

Appendix J

Hampshire County Sample Bylaws

1. Community Preservation Act Implementation – Sample Ballot Language
Community Preservation Coalition
2. Sample Community Preservation Committee Bylaw
The Trust for Public Land
3. Sample Open Space Residential Development Bylaw
Pioneer Valley Planning Commission
4. Sample River Protection and Floodplain Overlay District Bylaw
Pioneer Valley Planning Commission
5. Sample Mixed Use Village Center Bylaw
Pioneer Valley Planning Commission
6. Sample Commercial and Industrial Development and Performance Standards Bylaw
Pioneer Valley Planning Commission
7. Sample Site Plan Review Bylaw
Massachusetts Attorney General
8. Sample Ridgeline and Hillside Protection District Bylaw
Pioneer Valley Planning Commission

1. Community Preservation Act Implementation - Sample Ballot Language

Source: Massachusetts Community Preservation Coalition

Please note that these samples should not be used without the advice of legal counsel or outside the context of an overall political assessment of the electoral options available to any municipality. The City Solicitor or Town Counsel should be involved at the earliest practical moment to provide legal advice.

Town Meeting Warrant Article (revised January 2007)

To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, rehabilitation and restoration of historic resources, the acquisition, creation and preservation of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, land for recreational use and community housing that is acquired or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy against real property and the fiscal year in which such surcharge shall commence; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; or to take any other action relative thereto.

Town Meeting Vote (revised January 2007)

Voted: that the Town hereby accepts Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, rehabilitation and restoration of historic resources, the acquisition, creation and preservation of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, land for recreational use and community housing that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be [x%] of the annual real estate tax levy against real property commencing in fiscal year [20__]; and that the Town [does not accept any of] [hereby accepts] the [following] exemption[s] from such surcharge permitted under Section 3(e) of said Act: [property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act] [class three, commercial, and class four, industrial, properties as defined in G.L. c.59, §2A] [\$100,000 of the value of each taxable parcel of residential real property].

City Council Order (revised January 2007)

Ordered: that the Town hereby accepts Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, rehabilitation and restoration of historic resources, the

acquisition, creation and preservation of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, land for recreational use and community housing that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be [x%] of the annual real estate tax levy against real property commencing in fiscal year [20__]; and that the Town [does not accept any of] [hereby accepts] the [following] exemption[s] from such surcharge permitted under Section 3(e) of said Act: [property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act] [class three, commercial, and class four, industrial, properties as defined in G.L. c.59, §2A] [\$100,000 of the value of each taxable parcel of residential real property].

Ballot Measure (revised January 2007)

Shall (MUNICIPALITY) accept sections 3 to 7 inclusive, of Chapter 44B of the General Laws, as approved by its legislative body, a summary of which appears below?

Sections 3 to 7 of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act, establish a dedicated funding source to acquire and preserve open space, parks and conservation land, protect public drinking water supplies, and scenic areas, protect farm land and forests from future development, restore and preserve historic properties, and help meet local families' housing needs. In (MUNICIPALITY), the Community Preservation Act will be funded by an additional excise of [x%] on the annual tax levy on real property to be assessed beginning in fiscal year [20__], and by matching funds provided by the state. [OPTIONAL EXCLUSIONS: [property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act] [class three, commercial, and class four, industrial, properties as defined in G.L. c.59, §2A] [\$100,000 of the value of each taxable parcel of residential real property]]. Any other taxpayer receiving an exemption of real property authorized by Chapter 59 of the General Laws shall be exempt from this act. A Community Preservation Committee composed of local citizens will make recommendations on the use of the funds and all expenditures will be subject to an annual audit.

Initiative Petition Language (revised January 2007)

We, the undersigned registered voters in the town [or city] of [NAME] request that the following question be placed on the ballot at the next regularly scheduled election:

"Shall (MUNICIPALITY) accept sections 3 to 7 inclusive, of Chapter 44B of the General Laws, a summary of which appears below?

Sections 3 to 7 of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act, establish a dedicated funding source to acquire and preserve open space, parks and conservation land, protect public drinking water supplies, and scenic areas, protect farm land and forests from future development, restore and preserve historic properties, and help meet local families' housing needs. In (MUNICIPALITY), the Community Preservation Act will be funded by an additional excise of [x%] on the annual tax levy on real property to be assessed beginning in fiscal year [20__], and

by matching funds provided by the state. [OPTIONAL EXCLUSIONS: [property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act] [class three, commercial, and class four, industrial, properties as defined in G.L. c.59, §2A] [\$100,000 of the value of each taxable parcel of residential real property]]. Any other taxpayer receiving an exemption of real property authorized by Chapter 59 of the General Laws shall be exempt from this act. A Community Preservation Committee composed of local citizens will make recommendations on the use of the funds and all expenditures will be subject to an annual audit."

2. Sample Community Preservation Committee Bylaw

Source: The Trust for Public Land

PLEASE NOTE: This sample bylaw should not be used without the advice of legal counsel. The City Solicitor or Town Counsel should be involved at the earliest practical time to provide legal advice. The Trust for Public Land is also available to provide technical assistance.

Chapter 1: Establishment

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority, and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Historical Commission as designated by the Commission for a term of three years.

One member of the Planning Board as designated by the Board for a term of three years.

One member of the Recreation Council as designated by the Council for an initial term of one year and thereafter for a term of three years.

One member of the Housing Authority as designated by the Council for an initial term of two years and thereafter for a term of three years.

One member of the Open Space Committee as designated by the Committee for an initial term of one year and thereafter for a term of three years.

Three members to be appointed by the Board of Selectmen, one member to be appointed for a term of one year and thereafter for a term of three years and two members to be appointed for a term of two years and thereafter for a term of three years.

Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this Chapter be no longer in existence for what ever reason, the appointment authority for that Commission, Board, Council, or Committee shall become the responsibility of the Board of Selectmen.

Chapter 2: Duties

(1). The community preservation committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the recreation council and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public

informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2). The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3). The community preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

Chapter 3: Requirement for a quorum and cost estimates

The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

Chapter 4: Approval by Legislative Body

After receiving such recommendations from the community preservation committee, the legislative body shall then take such actions and approve such appropriations from the Community Preservation Fund as set forth in section 8, chapter 44B, and such additional appropriations as it deems appropriate to carry out the recommendations of the community preservation committee.

Chapter 5: Procedure for Eminent Domain

For the purposes of community preservation and upon recommendation of the community preservation committee, a city [or town] may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city [or town] if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city [or town] may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city [or town] may be liable by reason of a taking for the purposes of community preservation.

Chapter 6: Amendments

This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL, Chapter 44B.

Chapter 7: Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

Chapter 8: Effective Date

Following Town Meeting approval, this Chapter shall take effect immediately upon approval by the Attorney General of the Commonwealth. Each appointing authority shall have ten days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Town Moderator shall make the appointment.

3. Sample Open Space Residential Development Bylaw (with Major Residential Development Controls)

Source: Pioneer Valley Planning Commission

1.0 OPEN SPACE RESIDENTIAL DEVELOPMENT

1.1 Intent

Open Space Residential Development (OSRD) in accordance with this bylaw shall be required for all Major Residential Developments in the *[input town specific zoning districts here]*, except not in the Floodplain District. Open Space Residential Development shall mean a residential development in which a variety of housing types are clustered together, adjacent to permanently preserved open space. Open Space Residential Development shall be encouraged within the town, and shall be the preferred method of subdivision development wherever the following purposes would be served.

1.2 Purposes

The purposes of Open Space Residential Development are:

- 1.21 To allow for greater flexibility and creativity in the design of residential developments, provided that the overall density of the development is no greater than what is normally allowed in the district;
- 1.22 To encourage the permanent preservation of open space, agricultural lands, forest lands and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
- 1.23 To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
- 1.24 To maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;
- 1.25 To facilitate the construction of streets, utilities and public services in a more economical and efficient manner;
- 1.26 To ensure that residential developments are designed to minimize impacts to the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic views, and rural character;
- 1.27 To encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the town;

1.28 To provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival.

1.3 Definitions

Basic Maximum Number: The number of units that would be allowed on a site using the standard Zoning Bylaw Provisions and/or Subdivision Rules and Regulations as determined by a Yield Plan.

Common Area: Any land area, other than Open Space, set aside for common ownership as a result of an OSRD, including areas for Common Facilities.

Common Driveway: Vehicular access, which is not a street, but extending from a street, serving as a common vehicular access to more than one (1) but not more than six (6) residential lots built in accordance with the standards set forth in this bylaw. The driveway will lie entirely within the lots being served.

Common Facilities: Built facilities which are commonly owned by the property owners within an OSRD. Common Facilities may be proposed but are not required. They may include streets, rights of way, common buildings, wells, water and waste treatment systems, and recreation facilities.

Conventional Lot: A lot in a standard subdivision based upon the minimum dimensional requirements of the underlying zoning district in which the subject property lies, and the minimum requirements of the Subdivision Regulations.

Conventional Plan: A plan showing the division of property into lots based upon the minimum requirements of the underlying zoning district in which the subject property lies, and the minimum requirements of the Subdivision Regulations.

Existing Resources / Site Analysis Map: A map which identifies, locates, and describes noteworthy features to be designed around through sensitive subdivision layouts, such as vegetation, wetlands, steep slopes, farmland soils, historic or cultural features, threatened or endangered species, unusual geological formations, and scenic views or viewsheds.

Homeowners' Association: A private non-profit organization (corporation, association, or other legal entity) established by the developer to manage, maintain, support, and finance the common facilities and common open space of an OSRD, and to enforce certain covenants and restrictions.

Minor Residential Development: A subdivision which requires approval under M.G.L., Ch. 41 creating 3 or fewer lots or a residential development creating 3 or fewer dwelling units.

Major Residential Development: A subdivision which requires approval under M.G.L., Ch. 41 creating 4 or more lots or a residential development creating 4 or more dwelling units.

[The scale of a Major Residential Development can be changed depending on the typical scale of subdivision design in a given community.]

Open Space: Undeveloped land set aside for common or individual ownership as a result of an OSRD, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped. A condition of OSRD approval is that open space may not be further subdivided.

Open Space Residential Development (OSRD): A form of residential development where the density of the dwelling units is no greater than would be permitted in the district in where the OSRD is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently protected open space, recreational land, forests, or other farmland.

Prime Agricultural Soils: Agricultural land with soils designated as prime or of statewide significance by the U.S. Natural Resources Soil Service soil surveys.

Title V Regulations: 310 CMR 15.000

Wetlands: Areas characterized by vegetation described in Massachusetts General Laws, Chapter 131, and Section 40.

Yield Plan: A conceptual plan showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by Title V regulations, 310 CMR 15.000, as well as the [Insert Town Name] Board of Health regulations. For purposes of determining the number of OSRD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a single family dwelling unit as defined in the zoning district in which the OSRD is located and meet all other applicable requirements of the Zoning Bylaw and Subdivision Regulations. In no case shall the number of OSRD dwelling units exceed the number of units that would be allowed under a conventional subdivision.

1.4 Applicability

1.41 Any applicant applying for a Major Residential Development in the Town of [Insert Town Name] shall apply for an OSRD under this bylaw. Applicants applying for a Minor Residential Development may apply for an OSRD under this bylaw.

[This model bylaw mandates the use of OSRD for all Major Residential Developments. Each community should assess whether to make this type of development mandatory, encourage its use through incentives, or allow it by right on an equal footing to conventional subdivision. If a community determines that this type of development should be encouraged, incentive language should be added to encourage its use.]

1.42 Segmentation: In determining whether a project is a major residential development, the developer and the Planning Board shall consider the entirety of the development, including (a) any

likely future expansion of the project on the subject property or on any property which is contiguous to the subject property or under related ownership or (b) any past, related development on any property which is contiguous to the subject property or any property that was under related ownership with the subject property at the time that this bylaw was adopted. A developer may not phase or segment a project or transfer ownership of contiguous properties to evade, defer or curtail the requirements set forth in this bylaw.

1.43 Uses Permitted in the Developed Area of an OSRD.

- 1) Single Family Detached Dwelling Units;
- 2) Duplex or Two-Family Dwelling Units;
- 3) Multi-Family Dwelling Units provided that no building shall contain greater than four (4) dwelling units, and the percentage of multi-family dwelling units shall not exceed twenty (20) percent of the total number of units in the development;

[This model bylaw allows for a variety of housing types within the OSRD. Each community should assess its housing needs and amend this section based on those needs]

1.44 Uses Permitted in the Open Space of an OSRD.

- 1) Agricultural uses including horticultural, raising of crops, livestock, poultry, nurseries, orchards, hay, and building related to the same;
- 2) Public park or recreation area;
- 3) Woodlots, arboreta, and other similar silvicultural uses;
- 4) Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use;
- 5) Accessory uses customarily incidental to any permitted use.

1.45 Special Land Features.

The Planning Board may request an applicant to use an OSRD subdivision design if the property possesses one or more of the following special features:

- 1) Unfragmented open land as identified as a priority for protection in the town's Open Space and Recreation Plan, Master Plan or the Community Development Plan;
- 2) Agricultural land with soils designated as prime or of statewide significance by the U.S. Natural Resource Conservation Service soil surveys;

- 3) Rare, threatened, or endangered species or exemplary natural communities according to the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program;
- 4) Unique natural, cultural, and/or historical features as identified in the Master Plan or Community Development Plan.

[The language under Section 1.45 above should only be added to the bylaw if the community is not going to mandate OSRD for all Major Residential Developments, but allow the Planning board to decide which form of development to use when the subject property possesses one or more of the specials features highlighted above.]

1.5 Application Requirements

1.51 Pre-application Review

The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS]. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application.

1.52 Site Visit

Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the proposed development. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS]

1.53 Site Context Map

A Site Context Map shall be submitted / presented to the Planning board during the pre-application review. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.

1.54 Existing Resources / Site Analysis Map

The following shall be submitted / presented to the Planning Board during the pre-application review at a regularly scheduled meeting for the purpose of assessing the impact or implications of the development and shall be used in the preparation of a preliminary design plan.

- 1) Boundaries of wetlands defined by Massachusetts Wetlands Law CMR-140 and certified by a licensed wetlands professional engineer;
- 2) Location and limits of soils types, particularly Prime Agricultural Soils, consistent with the soils classification maps prepared by the US Department of Agriculture Natural Resource Conservation Service;
- 3) Areas where the depth of natural soil to bedrock is four (4) feet or less;
- 4) The extent of any Interim Wellhead Protection Areas and Recharge Areas;
- 5) Topographic contours at intervals of ten (10) feet or less;
- 6) Delineation of slopes of twenty-five percent (25%) or greater;
- 7) The location of cultural and historic features including, but not limited to, stonewalls, archaeological and historic sites and structures, and significant and rare vegetation;
- 9) Areas delineated as “BioMap Core Habitat” or “Supporting Natural Landscape” on the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program;

1.55 Preliminary Subdivision Plan Submission

- 1) A Preliminary Subdivision Plan shall be submitted in conformance with the Town of [Insert Town Name] Subdivision Regulations. Applicants shall submit the preliminary design to the Planning Board for review prior to development of a Definitive Plan. Approval of the Preliminary Plan by the Planning Board will be based on the review criteria standards set forth in Section 1.55(2).

[For those communities that want to encourage this form of development and give the Planning Board the discretion to choose between OSRD and conventional development, applicants should submit both a conventional plan and an OSRD plan in order for the Planning Board to make a determination on a case by case basis on the type of development to be used.]

- 2) Review of Preliminary Plan. The Planning Board shall review the Preliminary Subdivision Plan in accordance with the criteria contained in this Bylaw and with other applicable regulations of the Town of [Insert Town Name]. The review shall informally advise the applicant to the extent to which the proposed subdivision or land development conforms to the relevant standards of this Bylaw and may suggest possible plan modifications that would increase its degree of conformance. The review shall include, but is not limited to:

- (a) The location of all areas proposed for land disturbance (streets, foundations, yards, septic disposal systems, storm water management areas, etc.) with respect to notable features of natural or culturally significance as identified on the applicants Existing Resources / Site Analysis Map;
- (b) The potential for street connections with existing streets, other proposed streets, or potential developments of adjoining parcels;
- (c) The location of proposed access points along existing road networks;
- (d) The proposed building density and areas of impervious surface.

1.56 Definitive Subdivision Plan Submission

A final Definitive Development Plan shall be submitted in conformance with this section and the Town of [Insert Town Name] Subdivision Regulations as applicable. Such Plans shall adequately address standards delineated in this bylaw. In addition, the Definitive Development Plan shall address issues that have been previously discussed in the Existing Resources / Site Analysis Map.

1.6 Subdivision Approval Procedures

1.61 Applicants for Open Space development projects shall follow all procedures specified in the Town of [Insert Town Name] Subdivision Regulations.

1.62 The Planning Board shall submit copies of the preliminary and final subdivision plans to the Board of Health, Conservation Commission, Highway Department, Chief of Police, Fire Chief [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS] who shall review the application and submit their recommendations and comments to the Planning Board concerning :

- The completeness and adequacy of the data and methodology used by the applicant to determine the impacts of the proposed development;
- The effects of the projected impacts of the proposed development; and
- Recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of Boards to make recommendations within 30 days of the referral of the application shall be deemed to be lack of opposition.

1.7 Criteria for Evaluation

No approval for an OSRD shall be given unless the application complies with the following criteria:

1.71 The proposed development shall be compatible with respect to the objectives and policy recommendations of the Open Space and Recreation Plan and Community Development Plan or Master Plan;

- 1.72 The proposed development shall be consistent with the intent and purposes of this bylaw;
- 1.73 All dwellings shall, to the greatest extent possible, be located out of view from any road unless valuable natural resources or farmland located to the rear of the property render building in view of the road more desirable;
- 1.74 The portion of a parcel placed in open space shall, to the greatest extent possible, be that which is most valuable or productive as a natural resource, wildlife habitat, farmland, or forestry land;
- 1.75 The OSRD shall result in the creation of less curb cuts or vehicular access points to a public way than would reasonably be expected to occur under Standard ANR or Subdivision Development.
- 1.76 Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- 1.77 The preferred location for the required protected open space in an OSRD shall be, to the extent feasible, in view of town roads and linked to any existing protected lands on adjacent parcels.

1.8 Dimensional Standards

1.81 Allowed Density

- 1) The maximum number of dwelling units for an OSRD shall be determined by use of a yield plan, which is a conceptual plan showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by Title V regulations, 310 CMR 15.000, as well as the [Insert Town Name] Board of Health regulations. For purposes of determining the number of OSRD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a single family dwelling unit as defined in the zoning district in which the OSRD is located and meet all other applicable requirements of the Zoning Bylaw and Subdivision Regulations. In no case shall the number of OSRD dwelling units exceed the number of units that would be allowed under a conventional subdivision.
- 2) There shall be no further subdivision of an approved OSRD.

1.82 Flexible Dimensional Controls

1) Frontage

- (a) The minimum frontage for a tract on which an OSRD is proposed (whether or not by subdivision) shall equal or exceed 60 feet for each lot created in the OSRD, as shown in the Table of OSRD Dimensional Requirements (Table 1). [For example, to create a six-lot OSRD in a typical Residential District, the original parcel must have a minimum of 360 foot contiguous frontage along a public way.]

(b) In the interest of flexibility and creative site designs, there shall be no minimum frontage requirement for individual lots on new subdivision streets within an OSRD, with the exception described in Section 1.9.2(c) below.

(c) For each lot developed along a public street existing at the time of the application, the minimum frontage, minimum lot size and all other dimensional controls shall be those which are required in the underlying zoning district in which the OSRD is located.

2) Lot Size

(a) The minimum lot size for individual lots without town water and sewer within an OSRD shall be 25,000 square feet.

(b) The minimum lot size for individual lots with town water and sewer within an OSRD shall be 10,000 square feet.

[Minimum lot sizes for individual lots within an OSRD without public water and sewer should be based on whether the community will allow community systems to be built within the Open Space of an OSRD. Minimum lot sizes for individual lots within an OSRD with public water and sewer should be based upon existing lots sizes in the underlying zoning districts in which OSRD is mandated or allowed.]

3) Setbacks

There shall be a minimum setback of fifty (50) feet along all property boundaries of the overall tract for all structures, including accessory structures, parking areas, driveways and internal streets. Entrance streets connecting the OSRD to the external street system may cross the setback area.

There shall be no minimum front yard, side yard, or rear yard setback requirements for individual lots within an OSRD.

There shall be a minimum of twenty (20) feet between buildings in an OSRD.

Required Open Space

The minimum open space requirement for an OSRD shall be fifty (50) percent of the total tract area of which no more than twenty-five (25) percent may consist of wetlands, surface waters, flood plains, or areas with unaltered slopes greater than twenty-five (25) percent provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.

[The minimum percentage of open space required by the Planning Board may vary from one town to another but should be based on a careful assessment of developable lands. The minimum requirement could be elevated beyond the suggested fifty percent (50%) if the town identifies that few if any of its

developable lands are significantly restrained by existing wetland resources. Likewise, if there are many significant parcels with the majority of their land in resource areas, it would be prudent to reduce the minimum open space set-aside to allow for a more flexible and equitable approach.]

TABLE 1 - TABLE OF OSRD DIMENSIONAL REQUIREMENTS

Development Type	Zoning District	Minimum Lot Size in Sq. Ft. (per Dwelling Unit)	Average Lot Size in sq. ft. (per Dwelling Unit) ¹	Minimum Required Open Space (% of total parcel)	Minimum Designated Nitrogen Credit Land	Minimum Lot Frontage (continuous in ft.)	Minimum Frontage for Total Parcel (ft.) ²	Minimum Front Yard (ft.)	Minimum Side Yard (ft.)	Minimum Rear Yard (ft.)	Maximum % Building Coverage of Land including Accessory Buildings	Maximum Building Height (ft.)
Standard Subdivision or ANR Development	Rural-Residential	60,000	N/A	None	None	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]
	Residential-Neighborhood	40,000	N/A	None	None	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]
	Residential-Village	30,000	N/A	None	None	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]	[Input town specific data]
OSRD Development	Rural-Residential Town Water/Sewer Individual Systems	15,000	20,000	50%	None	None	60 per lot	None	None	None	25%	35
	Residential-Neighborhood Town	10,000	15,000	50%	None	None	60 per lot	None	None	None	25%	35

Water/Sewer Individual Systems	15,000	20,000		40,000 sf per lot, including lot								
Residential-Village Town Water/Sewer Individual Systems	8,000	10,000	50%	None	None	60 per lot	None	None	None	25%	35	
	10,000	15,000		40,000 sf per lot, including lot								

¹ Calculations for average lot areas shall be computed by adding the lot sizes for all lots in the OSRD, plus common open space, as described in Section 1.12, and dividing by the total number of lots.

² The frontage of the total tract from which an OSRD is created shall equal or exceed at least 60 feet per developable lot created.

1.83 Landscaped Buffers

- 1) A landscaped buffer no less than fifty (50) feet deep shall be provided where appropriate to screen the development from public streets and adjacent properties. Entrance streets connecting the OSRD to the external street system may cross the buffer area. The natural vegetation shall be retained whenever possible. If the natural vegetation is not sufficient to serve as an effective visual screen, landscaping shall be required to provide such a screen. Landscaping may include berms and/or decorative fencing of an appropriate height.
- 2) This buffer area shall be part of the common area, and shall be subject to the same restrictions that apply to that area.
- 3) Frontage lands on streets existing at the time of application shall be preserved as buffers to the maximum extent possible in addition to all required setbacks

1.84 Common Driveways

The Planning Board may authorize the use of common driveways to provide access to no more than six (6) individual lots of land provided that the following conditions are met:

- 1) A common driveway shall have a minimum roadway width of sixteen (16) feet to a maximum of twenty (20) feet, in addition to an easement of sufficient width to assure proper drainage and maintenance.
- 2) A common driveway shall not exceed 400 feet in length.
- 3) The slope or grade of a common drive shall in no place exceed 10% if unpaved or 12% if paved.
- 4) The common drive shall intersect a public way at an angle of not less than 80 degrees.
- 5) Alignment and sight distances should be sufficient to support a design speed of 15 mph.
- 6) The common driveway shall be capable of providing access for emergency vehicles with either a "hammer head", "T" or "Y" configuration in lieu of a cul-de-sac for reverse direction in a single movement.
- 7) The common driveway shall lie entirely within the lots being served.
- 8) The common driveway, at its intersection with the street, must provide a leveling-off area with a slope no greater than 1% for the first 20 feet and a slope no greater than 5% for the next 30 feet.

- 9) There shall be a minimum of 500 feet between the entrances of any two common driveways onto any road.
- 10) The common driveway shall be constructed of a minimum 15" gravel base, with an oil and stone top layer of 1½" consisting of three successive layers of ¾" crushed traprock stone, ½" crushed traprock stone and ¼" crushed traprock stone, with a crown sufficient for drainage. Drainage shall be by sheet runoff to drainage swales adequate to dispose of surface runoff. Culverts will be installed if deemed necessary by the Planning Board.
- 11) A common driveway shall have adequate sight distance at its intersection with a public or private road, and shall not create traffic safety hazards to its users or the public.
- 12) The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.
- 13) The common driveway shall provide the only vehicular egress/access to the lots being serviced by it, and this shall be so stated in the deeds to the subject lots.
- 14) Permanent signs, sufficiently readable from the road to serve the purpose of emergency identification, indicating the street number address assigned to each lot served by the common driveway shall be installed within ten (10) feet of the intersection of the common driveway with the street, as well as within ten (10) feet of the intersection of an individual lot driveway with the common driveway. This requirement is in addition to those for individual homes.
- 15) Common driveway design shall to the greatest extent possible minimize adverse impact to wetlands, farmland, or other natural resources; allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of number of access ways; and retention of existing vegetation and topography.
- 16) Frontage along the length of a common driveway shall in no way be used to satisfy frontage requirements as specified in the Zoning Bylaw.
- 17) No common driveway, approved under this bylaw, shall accepted by the town as a public road, nor shall the town under any circumstances be held liable for construction, reconstruction, maintenance or snow removal on any common driveway.

These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.

[This model bylaw encourages the use of common driveways to allow greater flexibility in the design of an OSRD. Communities that have existing common driveway regulations should reference the appropriate bylaw in place of these specific provisions. Communities should

consider whether to allow common driveways for all developments as opposed to only OSRD, in which case such regulations should be put forth as a zoning amendment to apply to all development in the community.]

1.9 Utility Requirements

1.91 On-site Sewage Disposal

The following standards shall apply to developments requiring on-site sewage disposal:

1) The applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the application.

2) All Open Space Residential Developments must meet the minimum state Environmental Code (Title V) requirements for minimum setbacks between private water supply wells and septic tanks or soil absorption systems (310 CMR 15.211).

3) All Open Space Residential Developments must meet the minimum state Environmental Code (Title V) requirements for nitrogen loading limitations (310 CMR 15.214-15.217). For OSRDs with individual lot sizes less than 40,000 square feet, applicants must meet the following standards:

(a) Applicants must designate, on a plan, specific areas of common open space as "nitrogen credit land", based on the following equation:

$(40,000 \text{ square feet} \times \text{number of OSRD lots}) - (\text{total square feet in proposed OSRD lots}) = \text{square feet of required nitrogen credit land in common open space}$

(b) Nitrogen credit land must meet DEP qualifications contained in "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310CMR15.216" including, but not limited, to the following qualifications:

- Must be restricted to prohibit man-made sources of nitrogen, including sewage discharge, nitrogen-based fertilizer or raising and grazing of livestock;
- Must be restricted to prohibit artificially rendered imperviousness (i.e. paved streets, paved parking lots, buildings, structures, etc.);
- Not within a Velocity Zone or Regulatory Floodway identified by FEMA;
- Not under surface water;

- Not already being used as nitrogen credit land.
- (c) All designated nitrogen credit land must be permanently restricted from further development under a "Grant of Title 5 Nitrogen Loading Restriction and Easement on Nitrogen Credit Land".

After approval of the Flexible Residential Open Space Final Subdivision Plan, applicants must apply to the Board of Health and the Mass. Department of Environmental Protection (DEP) for an aggregate determination of nitrogen loading under 310 CMR 15.216.

- 4) It is required that septic tanks be installed on individually-owned lots. Nitrogen Credit Land must be at least 100 feet from all private wells.

1.92 Water Supply

In order to meet state Title V requirements for separation distances between drinking water wells and septic systems, private drinking water supply wells may be located in the common open space for an Open Space Residential Development, provided that the provisions of Section 1.13 for a homeowners' association are met.

1.93 Stormwater Management

The Planning Board shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable infiltration where appropriate.

Stormwater management systems serving the OSRD subdivision may be located within the required common open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space requirement.

1.10 Common Open Space

1.101 Common Open Space Requirements

- 1) A minimum of 50% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.
- 2) Watercourses, lakes, ponds, wetlands, floodplains, and steep slopes over 25% may be included in common open space calculations not to exceed twenty-five (25) percent.

- 3) The Planning Board may permit up to three (3) percent of the open space area to be paved or built upon for structures accessory to the dedicated use of open space (i.e. pedestrian walks, bicycle paths, playgrounds, farm-related structures).
- 4) All recreational facilities, common areas, and common open space shall be reasonably accessible to all residents of the development.

1.102 Land Protection Methods for Common Open Space

- 1) All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation, forestry or agricultural uses which preserve the land in its natural condition.
- 2) The land shall be owned by a non-profit land trust or conservation organization, homeowners' association, or individual, and a permanent conservation easement or deed restriction must be conveyed to the Town, with Town approval, or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space.
- 3) Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited.

1.11 Additional Requirements

1.111 Trails. Where there is an existing local or regional trail network on land adjacent to a proposed OSRD, the developer of the OSRD may be required to connect to the existing trail network with trail corridors through the site, and shall grant the general public access to these trails in perpetuity. The minimum nature of public access required is pedestrian traffic. The instrument granting access, acceptable to the planning board, shall restrict the use of motorized vehicles where appropriate.

1.112 Open Space. Where there is an existing network of open space or large tracts of unfragmented open space on land adjacent to a proposed OSRD, the developer of the OSRD may be required to connect to the existing open space where feasible with the required open space set-aside, and shall grant the general public access to this open space in perpetuity. The minimum nature of public access required is pedestrian traffic. The instrument granting access, acceptable to the planning board, shall restrict the use of motorized vehicles where appropriate.

1.113 Forest Management. On sites where the open space to be preserved is mostly mature forest (70% or greater), the developer of a OSRD may be required to submit a Forest Management Plan developed by a MA Licensed Forester and approved by the Planning Board.

1.114 View Shed and Viewpoints. The Planning Board may require the development to protect in perpetuity view sheds and associated viewpoints, which are lands or corridors of land that contribute to the visual landscape of the Town, including items such as open fields containing stone walls. View sheds and viewpoints include, but are not limited to, those identified in the most current version of the [Insert Town Name] Community Development Plan. The Planning Board may make use of a site visit to determine potential view sheds and viewpoints to be preserved.

1.12 Homeowners' Association

1.121 In the event that ownership of the land will remain with the homeowners in the Open Space Residential Development, a non-profit, homeowners' association shall be established, requiring membership of each lot owner in the Open Space Residential Development.

1.122 The association shall be responsible for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities (not including drinking water wells), except where such responsibility is assumed by another owner of the common land (land trust or conservation organization). If any drinking water well is located on common open space, the homeowner/s shall own the well and be responsible for any maintenance or related costs associated with their well.

1.123 A homeowners' association agreement or covenant will guarantee continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses shall be submitted with the final subdivision application. Where no homeowners' association is proposed, an alternative plan shall be submitted with the final subdivision application.

1.124 Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampden County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development.

1.13 Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

1.14 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

Optional Sections of an OSRD Bylaw

1.X Increases in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number for an OSRD Plan. The density bonus for the OSRD shall not, in the aggregate, exceed twenty percent (20%) of the Basic Maximum Number. Computations shall be rounded down to the next whole number. A density bonus may be awarded in the following circumstances:

- A. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded. Calculations shall be rounded down to the nearest integer when determining this bonus.
- B. For every two (2) dwelling units restricted in perpetuity to occupancy by Moderate-Income Households, or for every one (1) dwelling unit restricted in perpetuity to occupancy by Low-Income Households, one (1) market rate dwelling unit may be added to the Basic Maximum Number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.
- C. For every historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added to the Basic Maximum Number.

1.X Affordable Housing

1.X1 Definitions

Affordable Housing Unit: A dwelling unit with an Affordability Deed Restriction available at a cost of no more than 30% of gross household income of households at or below 80% of the Area Median Income as reported by the U.S. Department of Housing and Urban Development, including units listed under M.G.L. Chapter 40B Sections 20-24.

Affordable Deed Restriction: A covenant agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of [Insert Town Name], that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of M.G.L. Chapter 184, Section 32, and be approved by the Department of Housing and Community Development.

Low- or Moderate-Income Household: A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of [Insert Town Name] as determined annually by the United States Department of Housing and Urban Development (HUD).

Maximum Affordable Purchase Price or Rent: A selling price or monthly rent, exclusive of utilities, that meets the maximum purchase price or rent guidelines of the Massachusetts Department of Housing and Community Development for inclusion on the Subsidized Housing Inventory.

Median Income: The household income determined annually by the US Department of Housing and Urban Development for [Insert town name] or the region that includes [Insert town name].

Qualified Purchaser - A low- or moderate-income household that purchases and occupies an affordable housing unit as its principal residence.

Qualified Renter: A low or moderate-income household that rents and occupies an affordable housing unit as its principal residence.

Subsidized Housing Inventory: The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

1.X2 Number of Units to be Provided - All developments of 10 units or more which are subject to this Bylaw shall be required to set aside a minimum of ten percent (10%) of the total number of dwelling units provided as affordable housing.

1.X3 The affordable units to be provided shall be equivalent in size, quality, and characteristics to the other units in the development. The units shall not be grouped together; they shall be distributed among all units.

1.X4 Preservation of Affordability; Restrictions on Resale

(1) An affordable housing unit created in accordance with this Bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements of the Town and the Local Initiative Program or other programs qualifying dwelling units for inclusion on the Subsidized Housing Inventory, and shall be in force for the maximum period allowed by law.

(2) The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of M.G.L. c.184.

(3) The Planning Board shall require that the applicant comply with the mandatory provision of affordable housing units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement. All documents necessary to ensure compliance with this Bylaw shall be subject to the review and approval of the Planning Board and review as to form by Town Counsel. Such documents shall be executed and recorded prior to and as a condition of the issuance of any Certificate of Occupancy unless later recording is permitted by the Planning Board for good reason.

4. Sample River Protection and Floodplain Overlay District Bylaw

Source: Pioneer Valley Planning Commission, Revised 10-9-07

1. River Protection and Floodplain District

Purposes.

The purposes of the River Protection and Floodplain District are to:

Protect life, public safety and property from flooding hazards;

Preserve the natural flood control and flood storage characteristics of the floodplain;

Promote the preservation of agricultural lands along the _____ River;

Prevent any alterations to the natural flow of the river;

Protect fisheries and wildlife habitat within and along the _____ River;

Control erosion and siltation;

Enhance and preserve existing scenic or environmentally sensitive areas along the shoreline;

Conserve shore cover and encourage well-designed developments;

Prevent water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and poorly sited waste disposal facilities.

Preserve and maintain the groundwater table and water recharge areas within the floodplain.

Maintain the wild and scenic qualities of the _____ River and its tributaries.

District Delineation

1. The River Protection and Floodplain District is herein established as an overlay district and includes:

All special flood hazard areas designated as Zone A or Zones A1-30 on the _____ Flood Insurance Rate Maps (FIRM) for the _____ River, dated _____, on file with the Town/City Clerk, and hereby made a part of this By-Law;

The riverfront area, as defined in MGL Chapter 131, section 40 and this bylaw/ordinance, including all land situated between a river's mean annual high water line and a parallel line

located two hundred (200) feet away, measured horizontally, along the entire length of the _____ River within the Town/City of _____, and along the entire length of the following _____ River tributaries, _____.

2. The boundaries of the River Protection and Floodplain District shall be determined by scaling distances on the Flood Insurance Rate Map. When interpretation is needed as to the exact location of the boundaries of a District, the Building Inspector shall make the necessary interpretation.

Definitions

Animal Feedlots: A confined, fenced area designed for intensive feeding of livestock;

Buffer: A strip of land, measured landward from the riverbank, which must be left in its natural, vegetated condition.

Erosion and Sediment Control BMPs: Practices for controlling construction-related soil erosion and sediment including, but not limited to, staked hay bales, filter fences, hydro-seeding and phased development.

Mean Annual High-Water Line: With respect to a river, the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and which distinguishes between predominantly aquatic and predominantly terrestrial land.

Natural Riverbank Best Management Practices: Practices for riverbank maintenance which promote habitat creation and restoration and treatment and infiltration of stormwater runoff including, but not limited to, native vegetation, soil stabilization matting and geotextiles, and dormant live woody brush layers, fascines and stakes, but not including rock riprap.

River: A natural flowing body of water that empties to any ocean, lake, or other river and which flows throughout the year.

Riverfront Area: That area of land situated between a river's mean annual high-water line and a parallel line located two hundred feet away, measured outward horizontally from the river's mean annual high-water line.

Use Regulations

All development within the River Protection and Floodplain District, including structural and non-structural activities, whether permitted as a right or by Special Permit must be in compliance with the Massachusetts River Protection Act and the Massachusetts Wetlands Protection Act, (MGL Ch131 s40), and with the requirements of the Massachusetts State Building Code pertaining to construction in the Flood Plain (currently Section 744).

Permitted Uses

The following uses in the River Protection and Floodplain District of low flood damage potential and causing no obstruction to flood flows shall be permitted provided they do not require structures, fill, or storage of material or equipment:

Agricultural uses such as farming, grazing, and horticulture, including barns or farm-related structures.

Forestry uses.

Outdoor recreational uses, including fishing, boating, play areas and foot, bicycle or horse paths.

Conservation of water, plants, and wildlife.

Wildlife management areas.

Buildings lawfully existing prior to the adoption of these provisions.

Prohibited Uses

No altering, dumping, filling, or removal of riverine materials or dredging is permitted.

Maintenance of the riverbank may be done under requirements of MGL Ch 131s 40, and any other applicable laws, by-laws, and regulations, and must be done using natural riverbank best management practices.

No impoundments, dams, or other water obstructions may be located within the District.

Commercial or industrial uses are prohibited in the district.

Parking or storage of vehicles or equipment within 200 feet of the riverbank is prohibited. The

Special Permit Granting Authority may consider whether a variance from this prohibition is warranted, where a hardship exists due to lot size or configuration.

Dumping of trash, garbage or other materials on or near the riverbank is prohibited.

Construction of any kind on slopes of greater than 25% within the district is prohibited.

All other uses not specifically permitted or allowed by site plan approval within the overlay zone are prohibited.

Restricted Uses

All forest cutting shall require the filing of a Forest Cutting Plan in accordance with the Massachusetts Forest Cutting Practices Act (MGL Ch 132s 40-46).

No cutting of forest or vegetation shall occur within fifty (50) feet of the river bank. In the area between fifty (50) and one hundred (100) feet from the river bank, no more than 50% of existing forest shall be cut. Exempted from the requirements in this section are: the cutting or management of state-listed invasive species; removal of woody or flood debris; or riverbank restoration activities permitted by the Conservation Commission.

Fenced animal grazing areas must be located at least fifty feet from the riverbank, with a naturally vegetated fifty-foot buffer strip along the river to reduce runoff to the river, and a fence to prevent animals from encroaching on the buffer strip.

Uses by Special Permit

No structure or building in the River Protection and Floodplain District shall be erected, constructed, substantially improved, reconstructed, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a Special Permit is granted by the Planning Board.

The following uses may be allowed by Special Permit in accordance with the Special Permit regulations of this zoning bylaw/ordinance, and additional restriction and criteria contained herein:

Single family residences.

Residential accessory uses including garages, driveways, private roads, utility rights-of-way and on-site waste-water disposal systems.

Animal feedlots, in conformance with Best Management Practices established by the Natural Resource Conservation Service (NRCS).

Special Permit Procedures

The following Special Permit requirements apply in the River Protection and Floodplain District:

With Zone A 1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.

No encroachments (including fill, new construction, substantial improvements to existing structures, or other development shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulation for the National Flood Insurance Program. Construction on slopes of 10-25% within the district, shall require the preparation and submittal of an erosion and sediment control plan, describing best management practices which will be employed to prevent construction-related impacts to river water quality.

The proposed use shall comply in all respects to the provisions of the underlying District in which the land is located.

The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use. Within 10 days of the receipt of the application the Board shall transmit one copy of the development plan to the Conservation Commission, Board of Health and Building Inspector. Final action shall not be taken until reports have been received from the above Boards or until thirty-five (35) days have elapsed.

The following Special Permit requirements apply in the River Protection and Floodplain District, in addition to those requirements specified in Sections 3d.:

A buffer strip extending at least two hundred (200) feet in depth, to be measured landward from each bank of the _____ River shall be required for all lots within the River Protection and Floodplain District. If any lot, existing at the time of adoption of this By-Law, does not contain sufficient depth, measured landward from the river bank, to provide a two hundred (200) foot buffer strip, the buffer strip, may be reduced to 50% of the available lot depth, measured landward from the river bank. For purposes of this By-Law, the river bank shall be defined as the river's seasonal high water mark. The buffer strip shall include trees and shall be kept in a natural or scenic condition.

No buildings or structures shall be erected, enlarged, or altered or moved within the buffer strip.

On-site wastewater disposal systems shall be located as far from the _____ River as is feasible.

In addition to the provisions of Section 3c, in order to issue a Special Permit, the Planning Board must find that the proposed use is compliant with the following provisions:

In the River Protection and Floodplain District, proposed uses must:

Not create increased flood hazards which are detrimental to the public health, safety and welfare.

Comply in all respects to the provisions of the underlying District or Districts within which the land is located.

Comply with all applicable State and Federal laws, including the Massachusetts Wetlands Protection Act (MGL Ch 131 s40).

Be situated in a portion of the site that will most likely conserve shoreland vegetation and the integrity of the buffer strip.

Be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines.

Not result in erosion or sedimentation.

Not result in water pollution.

Nonconforming Uses

Any lawful use, building, structures, premises, land or parts thereof existing at the effective date of this Bylaw/Ordinance or amendments thereof and not in conformance with the provisions of this bylaw/ordinance shall be considered to be a nonconforming use.

Any existing use or structure may continue and may be maintained, repaired, and improved, but in no event made larger.

Any nonconforming structure which is destroyed may be rebuilt on the same location but no larger than its overall original square footage.

Enforcement and Penalties

a. Violations

Any development activity that has commenced or is conducted contrary to this bylaw/ordinance may be restrained by injunction or otherwise abated in a manner provided by law.

Notice of Violation

When the Planning Board determines that an activity is not being carried out in accordance with the requirements of this bylaw/ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

the name and address of the owner applicant;

the address when available or the description of the building, structure, or land upon which the violation is occurring;

a statement specifying the nature of the violation;

a description of the remedial measures necessary to bring the development activity into compliance with this bylaw/ordinance and a time schedule for the completion of such remedial action;

a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

c. Stop Work Orders

Persons receiving a notice of violations will be required to halt all construction activities. This “stop work order” will be in effect until the _____ confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this bylaw/ordinance.

d. Criminal and Civil Penalties

Any person who violates any provision of this ordinance, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300.00 for each day such violation occurs or continues or subject to a civil penalty, which may be assessed in an action brought on behalf of the Town/City in any court of competent jurisdiction.

e. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town/City of _____ may elect to utilize the non-criminal disposition procedure set forth in the town/city bylaw/ordinances. The _____ shall be the enforcing entity. The penalty for the 1st

violation shall be up to \$100. The penalty for the 2nd violation shall be up to \$200. The penalty for the 3rd and subsequent violations shall be \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

f. Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the _____ may take necessary corrective action.

8. Severability

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

5. Sample Mixed Use Village Center Bylaw

Source: Pioneer Valley Planning Commission, 2005

MIXED USE VILLAGE CENTER DISTRICT (MUV)

A. INTENT

The intent of the Mixed Use Village Center District is to foster well-planned, mixed-use, compact developments in the village center in _____, in keeping with the character of traditional New England villages, in order to create a place with a unique and positive local identity, and provide opportunities for development to expand the town's economic diversity and vitality.

B. GOALS

Development within this district should provide commercial, civic, residential uses and public open space within easy, safe walking distance of each other. Vehicular circulation should be safe and well organized, with the use and visual impact of cars minimized. There should be tree lined streets, sidewalks, well-designed architecture, and common interconnected open public spaces. Property developers are encouraged to provide amenities such as protected open space, increased landscaping, street furniture, public spaces, and greater integration of mixed uses.

C. PURPOSES

The purposes of this bylaw are to encourage vital, innovative, development projects and uses in the village center that:

- (1) Provide a compact and diverse mix of housing, office, retail, service and civic uses, including a mixture of uses in the same building;
- (2) Exhibit the design features of traditional villages and small towns in New England;
- (3) Facilitate more efficient provision and maintenance of public services and infrastructure;
- (4) Blend well with the existing landscape and help preserve sensitive environmental features;
- (5) Provide the opportunity for people to work, shop and utilize services in the vicinity of their residences;

- (6) Preserve and restore the overall character of the village center;
- (7) Promote a pedestrian-friendly environment in the village center,
- (8) Encourage the growth of the local economy and jobs, including development of flexible space for small and emerging businesses,
- (9) Encourage the development of open spaces and parks within the village center to accommodate workers, residents, pedestrians and shoppers.

D. USE REGULATIONS

(1) Permitted Uses

- a) Single family residential dwellings are permitted by right in the Mixed Use Village Center District.
- b) The uses noted in Table One are permitted with Site Plan Review from the Planning Board in the Mixed Use Village Center District:

Table One. Uses Permitted with Site Plan Review in Mixed Use Village Center District

a) RESIDENTIAL USES	b) COMMERCIAL USES	c) CIVIC USES
<ul style="list-style-type: none"> 1) Townhouses; 2) Elderly congregate housing; 3) Accessory apartments, within single family residences; 4) Apartments on the second floor of commercial uses; 5) Semi detached dwellings; 	<ul style="list-style-type: none"> 1) Professional offices, including law or medical offices; 2) Business offices and support services; 3) Banks or financial services; 4) General retail sales; 5) Personal services (laundry, dry cleaning or similar); 6) Health club, indoor sports and recreation; 7) Grocery or convenience store; 8) Restaurant or delicatessen (but not including drive-in service); 9) Consumer repair services; 10) Theater or indoor entertainment; 11) Agriculture, horticulture, floriculture and viticulture; 12) Farmstands; 13) Mixed uses, wherein a combination of permitted uses are permitted in the same building; 14) Bed and breakfast inn; 15) Artist studio or gallery; 	<ul style="list-style-type: none"> 1) Municipal or governmental facilities, such as post office or administrative offices; 2) School or educational institution; 3) Church or religious uses; 4) Library or museum; 5) Utility services; 6) Community park or recreation facilities; 7) Public transit facilities; 8) Pedestrian or bicycle facilities; 9) Day care services for children or elderly; 10) Lodge or club;

(2) Prohibited Uses

The following uses are prohibited within the Mixed Use Village Center District:

- a) Drive-in or drive-through restaurant;
- b) Establishment selling or repairing new or used motor vehicles;
- c) Lodging house;
- d) Communications or television tower;
- e) Self-service storage facility;
- f) Commercial fuel oil storage;
- g) Commercial earth removal operation;
- h) Industrial or manufacturing use;
- I) Freight or trucking terminal;
- j) Warehousing;
- k) Residential apartment building;
- l) Commercial kennel;
- m) Lumber mill;
- n) Miniature golf courses;
- o) Adult entertainment uses;
- p) Junkyards;
- p) Other uses not specifically permitted in Table One above.

F. DIMENSIONAL REQUIREMENTS

(1) Dimensional Requirements

- (a) The following dimensional and density requirements shall apply to developments in the Mixed Use Village Center District (MUV), except as otherwise noted:

Table Two. Dimensional Requirements in the Mixed Use Village Center District

Requirement	Minimum Lot Size	Minimum Lot Frontage/ Width	Minimum Lot Depth	Minimum Front & Side Yard Setback	Maximum Front Yard Setback	Minimum Rear Yard Setback
Single family detached residential dwelling	15,000 square feet	50 feet	100 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	35 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone
Semi detached dwelling	10,000 square feet	35 feet	100 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	35 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone
Townhouse	10,000 square feet per structure, plus 2,000 square feet per unit in structure	20 feet	100 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	35 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone
Commercial or civic or mixed use building	30,000 square feet	60 feet	140 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	25 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone

Table Three. Additional Dimensional Regulations for All Uses in the Mixed Use Village Center District

Requirement	Maximum or Minimum Standard
Building Height	48 feet maximum
Impervious Coverage, including buildings, parking lots, roads	50% maximum
Open Space Percentage	25% minimum

- (b) The Planning Board may, as part of Site Plan Review, allow frontage requirements to be met on private internal access roadways if they find that adequate and permanent access is provided to the lot and that the access roadways are designed to serve as many parcels as possible, to function efficiently to link other internal and external roadways or future roadways, and to minimize curb cuts onto town and state streets to the minimum required for safe access.

E. SITE PLAN REVIEW

(1) Site Plan Review Process

(a) Procedures

An applicant proposing to develop a property under the requirements of this bylaw shall submit a Site Plan Review application to the Planning Board, and shall comply with all applicable provisions of the _____ Zoning Bylaw.

(b) Applicability

No building permit for construction within the Mixed Use Village Center District shall be granted until the provisions of this section have been fulfilled, and Site Plan Review has been completed for the specific use proposed.

(c) Approval Process

All applicants must submit 8 copies of a Site Plan to the Planning Board for review. The Planning Board shall undertake comprehensive review of these plans in accordance with the Site Plan Review regulations in Section ____ of the _____ Zoning Bylaw, including timetables and public hearing requirements therein. Within 7 days after the

submission of a final plan, the Planning Board shall refer copies of the Site Plan to the Board of Health, Conservation Commission, Building Inspector, Public Works Department, Historical Commission, Police Department and Fire Department, who shall review the application and submit their recommendations and comments to the Planning Board within 30 days. Before a decision on a Site Plan is given, the Planning Board shall hold a public hearing on the plan, in accordance with Site Plan Review regulations. The Planning Board shall take final action within 90 days after submission of a Site Plan.

(2) Site Plan Contents and Fees

(a) Each Site Plan must contain the following information:

- [1] locations, layouts and sizes of all proposed uses;
- [2] layout of the transportation network for vehicles, transit, pedestrians and bicyclists;
- [3] location, layout and size of private and public open space and open space

improvements;

- [4] location of major utility facilities;
- [5] landscaping plans for streetscapes, parks and recreation areas;
- [6] all information required for Special Permit applications in Section _____ of the _____ Zoning Bylaw;
- [7] locations and types of environmentally sensitive areas, including floodplains, wetlands, water supply protection areas, steep slopes, river protection areas, and agricultural lands, and plans to protect or mitigate impacts to these areas;
- [8] Building designs for all commercial or civic buildings prepared by a licensed architect, and landscaping plans prepared by a licensed landscape designer;
- [9] Locations and types of drainage and water quality controls.

(b) Site plans should be prepared at a scale sufficient for the Board to make its decision, but a minimum of 1"=40 feet, and should include topography at two foot contour intervals. A page size reduction is also required. The required fee for submittal of Site Plans is \$____.

(c) The exact form and contents of the application, fees, plans and information shall be as required by the Rules and Regulations of the Planning Board. The Board shall adopt, and may periodically amend, after a public hearing, such Rules and Regulations relating to the procedures and administration of this section and such Rules and Regulations shall be on file at the Planning Department and Town Clerk's office.

(4) Design Standards

In order to receive Planning Board approval, the Planning Board must find that the Site Plan meets the following design criteria:

- (a) commercial uses should be pedestrian-friendly, either clustered together or laid out as small-scale “Main Street” style shops, with buildings brought up to the street and sidewalk, and common, shared parking in the rear;
- (b) all uses should be linked by a network of sidewalks or bicycle paths, which should also connect to the townwide paths or walkways where feasible;
- (c) streets and roads should be lined with street trees, sidewalks and decorative, pedestrian scale lighting;
- (d) commercial and civic uses should be architect-designed, consistent with the _____ Design Guidelines Handbook, recreating the character of a traditional New England village;
- (e) utilities should be underground.

(5) Development Standards

In order to receive Planning Board approval, the Planning Board must find that the Site Plan meets the following Development Standards:

(a) General Standards

Public water and sewer service is required for all development. All utility lines such as telephone, cable television, and electric are to be located underground.

(b) Pedestrian Circulation and Amenities

Provision for safe and convenient pedestrian access shall be incorporated into all Plans. Concrete or brick walkways shall be provided throughout the site. Pedestrian amenities are encouraged, such as: public art; fountain; tables, chairs, or benches; bike racks or lockers;

(c) Parking

(i) Off-street parking for commercial uses shall be sufficient to provide parking for the employees of all proposed uses as well as long-term customer parking. Parking lots shall be discouraged from front yard setback areas, and instead shall be located at the rear of buildings on the interior of lots, whenever possible, and shall be accessed by means of common driveways, preferably from side streets or lanes. Such lots shall be small in size (less than 25 parking spaces), where possible, and interconnected with commercial parking lots on adjacent properties. Shared parking facilities are encouraged.

(ii) In addition to the off-street parking requirements specified above, on-street parking shall be provided to serve customers of commercial uses. The minimum requirement for on-street parking shall be one curbside space for each 500 square feet of gross floor area of commercial uses. Where the

minimum on-street parking requirement cannot be completely complied with, the deficient number of spaces shall be provided in off-street parking lots.

(d) Service, Loading, and Refuse Areas

Each commercial, civic or mixed use building shall be provided with an adequate service and/or loading area and:

- (i) shall be designed so that they may be used without blocking or otherwise interfering with the use of through streets, parking facilities, or pedestrian circulation;
- (ii) shall not be located on the sides of buildings that face external streets or internal collector streets;
- (iii) shall be screened from streets, parking areas, and residential lot lines by architectural elements or landscaped buffers.

(e) Landscaping

- (i) Street trees shall be planted within the right-of-ways parallel to the street along all streets. Trees shall have a minimum caliper of 2.5" at the time of planting.
- (ii) Tree spacing shall be determined by species type. Large maturing trees shall be planted a minimum of 40 feet and a maximum of 50 feet on center. Small and medium maturing trees shall be planted a minimum of 10 feet and a maximum of 30 feet on center.
- (iii) All parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties.
- (iv) Parking areas of 10 or more spaces shall provide a minimum of 10 percent of the total parking area as landscaped open space.
- (v) Parking areas of 25 or more spaces shall provide landscaped islands of a minimum width of four feet for the purposes of:

[1] defining parking lot entrances,

[2] defining the ends of a portion of the parking aisles,

[3] defining the location and pattern of primary internal access drives,

[4] separating parking spaces within long rows of spaces, and

[5] separating some of the rows of parking spaces from other rows.

(f) Lighting

- (i) Any outdoor lighting fixture newly installed or replaced shall be designed so that it does not produce a strong, direct light beyond the property boundaries
- (ii) All lighting shall follow a uniform lighting system.
- (iii) Lighting fixtures shall be decorative, pedestrian-scaled fixtures.

(g) Appearance/Architectural Design

- (i) Architectural design shall be compatible with the character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to

provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings where appropriate. Development shall comply with the standards set forth in the _____ Design Guidelines Manual.

(ii) In making its decision, the Planning Board may consider whether the building design is compatible with the following design guidelines: 1) exterior facades are faced with wood, metal or vinyl clapboards, or stone, or brick; 2) exterior façade treatment is compatible on all four sides; 3) rooflines are peaked.

(h) Stormwater Management

(i) To the extent practicable, the site shall be designed to manage stormwater on-site through the use of natural and structural methods which conform with MA DEP Stormwater Policy.

(ii) An erosion control plan which is designed to prevent erosion and sedimentation of waterbodies during construction shall be developed and submitted to the Planning Board.

(iii) The development shall, at a minimum, be designed to meet the Stormwater Management Policy of the Massachusetts Department of Environmental Protection.

(i) Other Applicable Standards

(i) The proposed use shall meet all standards for noise, dust, off-street loading, vehicular access, signage, parking and other applicable zoning standards in the Town of _____ Zoning Bylaw.

F. DEFINITIONS

ACCESSORY APARTMENT - An independent self-contained dwelling unit consisting of one or more rooms, with private bath and kitchen facilities on a lot containing a single-family dwelling. Only one accessory apartment may be created within a single-family house, and it shall be clearly subordinate to the main unit. In no case shall it be more than twenty-five percent (25%) of the building's total floor area, nor greater than eight hundred (800) square feet, nor have more than one bedroom. The accessory apartment shall be designed so that, to the degree reasonably feasible, the exterior appearance of the entire home remains that of a one-family residence. If a second external entrance is provided for the accessory unit, it cannot be located on the side of the building facing the street, but rather must be located to the side or rear of the structure. Either the principal residence or the apartment must be owner-occupied.

APARTMENT ON SECOND FLOOR OF COMMERCIAL USE - One or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling on the second floor of a building with commercial use or uses on the ground level.

ELDERLY CONGREGATE HOUSING - A dwelling providing shelter and services for the elderly which may include meals, housekeeping and personal care assistance.

LODGE OR CLUB - A facility to house a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of dues and fees, regular meetings, and a constitution and bylaws.

LODGING HOUSE - A facility in which temporary rental sleeping accommodations are provided to transient individuals or families, and in which meals also may be provided as part of the fee.

PERSONAL SERVICES - Establishments engaged in providing services involving the care of a person or their apparel. Personal services includes the following: laundries and dry cleaning, beauty shops, barber shops, shoe repair, funeral services, health clubs, clothing rental, and similar services.

SEMI DETACHED DWELLING - A one-family dwelling attached to one other one-family dwelling by a common vertical wall, each dwelling located on a separate lot, with front facades offset.

TOWNHOUSE - A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

UTILITY SERVICES - Establishments engaged in the transmission or distribution of electricity, gas, or steam, or as part of water, sewer and sanitary systems.

G. Miscellaneous Provisions

(1) Conflict with other laws.

All development activities within the Mixed Use Village Center District shall comply with applicable laws, regulations, and standards of the town, except that in the event of a conflict between this bylaw and any such laws and regulations, the provisions of this Bylaw shall control, provided that they are consistent with state and federal law.

(2) Severability.

If any section or provision of this bylaw is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other section or provision of this Bylaw.

6. Sample Commercial and Industrial Development and Performance Standards Bylaw

Source: Pioneer Valley Planning Commission

1.0 COMMERCIAL AND INDUSTRIAL DEVELOPMENT AND PERFORMANCE STANDARDS

1.1 Commercial and Industrial Development and Performance Standards

1.11 Purpose

The purpose of these Commercial and Industrial Development and Performance Standards is to promote well-designed commercial and industrial developments and to minimize the adverse impacts of such development on community character, traffic safety, environmental quality and neighboring properties.

1.12 General Application

All projects or uses requiring Special Permit, Special Permit with Site Plan Approval, or Site Plan Review - Administrative Review must demonstrate compliance with the commercial performance standards herein.

Access and Traffic Impacts

Applicants must demonstrate that the project will minimize traffic and safety impacts on roadways.

The number of curb cuts on town roads shall be minimized. To the extent feasible access to businesses shall be provided via one of the following:

Access via existing side street.

Access via a cul-de-sac or loop road shared by adjacent lots or premises.

One driveway per business shall be permitted as a matter of right. Where deemed necessary by the special permit granting authority, two driveways may be permitted as part of the Site Plan Approval process, which shall be clearly marked "entrance" and "exit".

Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width.

No new curb cut shall be allowed that is closer to any existing curb cut than 200 linear feet. In addition, new curb cuts on state and local roads shall be discouraged and

developers shall be encouraged to seek access via a common driveway serving an adjacent lot or premises.

Driveways and Circulation

Driveways shall be no greater than sixteen (16) feet in width.

Aisles shall be not less than twenty (20) feet in width.

No portion of an entrance or exit driveway shall be closer than fifty (50) feet to the curb line of any intersecting street, nor closer than fifty (50) feet to any portion of an existing driveway on the same or adjacent lot.

Pedestrian walkways shall be integrated into the design of the lot. Where a walkway crosses a vehicular path, the walkway shall be defined through the use of a different paving material or painted lines.

All driveways shall be designed to afford motorist exiting to roadways with a safe sight distance.

The proposed development shall provide safe interior circulation within its site by separating pedestrian and vehicular traffic.

In each case where a new building(s) or a new use of more than 3,000 square feet total floor area is proposed, or where any proposed enlargement of a building would result in a building having more than 3,000 square feet total floor area, a traffic impact statement shall be prepared. The traffic impact statement shall contain:

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

Existing and proposed traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.

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

Adequate pedestrian and bicycle access shall be provided as follows:

Sidewalks shall be provided to provide access to adjacent properties and between individual businesses within a development

If the property directly abuts a bikeway right-of-way, a paved access route to the bikeway shall be provided.

Adequate parking for bicycles.

The Planning Board may require the following additional information for projects proposing over ten thousand (10,000) square feet of buildings and structures:

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

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

Parking

Proposed projects or uses must comply with Parking and Off-street Loading requirements and the following standards:

To the extent feasible, parking areas shall be located to the side or rear of the structure, and be shared with adjacent businesses.

Parking areas shall be located to the side or rear of the structure. No parking shall be permitted within the required front setback of the structure.

All off-street spaces shall have bumper and wheel guards where needed to protect abutting structures, properties or plantings. Parking areas shall be designed so that parked vehicles do not extend over pedestrian walkways or sidewalks.

Whenever feasible, pedestrian walkways shall be integrated into the design of the lot. Where a walkway crosses a vehicular path, the walkway shall be defined through the use of a different paving material or painted lines.

Parking and Loading Area Screening and Buffering

Vegetative or structural screens shall be established on the perimeter of all parking and loading areas to prevent direct views of parked vehicles from streets and sidewalks,

avoid spill-over light, glare, noise, or exhaust fumes onto adjacent properties and to provide the parking area with a reasonable measure of shade when trees reach maturity.

Vegetative or structural screens shall be no less than five (5) feet high and shall be visually impervious throughout the year. Screens may be a hedge, wall, fence, or combination of these choices. A land berm may be used to provide up to fifty (50) percent of the required height. The height of any screen shall decrease where driveways approach sidewalks, walking paths, and streets in order to provide adequate visibility of pedestrians from motor vehicles and to maintain a clear line of sight for vehicles entering the roadway.

Parking Area Landscaping

No less than fifteen (15) percent of the area of a parking lot, not including the perimeter area, shall be permanently landscaped using planting strips, planting diamonds, hedges, bushes, groundcovers, trees, and other vegetation. Buffer and screen plantings shall only count toward the required landscaping when they occur in areas other than the perimeter of the parking lot.

The applicant shall plant and maintain a minimum of one (1) deciduous tree per eight (8) parking spaces constructed. Trees shall have a minimum size of three (3) inch caliper at the time of planting.

Plant materials used to meet the requirements of this Bylaw shall be of specimen quality and conform to the American Standard For Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005 and shall be planted according to accepted horticultural standards.

Planting strips shall be at least six (6) feet in width and shall respond to the needs of storing snow, locating light poles, and providing safe pedestrian access.

Evergreen trees shall be a minimum of four (4) feet tall at the time of planting.

Every effort shall be made to integrate existing mature trees on the site into the proposed landscape plan. Existing trees which are used to meet the requirements of this section shall be protected during construction using the following standards:

Fencing or other protective barrier shall be used around trees on construction sites.

Changes in the normal drainage patterns shall be avoided and appropriate protection shall be provided for trees if a grade change is necessary in the surrounding area.

Vehicular (including construction machinery) and pedestrian traffic shall be kept away from trees to prevent soil compaction and destruction of the root system.

If a tree is damaged during construction the applicant shall file a revised landscape plan with the Planning Board detailing an alternative planting schedule which shall meet the standards for landscaping set forth in this Bylaw.

Landscaping

A landscaped buffer strip at least 20 ft. wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum 3-inch caliper, planted at least every 50 feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersection so that they do not present a traffic visibility hazard.

Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms or wall or tight fence complemented by evergreen plantings.

All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

Landscaping shall be in conformance with existing town bylaws.

Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six (6) months from the time of project completion.

Appearance/Architectural Design

Architectural design shall be compatible with the rural/historic character and scale of building in the neighborhood and the Town of ____ through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings. In making its decision, the Planning Board may consider whether the building design is compatible with the following design guidelines: 1) exterior facades are faced with wood, metal or vinyl clapboards, or stone, or brick; 2) exterior façade treatment is compatible on all four sides; 3) rooflines are peaked.

Storm Water Management

The rate of surface run-off from a site shall not be increased after construction. If needed to meet this requirement and to maximize groundwater recharge, increased run-off from impervious surfaces shall be recharged on site by being diverted to vegetated swales, infiltration areas, or detention basins. Dry wells shall be used only where other methods are infeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants.

Neighboring properties shall not be adversely affected by flooding from excessive run-off. Run-off shall not result in pollution of streams, water bodies or groundwater.

The use of proven, alternative paving systems, such as porous paving, is highly encouraged to reduce the amount of impervious surface on developed sites.

The use of shared stormwater management structures and facilities is highly encouraged.

Erosion Control

Erosion of soil and sedimentation of streams and water bodies shall be minimized by using the following erosion control practices:

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

During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped by using siltation fencing, staked hay bales, stone check dams or sedimentation traps.

Permanent erosion control and vegetative measures shall be in accordance with the erosion/sedimentation/vegetative practices recommended by the Natural Resources Conservation Service (NRCS).

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

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

Water Quality

All outside storage facilities for fuel, hazardous materials or waste, and potentially harmful raw materials shall be located within an impervious, diked containment area adequate to hold one hundred ten (110 %) percent of the total volume of liquid kept within the storage area.

Explosive Materials

No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless prior written approval of the Fire Chief has been obtained by the applicant. The project shall also meet any relevant federal and state regulations.

Propane gas tanks in 250 pound cylinders (or smaller) shall be exempt from these safety regulations.

Lighting

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

No light post shall be taller than sixteen (16) feet, except that the Planning Board may waive this requirement upon finding that the use of taller light standards – up to twenty-five (25) feet in height – results in a more functional site figuration.

Noise

No person owning, leasing or controlling the operation of any source of sound shall willfully, negligently or through failure to provide necessary equipment or to take necessary precautions, cause unnecessary emissions from said source of sound that may cause noise pollution, in accordance with Massachusetts Department of Environmental Protection regulations 310 CMR 7.10.

Noise pollution shall be defined as any sound which exceeds the ambient noise level designated for the receiving land use category, when measured at or within the property boundary for the receiving land use, plus any sound which:

Endangers the safety of, or could cause injury to the health of humans or animals;
Annoys or disturbs a reasonable person of normal sensitivities;
Endangers or injures personal or real property.

Sound Level Limits by Receiving Land Use

Except as provided in (c) below, no person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds the ambient noise level set forth for the receiving land use category in the following table when measured at or within the property boundary of the receiving land use.

Table 1-1. Sound Level Limits

Receiving Land Use Category	Item	Sound Level Limit (DBA)
Residential A, B and C	Daytime	60
Open Space	All Other Times	50
Business	At All Times	65
Commercial	At All Times	70

Notes for Table One:

DAYTIME – The time between the hours of seven ante meridian (7:00 A.M.) and six post meridian (6:00 P.M.) each week excepting Sunday in accordance with the time system locally in effect.

DECIBEL (DB) – The unit by which the sound level is measured.

SOUND LEVEL – The weighted sound level obtained by the use of a sound level meter and frequency weighting network such as A, B, or C as specified in the American National Standards Institute specifications for sound level meters. (ANSI.)

Restrictions on Noise Emitted from Construction Sites

No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one and 7 A.M. of the following day.

It shall be unlawful of any person to operate any construction device on any construction site if the operation of that device emits noise measured at the lot line of the affected property in excess of the following values:

Table Two. Construction Site Noise Limits

Use of Affected Property	L 10 Level	Maximum Noise Level
Residential A, B and C	75 DBA	86 DBA
Business	80 DBA	-
Commercial	85 DBA	-
Public Way	85 DBA	-

Notes for Table Two:

A-WEIGHTED SOUND LEVEL – The sound pressure measured on a sound level meter using the A-weighting network. The level read is designated DB(A) or DBA.

L-10 - The A-weighted sound level exceeded 10% of the time.

The L 10 level shall be determined by making 100 observations on the A-weighted network with the sound level meter at slow response at ten (10) second intervals. During any of these observations if a measurement is substantially affected by a source outside of the construction site, these measurements will not be considered. Observations will be continued until 100 valid observations have been recorded. The L 10 level will be equivalent to the tenth highest level recorded.

If the person taking measurements estimates that outside noise sources contribute greatly to the noise of the construction site, the aforementioned procedure shall be repeated when construction is inactive in order to correctly determine the L 10 level. The L 10 level during construction must be greater than the background L 10 level by at least 5 DBA to be considered in violation of the provisions of this regulation.

Utilities

Electric, telecommunications, and other such utilities shall be underground where physically and environmentally feasible.

Dust and Odors

No person having control of any dust or odor generating operators or construction or demolition shall permit emissions of dust or odor which cause or contribute to a condition of air pollution, in accordance with Massachusetts Department of Environmental Protection regulations 310 CMR 7.09.

Heat, glare, vibration and radiation

No heat, glare, or vibration shall be discernible from the outside of any structure, and all radiation shall be contained within a structure.

Storage

All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties.

7. Sample Site Plan Review Bylaw

Source: Massachusetts Attorney General

Section 1: Applicability

The following types of activities and uses require site plan review by the Planning Board [OR OTHER BOARD]:

Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or multi-family structure with four or more dwelling units;

Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

Section 2: Procedures

Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the City Council, Board of Health, Board of Public Works, Building Inspector, City Engineer, and Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.

Application for Building Permit. An application for a building permit to perform work as set forth in Section A available as of right shall be accompanied by an approved site plan.

Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section A shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section A shall contain the following condition: The work described herein requires the approval of a site plan by the Planning Board pursuant to Section ____ of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals,

the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

No deviation from an approved site plan shall be permitted without modification thereof.

Section 3: Preparation of Plans

Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.

Section 4: Contents of Plan

The contents of the site plan are as follows:

Five (5) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the planning board. The plans are as follows:
Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board.

Topography and drainage plan, which shall contain the existing and proposed final topography at two foot intervals and plans for handling stormwater drainage.

Utility and landscaping plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.

Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this ordinance.

The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to City of New Bedford subdivision regulations.

The Planning Board may require a narrative statement detailing the impact of the proposed use on municipal services and the environment.

Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

Section 5: Waiver of Technical Compliance

The Planning Board may, upon written request of the applicant, waive any of the requirements of this Section where the project involves relatively simple development plans or constitutes a minor site plan.

An application for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or an application which will not generate the need for more than 10 parking spaces shall be deemed a "minor site plan."

For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by this by-law; provided, however, that the scale of the site plan may be 1' = 80', and the plan may

depict topographical contours at intervals available on maps provided by the United States Geological Survey.

Section 6: Approval

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

Maximize pedestrian and vehicular safety both on the site and egressing from it;

Minimize obstruction of scenic views from publicly accessible locations;

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

Minimize glare from headlights and lighting intrusion;

Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

Minimize contamination of groundwater from onsite waste water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;

Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.

Section 7: Lapse

Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

Section 8: Regulations

The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

Section 9: Fee

The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

Section 10: Appeal

The appeal of any decision of the planning board hereunder shall be made in accordance with the provisions of Mass. Gen. L. ch. 40A, §§17.

8. SAMPLE RIDGELINE AND HILLSIDE PROTECTION DISTRICT BYLAW

Source: Pioneer Valley Planning Commission

1.0 RIDGELINE AND HILLSIDE PROTECTION OVERLAY DISTRICT

1.1 Purpose

The purpose of this bylaw is to promote the health, safety and general welfare of the Town of _____ by:

1. Insuring that any development that takes place within the Ridgeline and Hillside Protection Overlay District preserves and protects critical natural resource areas, minimizes visual impact of man-made features and enhances the economic values of the properties located therein;
2. Minimizing the removal of native vegetation, especially large timber, and regulating the excavation and alteration of land in order to minimize any danger of erosion, flooding or pollution of the ground or surface water supply (public or private) within the district or any adjacent low lying areas;
3. Insuring that all proposed development activities do not reduce property values within the district or adjacent to by unnecessarily detracting from the visual setting or obstructing significant views; and
4. Protecting existing historical physical features and the preservation and development of linkages from one open space area to another.

1.2 Scope of Authority

The Ridgeline and Hillside Protection District is an overlay district and shall be superimposed on the other districts established by this Bylaw. All regulations of the (Town) Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Scenic District imposes additional regulations, such regulations shall prevail.

1. Designated Area: The Scenic Upland District Bylaw shall include all areas designated on the overlay map entitled Ridgeline and Hillside Protection District District, Town/City of _____, on file with the Town Clerk.

2. The Ridgeline and Hillside Protection District is intended to include those mountain or upland areas which have one or more of the following characteristics:

- a. Steep slopes averaging 15% or greater for 200 feet.
- b. Unique landforms, including bedrock outcrops, till-covered hills, geological rarities, cliffs, or other unusual topographic features.
- c. Any land at an elevation of 600 or more feet above sea level.

1.3 Definitions

Clear Cutting: The cutting of all trees on a site.

Hillside: Land having an average grade of 15% or greater for 200 feet.

Ridgeline: The long, narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

Selective Cutting: No more than 50% of the mature trees on a site cut under a selective cutting plan.

Significant Alteration: Any alteration which increases the assessed value by 15%, or which adds to the height of a structure, or which substantially alters the visual profile of the property or structures thereon

1.4 Uses

1. Permitted Uses

- a. Agricultural production, including but not limited to the raising of crops, livestock, poultry, nurseries, orchards, and hay;
- b. Recreational uses, provided there is minimal disruption of wildlife habitat;
- c. Maintenance and repair usual and necessary for continuance of an existing use;
- d. Conservation of water, plants, and wildlife, including the raising and management of wildlife;
- e. Non-commercial cutting of trees for fuel (refer to the MA Forest Stewardship Program);

f. Uses permitted under M.G.L. Chapter 40a, Section 3 (agricultural, religious, or educational purposes; child care facilities; etc.); and

g. Selective timber cutting shall be permitted within the area of a designated building envelope wherein principal and accessory structures have been approved. Timber cutting for the purpose of clearing land for legitimate agricultural purposes shall be permitted subject to satisfactory evidence of such intended use. Selective commercial timber cutting may be permitted, in accordance with the Massachusetts Forest Cutting Practices Act, M.G.L. Chapter 132.

2. Prohibited Uses

a. All uses not permitted in Section 1.4.1 (Permitted Uses) or Section 1.4.3 (Uses Permitted with Ridgeline and Hillside District Review) shall be deemed prohibited.

b. Clear cutting of trees and vegetation shall be prohibited.

3. Uses Permitted with Ridgeline and Hillside District Review

The following uses shall be permitted, subject to Ridgeline and Hillside Protection District Review of project site plans prior to the issuance of a building permit or Special Permit or approval of a definitive plan under the [Town] Subdivision Regulations:

a. The construction of a new dwelling or principal structure;

b. Any construction or significant alteration of any dwelling or other structure, if any such action affects the exterior appearance. A significant alteration is defined as any alteration which increases the assessed value by 15%, or which adds to the height of a structure, or which substantially alters the visual profile of the property or structures thereon;

c. Any commercial or industrial use allowed by Special Permit in the underlying district;

d. Any subdivision which requires approval under the [Town] Subdivision Regulations;

e. The Board may waive any or all requirements of the Ridgeline and Hillside Protection District Review for dwelling additions, and or accessory buildings of 400 square feet or less.

4. Exempt Uses

- a. Agricultural activities;
- b. Work incidental to construction on the premises under a currently valid Building Permit;
- c. Selective cutting of trees or vegetation for normal maintenance purposes on less than one half acre of land, provided that no additional cutting shall be done on the parcel, or on adjoining parcels in common ownership, for a period of two years, except for selective cutting specified in a Forest Cutting Plan approved in accordance with the Mass. Forest Cutting Practices Act (M.G.L. Chapter 132, sections 40-46);
- d. Any addition, enlargement, extension, restoration of single family residences or construction of accessory buildings to any single family residences which have been actually and completely constructed prior to the adoption of this By-law.

1.5 Ridgeline and Hillside Development Standards

Buildings and landscaping are to be designed and located on the site to blend with the natural terrain and vegetation, and to preserve the scenic character of the site, conforming to the following standards:

1. Building Characteristics
 - a. Building height shall not exceed thirty-five (35) feet.
 - b. Exposed foundation walls shall not exceed two (2) feet above the proposed finished grade.
 - c. Building, alterations, additions, or structures should be placed downgrade of the ridgeline where possible.
 - d. Building materials shall blend with the natural landscape.
2. Landscaping
 - a. Removal of native vegetation, especially large timber, shall be minimized and the replacement of vegetation and landscaping shall be generally compatible with the vegetation of the designated area.
 - b. Trees may only be removed for location and construction of streets, driveways or structures. Selective clearing for views is permitted where the viewshed is obstructed by dense vegetation.

- c. Retaining walls, of natural materials only, may be used to create usable yard space in the side and rear yard.
- d. Landscaping and plantings shall be utilized to screen major buildings in open or prominent areas from significant views, both when installed and when mature.

3. Grading

Any grading or earth moving operation is to be planned and executed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.

4. Prevention of Water Pollution and Flooding

a. Storage and/or transmission of petroleum or other refined petroleum products is prohibited except within buildings which will be heated or in quantities of 50 gallons or less. Petroleum products stored within a building shall be placed on a diked or impermeable surface to prevent spills or leaks from reaching groundwater.

b. All run-off from impervious surfaces shall be recharged on the site by being diverted to storm water infiltration basins covered with natural vegetation. Storm water infiltration basins must be designed to handle a 25-year storm. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

5. Prevention of Erosion and Sedimentation

a. No area or areas totaling two (2) acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six (6) inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless necessarily incidental to construction on the premises under a currently valid building permit or unless within streets which are either public or designated on an approved subdivision plan or unless a special permit is approved by the Zoning Board of Appeals on the condition that run-off will be controlled, erosion avoided and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover or winter rye or similar plant materials being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.

b. Sediment and erosion control measures shall be employed to minimize such impacts during and after construction, in accordance with guidelines established by the

U.S. Natural Resources Conservation Service “Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts.”

6. Utilities

a. Utilities shall be constructed and routed underground except in those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing. The Review Board may waive this requirement.

b. Above ground utilities shall be constructed and routed to minimize detrimental effects on the visual setting.

7. Site Planning

In the building of more than one structure, variable setbacks, multiple orientations, and other site planning techniques shall be incorporated in order to avoid the appearance of a solid line of development.

8. Accessory Structures

Construction of a tower, satellite dish, windmill, any type of antenna, or other installation shall not obstruct the view of a public way, or from a public way, or from an abutter’s dwelling.

1.6. Ridgeline and Hillside Protection District Review Board

The Ridgeline and Hillside Protection District Review Board shall be a sub-committee of the Planning Board, appointed by the Planning Board, and shall consist of no more than five (5) members. In the absence of such a board, the Planning Board shall administer this Bylaw.

1.7 Procedures for Review

1. Prior to undertaking any work in the Ridgeline and Hillside Protection District, including clearing and removal of vegetation, grading or construction, and prior to applying for a Building Permit, landowners must submit an application for Ridgeline and Hillside Protection Review to the Ridgeline and Hillside Protection Review Board. The Building Inspector shall not accept an application for a Building Permit without an attached Ridgeline and Hillside Protection Review application, which has been reviewed by the Ridgeline and Hillside Protection Review Board.
2. The Ridgeline and Hillside Protection District Review Board shall review the application and return its recommendations in writing to the Building Inspector within thirty-five (35) days of the receipt of the application. If the application for Ridgeline and Hillside District Protection Review is associated with an application for a variance, special permit, or subdivision review, the Ridgeline and Hillside Protection District Review Board shall immediately transmit their recommendations to the Planning Board or Zoning Board of Appeals as appropriate.
3. If the Ridgeline and Hillside Protection District Review Board does not submit its recommendations to the Building Inspector within thirty-five (35) days, such failure to act shall constitute approval of the application.
4. The Ridgeline and Hillside District Review Board's action shall be advisory to the Planning Board and shall consist of either:
 - a. A determination that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in the Bylaw;
 - b. Approval subject to conditions, modifications, and restrictions as the Ridgeline and Hillside Protection District Review Board may deem necessary.
5. The Building Inspector, Planning Board, and Zoning Board of Appeals shall, in making their permit granting decision, give due consideration to the Ridgeline and Hillside Protection District Review Board's recommendations, and shall communicate all subsequent decisions to said Board.

1.8 Ridgeline and Hillside District Review Applications

To facilitate siting and design of building sensitively related to the natural setting, applications for the Ridgeline and Hillside Protection District Review of proposed development in the district must be accompanied by the following:

1. Plot Plan;
2. View Points - Photographs of the development site taken from points along the street, together with a map indicating the distance between these points and the site;
3. Placement, height and physical characteristics of all existing and proposed buildings and structures located on the development site.

1.9 Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

1.10 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.