, Section 5.5.2.4.1, changed shape of lots in a conservation cluster, [Art. 26]
April 27, 1993	7/14/93	General, Section 12.1, Fisk Street, Prospect Street and Sunset Road added to Scenic Roads, [Art. 27]
April 27, 1993	7/14/93	General, Section 1.4.2, changed Non-Criminal Disposition by the Conservation Commission, [Art. 28]
April 27, 1993	7/14/93	Zoning, Section 5.6.5.11 regarding accessory apartments in conservation clusters, removed, [Art. 29]
April 26, 1994	6/14/94	Zoning, added Section 5.7, Senior Residential Open Space Community, [Art. 22]
April 26, 1994	6/14/94	Zoning, Sections 5.5.2.7 and 5.5.2.8 regarding Open Space in conservation clusters, changed, [Art. 31]

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
September 19, 1994	11/29/94	Zoning, Section 3.1, Application of Use Regulations, amended with respect to lots lying only partly in Carlisle, [Art. 6]
May 8, 1995	6/27/95	General, Section 14.6.2.2 and 14.6.2.6, regarding dog licenses, [Art. 21]
May 8, 1995	6/27/95	General, Section 14.7, regarding recycling, [Art. 23]
November 28, 1995	2/19/96	General, Section 3.24.3, Board of Health Title V, [Art. 6]
May 6, 1997	7/21/97	Zoning, Section 5.9, Commercial Wireless Communication Facilities, [Art. 22]
May 4, 1998	8/17/98	General, Section 10.3.10, Directional Signs added, [Art. 22]
May 11, 1998	8/17/98	Zoning, Section 3.2.4, Distinctive Structures, [Art. 23]
May 4, 1999	8/16/99	Zoning, Sections 3.2.1.11.5.5 and 3.2.2.11, General Residence District Uses, [Art. 23]
May 11, 1999	8/16/99	Zoning, Section 5.9.3.1.1, Moratorium on wireless communication facilities, [Art. 35]
November 2, 1999	12/23/99	Zoning, Section 5.9, Personal Wireless Service Facilities adopted, [Art. 3]
May 2, 2000	9/8/00	Zoning, Section 5.7.4, Senior Residential Open Space Community amended, [Art. 23]
May 2, 2000	9/8/00	Zoning, Section 7.6, Site Plan Review amended, [Art. 24]
May 2, 2000	9/8/00	Zoning, Sections 4.1.2.4.1 and 4.1.3.4, Lot Size Regulations amended, [Art. 25]
May 2, 2000	9/8/00	Zoning, Section 5.9, Person Wireless Service Facilities amended, [Art. 26]
November 14, 2000	2/16/01	Zoning, Section 5.5.2.8, Conservation Clusters, amended [Art. 10]
November 14, 2000	2/16/01	Zoning, Section 7.2, Special Permits, amended [Art. 11]
November 14, 2000	2/16/01	Zoning, Section 5.4.3, Private Driveways, amended [Art. 12]

SUMMARY TABLES - Z 10-8

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
April 10, 2001	05/01/01	General, Section 3.26 CPA, CPC added, [Art. 2]
May 14, 2001	8/21/01	Zoning, Section 5.9.4 and 5.9.4.2.2.4.3, Personal Wireless, amended [Art. 24]
November 27, 2001	2/27/02	General, Section 1.4.2, Bicycles, [Art. 3]
November 27, 2001	2/27/02	General, Article II, Declared Two-Thirds Majority Vote [Art. 4]
May 7, 2002	6/12/02	General, Section 13.1.1 through 13.11.1, Wetlands, [Art. 20]
May 5, 2003	8/27/03	General, Section 3.24.4, Board of Health Fees, [Art. 23]
May 5, 2003	8/27/03	General, Section 3.12.1, Planning Board Membership, [Art. 24]
May 5, 2003	8/27/03	General, Section 13.1.5, Wetlands, [Art. 25]
May 5, 2003	8/27/03	General, Section 13.7.1, Wetlands, [Art. 25]
May 5, 2003	8/27/03	General, Section 13.11.1, Wetlands, [Art. 25]
May 5, 2003	8/27/03	General, Section 13.10.6, Wetlands, [Art. 26]
May 5, 2003	8/27/03	General, Section 15.1 through 15.7, Personnel Administration [Art. 27]
May 5, 2003	8/27/03	Zoning, Section 7.1, Permits, amended [Art. 28]
May 5, 2003	8/27/03	Zoning, Section 7.2, Special Permits, amended [Art. 29]
May 3, 2004	8/23/04	General, Section 12.1, Special Permits, [Art. 21]
May 3, 2004	8/23/04	General, Section 3.24.1, Board of Health Members, [Art. 22]
May 3, 2004	8/23/04	General, Section 3.10.3, Long Term Capital Requirements Committee, [Art. 23]
May 23, 2005	9/12/05	General, Sections 13.1.5, 13.7.1, 13.11.1, Wetlands, [Art. 24]
May 23, 2005	9/12/05	Zoning, Section 7.3, Board of Appeals Administration, amended [Art. 25]
May 1, 2006	9/19/06	Zoning, Sections 5.9.3, 5.9.5, 5.9.5.2, Personal Wireless Service Facilities [Art. 27]

<u>TOWN MEETING DATE</u>	<u>APPROVAL DATE</u>	<u>BYLAW CHANGE</u>
May 1, 2006	9/19/06	Zoning, Section 5.6, Accessory Apartments
October 30, 2006	1/11/07	Zoning, Section 5.9, Personal Wireless Communication Facilities
October 30, 2006	1/11/07	Zoning, Section 7.6, Site Plan Review
May 5, 2008		General, Section 1.4.2, Non-Criminal Disposition, Board of Health [Art. 28]
May 4, 2009		General, Article XIV Section 14.6.2.3, Regulation of Dogs, Licenses [Art. 30]
May 4, 2009		General, Article XIV Section 14.6.2.4, Regulation of Kennels [Art. 30]
May 4, 2009		General, Article XIV Section 14.6.2.6, Dog Penalties and Fines [Art. 30]
May 4, 2009		General, Article XIII, Wetland Protection, [Art. 31]
May 4, 2009	11/16/09	Zoning, Section 5.9, Personal Wireless Communication Facilities [Art. 34]
May 10, 2010	6/23/11	Zoning, Section 5.2, Wetland/Flood Hazard District, [Art. 25]
May 10, 2010	5/9/11	Zoning, Section 2.2, Location of Districts, [Art. 26]
May 10, 2010	6/23/11	Zoning, Section 7.6, Site Plan Review, [Art 27]
May 10, 2010		General, Section 4.8, Stretch Energy Code, [Art. 28]
May 9, 2011	07/19/12	Zoning, Section 5.8, Solar Photovoltaic Facility Overlay District, [Art. 25]
April 30, 2012		General,Section 3.1.3 Contracts for the procurement of goods or services [Art. 17]
April 30, 2012		General,Section 3.24.4 Camp license fees [Art. 18]
April 29, 2013	11/15/13	Zoning, Section 5.6, Accessory Apartments, [Art.26]
April 29, 2013	11/15/13	Zoning Section 3.5 Interim Regulations for Medical Marijuana uses [Art. 28]
April 29, 2013	11/15/13	General, Section 2, Town Meetings, [Art. 24]

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April 29, 2013	11/15/13	General, Section 3.10, Long Term Capital Requirements Committee, [Art. 25]
April 28, 2014	1/4/16	General, Section 3.26.4, Community Preservation Act [Art 18]
April 28, 2014	1/4/16	Zoning, Section 3.3.2, 5.10, 7.2, 7.6.1, Medical Marijuana [Art 27]
April 28, 2014	1/4/16	Zoning, Section 2.2, FEMA/Wetlands Maps [Art 29]
April 28, 2014	1/4/16	General, Section 3.23.2, Council on Aging [Art 30]
April 27, 2015	11/16/15	General Wetlands Bylaw, Section 1.5, 7.1, 11.1, 2.5, And 11.1.1
*** End of File ***		