ZONING BYLAW

SUTTON, MASSACHUSETTS

With Amendments Through October 2015

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I. GENERAL

A. Title, Authority and Purpose

This Bylaw shall be known and may be sited as the "Sutton Zoning Bylaw" which herein is called "this Bylaw" and is adopted by virtue of and pursuant to the authority granted the town by Chapter 40A of the General Laws of the Commonwealth of Massachusetts as now existing or hereafter amended herein called "The Zoning Act" and in addition to the purposes stated in the Zoning Act is for giving direction or effect to the development objectives, design standards and recommendations contained in the Sutton Master Plan as most recently amended.

B. Definitions

For the purpose of this bylaw certain terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "building", "structure", "lot", "land", or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Words not defined herein shall have the meaning given in Webster's Unabridged Dictionary, Third Edition.

Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be defined or clarified by the North American Industrial Classification System (NAICS).

Abandonment: The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premise, or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings, or the replacement of the nonconforming use or building by a conforming use or building.

Affordable Housing: Dwelling units available to low to moderate-income households as defined by the U.S. Department of Housing and Urban Development (HUD).

Alteration: Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories, size, use or location of a building or other structure.

Automobile Services: Services, other than repair services, for the maintenance of automobiles including car washes, detailing shops, shops for the installation of automobile accessories such as audio equipment and sunroofs.

Bed and Breakfast Facility: An accessory use in a private owner occupied residence providing a maximum of three (3) guestrooms.

Building: A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building, Accessory: A detached subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

Community Facility: A place, structure, area, or other facility providing religious, fraternal, social, recreational, and other services.

Convalescent Home: An institution or distinct part of an institution which is licensed by the Massachusetts Department of Public Health to provide 24-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Child Care Center: Facility operated on a regular basis whether known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if those children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Child care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of that system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization in which children are cared for during short periods of time while persons responsible for the children are attending religious services; a family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation, all as defined in M.G.L. Chapter 15D, as it may be amended.

Dwelling, Multifamily: A building containing two (2) or more dwelling units.

Dwelling Unit: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Earth Removal: Removing any form of soil, including without limitation, sod, loam, sand, gravel, clay, peat, hardpan, rock, quarried stone, or mineral product.

Earth Removal, General: Any earth removal not defined as subdivision or miscellaneous.

Earth Removal, Miscellaneous: That which is entirely incidental to construction for which a building permit has been issued, or that which is less than three hundred (300) cubic yards.

Earth Removal, Subdivision: That which is entirely incidental to road construction for an approved subdivision.

Family: One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Family Child Care Home: Private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, and received for temporary custody and care for a limited number of hours children of school age under regulations adopted by the board. The the total number of children under sixteen (16) in a family child care home shall not exceed six (6), including participating children living in the residence. Family day care home shall not mean a private residence. Family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation all as defined in M.G.L. Chapter 15D, as it may be amended.

Floor Area, Net: The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Bylaw, or any such floor space intended and designed for accessory heating and ventilation equipment.

Height: The vertical distance from the adjacent ground to the top of the structure of highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a hip roof.

Home Business: An accessory use which is carried on within a dwelling unit or an existing building accessory thereto by the occupants and no more than two (2) full-time equivalent employees, which use is incidental and subordinate to the dwelling use, which does not in any manner change the residential character of the building, and which does not create unreasonable impacts on the surrounding neighborhood.

Home Occupation: An occupation, profession, activity, or use which is carried on entirely within and only by the occupants of a dwelling unit, that is clearly an incidental and secondary use of a residential dwelling unit, that does not have customers and clients regularly coming to the premises, and that does not alter the exterior of the property or affect the residential character of the neighborhood.

Lot: An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings.

Lot, Corner: A lot at the point of intersection of and abutting on two or more intersecting streets, the angle of intersection of the street lot line, or in the case of a curved street extended lot lines, being not more that 135 degrees. Corner lots shall not have rear lot lines.

Lot Depth: The mean horizontal distance between the front lot line and the rear lot line.

Lot line, Front: The property line dividing a lot from a street (right-of-way). On a corner lot all lines abutting streets shall be considered front lot lines. The lines on only one of the streets shall be used to meet the minimum lot frontage requirement, and that lot line shall be considered the lot's legal frontage.

Lot Frontage: The horizontal distance continuously measured along the front lot line between the points of intersection of the side lot lines. The minimum required frontage shall be provided along one street lot line and can not be accumulated along two(2) or more streets

Lot Line, Rear: The lot line opposite from the front lot line, except in the case of a corner lot, where the lot shall have only front and side lot lines.

Lot Line, Side: Any lot line not a front or rear lot line.

Lot, Nonconforming: A lot lawfully existing at the effective date of this Bylaw, or any subsequent amendment thereto, which is not in conformity with all provisions of this Bylaw.

Lot, Through: An interior lot, the front and rear lot lines of which abut streets, or a corner lot two opposite lines of which abut streets.

Lot, Width: The minimum lot width is the minimum distance between side lot lines, when measured anywhere between the frontage of a lot and the required minimum front yard setback. However, for lots on the outer side of a curved street, lot width may be measured as the straight line distance between points at the intersection of the side lot lines and the required front yard setback. At no point prior to the rear lot line setback, shall the lot narrow to less than 50 feet.

Membership Club: A building or area used by a social, sports or fraternal organization exclusively by its members and their guests.

Municipal Sewers: The facilities of a Municipal Sewerage treatment system.

Municipal Water Suppliers: The facilities of a Municipal Water Supplier or a public utility franchised to furnish water to all lots throughout the water district within which such lots are situated.

Nursing Home: See Convalescent Home.

Open Space: The portion of the lot area not covered by any structure and not used for drives, parking, or storage. Man-made retention areas shall not be considered open space. All open space shall be kept stabilized with natural vegetative cover.

Open Space Residential Development: A residential development in which the buildings are clustered together with reduced lot sizes and frontage. The land not included in the building lots is permanently preserved as open space.

Owner: The duly authorized agent, attorney, purchaser, devisee, trustee or any person having vested or equitable interest in the use, structure or lot in question.

Personal Service Establishment: A facility providing personal care and services to people, such as barber shops, beauticians, and manicurists.
Processing: Earth - Altering the character of earth material, including but not limited to screening, crushing or washing. This does not include temporary processing of material, that is, processing of material to remain on site in conjunction with site preparation or improvements. or Food – The treatment of food substances (excluding live animals) in such a manner as to change its properties with a view to preserving, improving its quality or making it functionally more useful by passing it through a sequence of actions.

Recorded: Recorded in the Worcester County Registry of Deeds or registered in the Land Court.

Self-storage Facility: Structures consisting of climate controlled individual, small, self-contained units that are leased or owned for the storage of business, and household goods, automobiles, boats or contractor supplies; the majority of which self-storage units are accessed by means of no more than two primary entrances to the building. No more than ten percent (10%) of the total number of self-storage units on the site may be directly accessed from the outside of a building. The facility may consist of several buildings, however at least one must be multi-story and no more than one may be single story. If the site contains a single story structure, all of its units shall be exterior access units and no more than 1/3 of the total exterior access units on the site may be contained in this single story building.

Sign: Any permanent or temporary structure, device, letter, word model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.

Small hydropower installations: Hydro systems with an output of up to 500 kilowatts (kW). Consisting of a system of turbines, generators, controls and switchgear. Said systems shall not extend above the top of the dam and/or shall be housed in a structure of minimum size that is consistent with the area architecture. Said system shall also not affect established flows and impoundments in a manner that is detrimental to the environment and/or property values in any substantial way. Said system shall also comply with all State regulations including DEP regulations.

Story or Stories: That part of a building above the basement or cellar, between the upper surface of floor and the upper surface of the next floor or roof above.

Street: A way which is over twenty (20) ft. in right-of-way width which is dedicated or devoted to public use by legal mapping by the user or by any other lawful procedure.

Structure: A combination of materials assembled at a fixed location to give support or shelter, including but not limited to a building, wall or fence 6' and taller or swimming pool having a capacity of four thousand (4,000) gallons or more.

Structure, Nonconforming: A structure lawfully existing at the effective date of this Bylaw or any subsequent amendment thereto; which is not in conformity with all provisions of this Bylaw.

Tea Room: A restaurant, providing no more than thirty (30) seats, whether inside a structure or exterior to the structure, without a full kitchen facility, typically serving sandwiches and light fare and non-alcoholic beverages during the day.

Traditional Neighborhood Development (TND): A residential development in which the form of development resembles and complements the existing historic village dwellings, in terms of mass, spacing, height, and architectural style.

Trailer: Trailer means any vehicle or similar portable structure having no foundation other than wheels, jacks or skirting and not having all of the following: running water, sanitary facilities, bath facilities, and toilet and shall include the terms "Travel Trailer" and "Semi-Trailer."

Trucking Services: Establishments primarily engaged in furnishing "over-the-road" trucking services or trucking services with temporary storage, either as common carriers or under special or individual contracts or agreements. (UPS, Federal Express, United Van Lines, Yellow Freight, etc…)

Upland: Land area not comprised of wetlands as defined by M.G.L. Chapter 131, §40.

Use: The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

Use, Accessory: A use customarily incidental and subordinate to the principal use of a structure or lot including retail uses accessory to a wholesale trade when the retail use occupies 20% or less of the total square footage of the building used for the wholesale trade.

Use, Nonconforming: A use lawfully existing at the effective date of this Bylaw or any subsequent amendment there to which is not in conformity with the provisions of this Bylaw.

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this Bylaw.

Variance: Such departure from the terms of this Bylaw as the Board, upon appeal in specific cases, is empowered to authorize under the terms of this Bylaw.

Wireless Communication Facility: A wireless communication monopole, including antennas and accessory structures, if any, which facilitates the provision of wireless communications services.

Wireless Communication Services: The provision of the following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service.

Yard: An undeveloped, naturally vegetated and/or landscaped strip required per the Table of Dimensional Regulations along the full length of a lot line on the same lot as a permitted structure and/or use, and lying between said structure and/or use and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific structures and/or uses allowed by the provisions of this Bylaw. Said yard is intended to provide aesthetic value as well as serve as a spatial and visual buffer between lots.

Yard, Front: The minimum distance required between the front lot line and a permitted principal or accessory structure or use on a lot.

Yard, Rear: The minimum distance required between the rear lot line and a permitted principal or accessory structure or use on a lot.

Yard, Side: The minimum distance required between the side lot line and a permitted principal or accessory structure or use on a lot.

C. Nonconforming Uses, Structures and Lots

1. Nonconformity by Initial Enactment or Amendment

The provisions of this section affecting nonconforming uses, structures and/or lots cited herein and certain related non-conformities shall apply under the provisions of this Bylaw and established districts as enacted initially or as subsequently amended.

2. Extensions and Alterations

a. Within a Business Highway (B-2) District, any nonconforming use of any open space on a lot outside a structure or of a lot not occupied by a structure may be extended up to thirty (30) percent with a Chapter 40A§6 Finding granted by the Zoning Board of Appeals.

b. When only a portion of an existing structure is occupied by a legally nonconforming principal use, this use may be extended throughout the entire existing structure. However, building additions may not be made to this structure to increase the extent of the non-conforming use. Any such extension of the use shall undergo proper permitting including a G.L.c.40A § 6 Finding and Site Plan Review.

c. Any conforming principal use of a nonconforming structure may be extended throughout the existing structure.

d. Any nonconforming accessory use of a portion of a structure or any conforming accessory use of a portion of a nonconforming structure may be extended up to a maximum of forty (40) percent of the floor area of the existing structure.

e. Any nonconforming structure may be altered and the use extended throughout the altered portion provided that any conforming use shall not be made nonconforming; and any resultant alteration shall not cause the structure to violate the maximum building area and yard regulations of the district in which it is located.

f. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.

3. Reduction or Increase

a. Any nonconforming lot or open space on the lot (yards, setbacks, courts, or building area) if already smaller or greater, as the case may be, than that required shall not be further reduced or increased so as to be in greater nonconformity.

b. Any off-street parking or loading spaces, if already less than the number required to serve their intended use, shall not be further reduced in number.

4. Change

a. Any nonconforming use of a structure may be changed to another nonconforming use, provided that the changed use is not a substantially different use.

b. Any nonconforming use which has been once changed to a permitted use or another nonconforming use which is not a substantially different use shall not again be changed to another nonconforming use.

c. Any nonconforming lot, which has come into conformity, shall not again be changed to a nonconforming lot.

5. Restoration

Any nonconforming structure damaged by fire or other cause in excess of seventy-five (75) percent of its value may be rebuilt, if in accordance with the yard regulations of this Bylaw, but not used except for a conforming use.

6. Abandonment

Any nonconforming use of a structure and/or lot which has been abandoned for a continuous period of two (2) years or more shall not be used again except by a conforming use.

7. Moving

Any nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use thereof and the lot shall be conforming.

8. Unsafe Structure

Any structure determined to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall not place it in greater nonconformity, and provided further, if the cost to restore any structure shall exceed fifty (50) percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

II. ESTABLISHMENT OF ZONING DISTRICTS

A. Division Into Districts

The Town of Sutton, Massachusetts is hereby divided into six (6) zoning districts to be designated as follows:

Full Name	Short
Residential-Rural	R-1
Residential-Suburban	R-2
Village	V
Business-Highway	B-2
Industrial	I
Office and Light Industrial	OLI

1. Zoning Map

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Sutton, Massachusetts" updated periodically and currently on file in the Office of the Town Clerk, which accompanies and is hereby declared to be a part of this Bylaw.

2. Boundaries of Districts

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

a. Where a boundary is indicated as a street, railroad, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a town boundary then to the limits of the town boundary.

b. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

c. Where a dimensioned boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.

3. Amending Districts

Twice in two successive weeks, the first not being less than fourteen days prior tot he public hearing dealing with such amendment, the Planning Board shall post and mail notice of public hearing in accordance with M.G. L., Chapter 40A § 5.

B. Interpretation and Application

1. Interpretation

The provisions of this Bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals or general welfare of the Town of Sutton, Massachusetts; and except for the Zoning Bylaw adopted by the Town Meeting in 1955 and all subsequent amendments thereto, the provisions of this Bylaw are not intended to repeal, or in any way impair, or interfere with any lawfully adopted Bylaw, regulations or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any Bylaw or other regulations, the provision which imposes the greater restriction or the higher standard shall govern.

2. Application

Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this Bylaw shall apply to the following: the erection, construction, reconstruction, alteration, or use of buildings and structures or use of land. Any existing conforming use, structure or lot shall not become non-conforming or further nonconforming except as provided herein.

III. USE AND DIMENSIONAL REGULATIONS

A. Use Regulations and Table of Use Regulations

1. Applicability of Use Regulations

Except as provided by the Zoning Act or in this Bylaw, in each district no building, structure, or land shall be used or occupied except for the purposes permitted in the district as described in this section. Any use not listed shall be construed to be prohibited.

Multiple Permitted and Special Permit uses may be located in the same structure and/or on the same lot in separate structures/areas, except dwellings, as long as all requirements of the Zoning Bylaw, including required lot area per use/structure, and State Building Code have been satisfied. Only one dwelling unit shall be allowed on one lot or in one structure, unless specifically permitted by the bylaw.

2. Permitted Uses

In the following Table of Use Regulations the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit in the district, in accordance with Section VII.A.2 shall be designated by the letter (S). Uses designated by a (SB) shall be special permit granting authority shall be the Board of Selectmen. Uses designated (-) shall not be permitted in the district. Where indicated by "*", the Special Permit Granting Authority is the Planning Board.

3. Uses Subject to Other Regulations

Use permitted by right or by special permit shall be subject to all other applicable provisions of this Bylaw including but not limited to Site Plan Review, Off-Street Parking, Loading and Landscaping Regulations, Sign Bylaw, and applicable Overlay District Regulations.

4. Table of Use Regulations

See table on accompanying pages, which is declared to be a part of this Bylaw.

Table 1- Table of Use Regulations

	R-1	R-2	V	B-2	I	OLI
A. RESIDENTIAL USES:						
1. One-family detached year-round or seasonal dwelling	P	P	P	-	-	-
2. Multifamily dwelling	-	S	S	-	-	-
3. Accessory residential building such as tool shed, boat house, barn, playhouse, stables, private swimming pool and private detached garage for non-commercial vehicles	P	P	P	-	-	-

4. Family day care	P	P	P	-	-	-
5. Home occupation	P	P	P	-	-	-
6. Home business	S	S	S	-	-	-
7. Bed and breakfast facility	S	S	S	-	-	-
8. Open Space Residential Development	P	P	-	-	-	-
9. Traditional Neighborhood Development	-	S*	S*	-	-	-
10. Condominium Development	S*	S*	-	-	-	-
11. Continued Care Retirement Communities	S*	S*	S*	S*	S*	S*
12. Accessory Apartment	S*	S*	S*	-	-	-
B. **COMMUNITY FACILITIES & INSTITUTIONAL USES:**						
1. Church or other religious purpose, nonprofit educational facility, Town building except equipment garage	P	P	P	P	P	P
2. Recreational facility including country, hunting, fishing, tennis, health, or golf clubs, or day camp or other camp or athletic fields, membership club	S	S	S	S	S	S*
	R-1	**R-2**	**V**	**B-2**	**I**	**OLI**
3. Cemetery	S	S	S	S	S	S*
4. Town equipment garage	S	-	-	S	P	P
5. Public utility except power plant or refuse facility	S	S	S	S	S	P
6. Power plant and refuse facility	-	-	-	-	S	S*
C. AGRICULTURAL AND OPEN LAND USES:						
1. Agriculture, horticulture, floriculture, or viticulture, provided at least five acres are so used. A farm stand may be maintained provided that the majority of products for sale, measured based on either gross sales dollars or volume, have been produced on the land.	P	P	P	P	P	P
2. When less than five acres are used for agriculture, horticulture, floriculture, or viticulture:						
a. Agriculture, horticulture, and floriculture, or viticulture	P	S	S	S	S	S*
b. Temporary stand maintained during the harvest season of the primary crop for retail sale of agriculture or farm products produced primarily on the same premises	P	P	P	S	S	S*
c. Year round stand for retail sale of agriculture or farm products produced primarily on the same premises	S	S	P	S	S	S*
d. Raising and for keeping of livestock, horses and poultry, not including the raising of fur animals for commercial use	P	S	S	S	S	S*
e. Raising of fur animals	S	-	-	-	S	-
f. Commercial stables, provided all animals are enclosed within pens or other enclosures	S	-	-	-	S	-
3. Year round or temporary stands for retail sale of	S	S	P	S	S	S*

agriculture or farm products not produced primarily on the same premises.						
4. Veterinary office in which all animals are completely enclosed in pens or other structures	S	S	S	-	-	-
D. OFFICE USES:						
1. Business and professional offices, including banks and monetary institutions	-	-	P	P	P	S*
2. Drive-through windows at banks and monetary institutions and other offices	-	-	-	S*	S*	S*
3. Free-standing automatic teller machines	-	-	S	P	P	P
4. Planned Business Development (PBD)	-	-	-	S*	S*	S*
5. Research and Development	-	-	S	S	P	S*
	R-1	**R-2**	**V**	**B-2**	**I**	**OLI**
E. RETAIL, TRADE AND SERVICE USES:						
1. Stores selling goods to the public	-	-	S*	S*	-	S*
2. Drive-through window for a pharmacy whether located in a free-standing pharmacy building or as part of a multi-use retail building	-	-	-	S*	-	S*
3. Sales by vending machines located outside of a building or structure	-	-	S	S	S	-
4. Restaurants	-	-	P	S	-	S*
5. Restaurant, cafeteria, tea room or catering accessory to permitted or allowed main use	S	S	P	P	P	P
6. Drive-through window for a restaurant, but only when a minimum of 1,000 s.f. is dedicated to the restaurant use.	-	-	-	S*	-	-
7. Hotels and motels	-	-	S	P	S	S*
8. Personal service establishments	-	-	P	P	-	P
9. Funeral home or mortuary establishment	S	S	P	-	-	-
10. Hospital or medical clinic	-	-	S	S	S	S*
10. Convalescent or nursing home	S	S	S	S	-	S*
11. Repair services for appliances, furniture, and other goods, except for vehicular and automotive repairs	-	-	P	S	-	S*
12. Motion picture establishment and amusement and recreation facilities	-	-	S	S	-	P
13. Educational establishments which are not non-profit	-	-	P	S	S	S*
14. Communications and television towers (does NOT include wireless communication facilities)	S	-	-	-	S	S
15. Wireless communications facility (refer to Section IV.H of this Bylaw)	-	-	-	S	S	S
16. Antique Shop (retail sale of antique furniture, artwork,						

collectible merchandise to the general public in a premises occupying less than 1,000 square feet)	S*	-	-	-	-	-
17. Commercial Kennels	S	-	-	S	S	S*
18. Self Storage Facility	-	-	-	-	-	S*
F. VEHICULAR AND AUTOMOTIVE USES:						
1. Establishments selling new and/or used automobiles, trucks, motorcycles, trailers, construction equipment, or boats	-	-	-	-	-	-
2. Automotive repair, automobile services (not including a junk yard or open storage of abandoned automobiles and other vehicles)	-	-	S	S	P	-
3. Railroad and railway express service	-	-	S	P	P	P
4. Trucking services and warehousing	-	-	-	S	P	S*
	R-1	**R-2**	**V**	**B-2**	**I**	**OLI**
5. Commercial Gas Station primarily for passenger vehicles	-	-	S	S	S	-
G. MANUFACTURING, PROCESSING, AND EARTH REMOVAL USES:						
1. Processing	-	-	-	-	P	S*
2. Manufacturing, wholesale trade, wholesale sales of construction material	-	-	S	S	P	S*
3. Landscape contractors, arborists, and building contractors	-	-	S*	S	P	S*
4. Research and development facilities	-	-	S	S	P	S*
5. Accessory (whether or not on the same parcel) scientific research and development	-	-	-	S	S	S*
6. Earth removal	-	S	-	S	P	S
7. Earth removal incidental to an approved subdivision, site plan, or duly issued building permit	P	P	P	P	P	P
8. Paving and other contractors' yards	-	-	-	-	P	-
9. Accessory uses	-	-	-	-	-	S*
H. RENEWABLE ENERGY RESOURCES						
1. Small Hydropower Installations	S*	S*	S*	S*	S*	S*
2. Small Wind Turbines	S*	S*	-	S*	S*	S*
3. Small Solar Photovoltaic Installations (less than 250 kW)	P	P	P	P	P	P
4. Large Ground-Mounted Solar Photovoltaic Installations (250 kW+)	-	-	-	P	P	P
I. OTHER						

1. Use, Accessory	P	P	P	P	P	P

B. Area, Height and Bulk Regulations

1. Applicability of Area, Height and Bulk Regulations

The regulations for each district pertaining to minimum lot area, minimum lot width, maximum height of buildings, maximum number of stories, maximum building area, minimum usable open space, minimum front yard depth, minimum side yard width, minimum rear yard depth, and minimum residential net floor area shall be as specified in this section and set forth in the Table of Area Regulations and Table of Height and Bulk Regulations, and subject to the following provisions of this section.

2. Regularity Formula:

a. No building permit shall be issued for any new construction on a lot which has a regularity factor of less than four-tenths (.40). The regularity factor shall be determined by the formula:

$$\text{Regularity} = \frac{16 \times \text{Area (in square feet)}}{\text{Perimeter}^2\text{(in feet)}}$$

b. That part of the lot's area in excess of the required lot area may be excluded from the Regularity Formula. However, the perimeter containing the required lot area shall include the required distance along the front lot line.

3. Area, Height and Bulk Regulations

See Tables 2 and 3 plus attached notes which are declared to be a part of this Bylaw.

Table 2
Table of Area Regulations
(numbers refer to footnotes)

District	Use	Minimum Required Lots (1)		Yards (2-17)		
		Area (sq. ft.)	Width & Frontage (ft.)	Front (ft.)	Side (ft.)	Rear (ft.)
R-1	Any permitted structure or principal use	80,000	250	50	20	50
R-2	One family detached dwelling or other					

	principal use					
	- Not serviced by water and sewer	60,000	175	40	15	40
	- Serviced by water or sewer	40,000	175	40	15	40
	- Serviced by water and sewer	20,000	135	40	15	40
	Multi-family dwelling serviced by municipal sewer Per additional unit (up to 3)	40,000 +3,000	150	40	15	40
V	One family detached dwelling or any other principal use (except multi-family dwellings)	20,000	100	25	20	25
	Multi-family dwelling Per additional unit (up to 3)	40,000 +3,000	100	25	20	25
B-2	Hotel or motel - Per room	40,000 +2,000	200	50	20	40
	Any other permitted structure or principal use	40,000	200	50	20	50
I	Any permitted structure or principal use	40,000	200	50	20	50
OLI	Any permitted structure or principal use	80,000	200	50	20	50

FOOTNOTES:

1. A corner lot shall have minimum street yards with depths, which shall be the same as the required front yard depths for the adjoining lots.

2. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.

3. No building except a boathouse shall be within ten (10) feet of any watercourse or wetland area or, if subject to flooding, within ten (10) feet beyond its flood line.

4. Projections into required yards or other required open spaces are permitted subject to the following:

    a. Balcony or bay window, limited in total length to one-half (½) the length of the building, not more than two (2) feet.

b. Open terrace or steps or stoop, under four (4) feet in height, up to one-half (½) the required yard setback.

c. Steps or stoop over four (4) feet in height, window sill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two (2) feet.

5. In any "R" district any permitted accessory building shall conform to the following provisions:

   a. It shall not occupy more than forty (40) percent of the required rear yard;

   b. It shall be not less than fifty (50) feet for "R-1" and forty (40) feet for "R-2" from any street lot line, except on a corner lot if used for garage purposes, then the same distance as the required depth of the front yard for the adjacent lots and except for a temporary stand for retail sale of agricultural or farm products where the accessory structure may be within six (6) feet of the front lot line;

   c. It shall not be less than ten (10) feet from any lot line;

   d. It shall not exceed twenty-five (25) feet in height; and,

   e. If a private swimming pool, it shall be completely enclosed by a fence at least four (4) feet in height capable of being secured by a self-closing gate secured with a latch or padlock.

6. The minimum horizontal distance measured along the front lot shall be one hundred percent (100%) of the required lot width.

7. Multi-family dwelling in any permitted district shall be limited to four (4) dwelling units per lot.

8. All lots in the OLI district shall have a lot frontage of at least two hundred (200) feet except when the lot is completely situated on a cul-de-sac, in which case the minimum lot frontage shall be one hundred (100) feet.

9. All lots in the OLI district shall be serviced by public water and sewer or a private sewage treatment facility as approved by the Town. If a lot or lots is serviced by a private sewage treatment facility, the owner shall furnish an operation and maintenance plan, provide written permission for the Town to enter upon such facility for inspections, and post adequate bonding related to the construction and maintenance of the facility. Such private sewage treatment facility shall remain privately owned and maintained in perpetuity.

10. All parking required in the OLI district shall be located on the site without use of abutting lots.

11. Any principal use in a non residential district shall be at least one hundred (100) feet from any residential zoning district boundary as indicated on the Sutton Zoning Map. This buffer shall remain in its undisturbed state or may be upgraded. The area of said buffer may be counted toward the open space requirements on a lot. For the purposes of applying this requirement only, if 60% or more of a lot is zoned Business Highway (B-2) or Industrial (I), the entire lot shall be considered as located within B-2 or I.

12. For the purposes of calculating required lot area, land area subject to easements and the area contained in detention basins, retention basins and infiltration basins may not be utilized. For the purpose of this Bylaw, this shall include the area in the basin itself and the area of all inlet channels or pipes, outlet structures and channels and a minimum of ten (10) feet beyond the toe of the slope on the outside of the pond berm. Where no berm is provided, a minimum of ten (10) feet beyond the top of slope shall be included in the area.

13. No lot shall be considered buildable unless the building(s), well and septic system are located in contiguous upland acreage equal to at least sixty percent (60%) of the minimum required lot area for the zoning district where the lot is located.

14. Access to the primary structure on a lot shall be from the required legal frontage unless the Planning Board makes findings in open meeting that 1) access from another way is necessary due to extreme topographical or environmental constraints and/or safety issues and 2) safe and adequate access exists entirely within said lot from an alternate roadway. Alternate access shall not be granted solely for the convenience and/or preference of a petitioner.

Table 3
Table of Height and Bulk Regulations

	R-1	**R-2**	**V**	**B-2**	**I**	**OLI**
Max bldg. height (ft.)	35	35	30	35	35	35
Max bldg. coverage of lot (covered area as % of total lot area)	10	20	50	50	50	*
Min habitable floor area per dwelling unit (sq. ft.)	768	768	768	NP	NP	--
Min open space (%)	--	--	10	25	40	--

(NP) = not permitted use)

* Maximum coverage of lots in the OLI district by impervious surfaces including principal and accessory buildings and structures, parking and loading areas, and roadways and drives shall not exceed sixty percent (60%) of the lot.

3. Maximum Height:

Any maximum height permitted in this Bylaw shall not apply to:

a. Community facility or public utility structures.

b. Necessary appurtenant structures such as: church spire, smokestack, monument, flagpole, radio or television tower, aerial, airplane hanger, chimney or parapet wall, or any similar appurtenance.

c. Special industrial structures such as: a cooling tower and other similar structure where the industrial process requires a greater height.

IV. COMMON REGULATIONS

A. Signs

1. Definitions

When used in this article and in this article only the following words shall have the meaning set forth below.

Changeable, Message/Moveable Sign: Any sign intended to announce a changing product, sale or other temporary condition within a premises and capable of being moved without dismantling.

Directional or Informational Sign: Any sign erected near a street or driveway area, which is necessary for the safety and direction of vehicle or pedestrian traffic. Directional or informational signs may not advertise, identify or promote any product, person, premises or activity.

Directory Sign: Any sign listing the name and location of the occupants of a site or building.

Electric Sign: Any sign which is illuminated by incandescent or florescent lamps or luminous tubes.

Erected: Attached, constructed, reconstructed, altered, enlarged or moved. Erected shall not mean repainted, cleaned, repaired or maintained except where a structural change is made. Altered includes changes in the lettering or symbols on the sign.

Freestanding Sign: Any sign that is not attached to, erected on or supported by a building.

Holiday Decorations: Any embellishment or ornament normally associated with the celebration of a holiday.

Individual Letter Sign: Any sign made up of separate self-contained letters.

Industrial Use: Any use permitted in an Industrial District.

Multi-tenant Property: A property owned by an individual, partnership, corporation, trust or other such entity with a portion or all of said property subdivided into individual areas and/or buildings rented/leased to others for the purpose of conducting independent business.

Outdoor Sign: Any sign placed out of doors in view of the general public.

Parking Area: A public or private parking area for motor vehicles.

Projecting Sign: Any sign other than a wall sign suspended from or supported by a structure and projecting out therefrom.

Projection: The distance a sign extends beyond the structure to which it is attached.

Roof Sign: Any sign attached to or erected on the roof of a structure.

Sign: Any symbol, message, design or device used to advertise, identify or inform about any product, premises, person or activity.

Sign Structure: The supports, uprights, braces and framework of the sign.

Street: Any public way or private way open to the public.

Temporary Sign: Any sign intended to be used for fewer than 3 months.

Wall Sign: Any sign attached to or erected against the wall of a structure with the display surface of the sign in a plane parallel to the plane of the wall, which does not project more than twelve (12) inches from the face of the structure.

Window Sign: Any sign designed to be visible from the exterior by being placed in or behind a window or outside glass door, but does not include merchandise offered for sale.

2. Administration

a. Permits Required

1. No sign, including sign upgrades and replacement signs, shall be erected except as provided by this section of the Bylaw and after a permit has been issued by the Building Inspector.

2. Application for a sign permit shall be made in writing upon forms furnished by the Building Inspector. An original application shall contain the location, by street

number, of the proposed sign, the name and address of the owner of the premises where the sign is to be located, the name and address of the owner of the sign, the name and address of the sign contractor or erector, if any, and a scale drawing showing the construction, the method of installation or support, colors, dimensions and position of the sign, method of illumination, and such other relevant information as may be requested. The application must be signed by both the owner of the premises where the sign is to be located and the owner of the sign acknowledging responsibility for compliance with this Bylaw. An application which is incomplete, as determined by the Building Commissioner, shall be returned to the applicant

3. Within thirty (30) days after application for a permit has been made the Building Inspector shall grant or deny the application. If thirty (30) days elapse without action by the Building Inspector, the permit applied for shall be deemed approved.

4 A sign permit fee of fifty dollars ($50.00) shall be paid to the Town of Sutton for each permit granted.

5. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six (6) months from the date of the granting of the permit. The applicant shall notify the Building Inspector of completion of work under a permit within ten (10) days of completion.

b. Exceptions

1. No sign erected before the effective date of this Bylaw shall be required to comply with the requirements of this Bylaw as to size or location

2. No permit shall be required for a name/profession, directional or informational sign that does not exceed two (2) square feet as long as the activity is permitted in the district where the sign is located. Said signs shall not be located more than six (6) feet above ground level if mounted on a wall nor more than three and one half (3 ½) feet above ground level if freestanding.

3. No permit shall be required for any sign erected by the Town or by the Commonwealth of Massachusetts or any agency thereof, or non-profit agency. Although, placement, size and type must be reviewed by the Building Commissioner, and be in compliance with the General Guidelines for signs in Section 3.

4. No permit shall be required for holiday decorations when displayed within forty-five (45) days prior to and ten (10) days after the holiday for which they are specifically identified and which do not advertise or promote the interests of any person, premise or activity.

5. No permit shall be required for signs endorsing candidates or issues for public elections. Such signs may be displayed as temporary or portable signs.

6. No permit shall be required for up to four (4) signs measuring not greater than three (3) square feet each, calling attention to a location selling agricultural produce. Although, placement, size and type must be reviewed by the Building Commissioner, and be in compliance with the General Guidelines for signs in Section 3.

7. No permit shall be required for real estate signs, provided that such sign shall be removed within seven (7) days after the rental, sale or lease of the premises.

8. No permit shall be required during construction or renovations for a sign erected on the premises to identify the building, the owner, the contractor, the architect, or the engineers, provided such sign shall not exceed twelve (12) square feet. Such sign shall be removed within seven (7) days of issuance of an occupancy permit

c. Enforcement

1. The Building Inspector shall inspect every sign within thirty (30) days after it is erected to determine whether the sign has been erected in accordance with the provisions of the permit therefor and shall order the removal or modification of any sign erected or maintained in a manner inconsistent with such permit. Thirty (30) days notice in writing shall be given to the owner of such sign, and to the owner of the premises on which such sign is located, to remove the sign or modify it so as to be in accordance with the provisions of the permit. Immediate removal may be ordered for any sign requiring a permit which is erected without first obtaining such permit.

2. Any sign owner or owner of property on which a sign is located who violates, or permits a violation of this Bylaw, shall be subject to a fine of not more than fifty dollars ($50.00) a day.

3. General Guidelines

a. Sign Dimensions

The area of a sign shall be the area of the smallest rectangle within which the entire sign can fit, excluding structural supports which do not contribute through shape, color, or otherwise to the sign's message, but including any separate surface, board, frame or shape on or within which the sign is displayed. The dimensions of a sign shall be the length and width of such a rectangle. The height of a sign shall be measured to the highest point of the sign including any structural or ornamental projections above the sign proper, from the average ground level above which the sign is located. A two-sided sign with messages on opposite sides (back to back) will be

deemed to be one sign. A sign with faces at any angle to each other shall be deemed to consist of several signs, one for each direction faced.

b. Installation

1. No sign shall be erected that shall in any way create a traffic hazard, nor shall it in any way obscure or confuse traffic control. Signs shall not be erected or displayed so as to endanger public safety.

2. No sign or sign structure may project beyond the property line.

3. No sign shall be painted on the exterior surface of any wall, including windows and doors.

4. Signs shall be designed, constructed and erected in accordance with the State Building Code.

5. All signs shall be erected on the same lot as the premises, person or activity they are intended to advertise, call attention to or identify except for agricultural signs and directional signs.
6. No sign shall be erected on Town property without written permission. Any sign erected without permission may be removed by the Building Commissioner. If an owner can be identified, the Building Commissioner will attempt to contact the owner to remove the sign. If the sign is not removed within 48 hours of notification and/or the owner can not be identified, the Building Commissioner may remove the sign. The sign shall be stored for a period of two weeks to allow the owner to retrieve the sign, at which time the Building Commissioner may dispose of said sign.

7. Signs shall be setback from the front property line(s) a minimum of 5 feet and the side and rear property lines at least 15 feet.

c. Maintenance

Every sign shall be maintained by the owner in a safe and well-maintained condition. Every freestanding sign shall be kept free and clear of all obnoxious substances, rubbish, weeds and visual obstructions.

d. Prohibited Signs

Moving signs, swinging signs, changeable message/moveable signs, flashing signs, revolving signs, signs consisting of pennants, ribbons, streamers, spinners, strings of light bulbs, revolving beacons, search lights, animated signs illuminated to create the illusion of motions, billboards, and roof signs are prohibited in all districts.

4. Size and Type

a. The following signs shall be permitted in the Zoning Districts as follows:

Type of Sign	**S.F. max**	**R1**	**R2**	**B2**	**V**	**I**	**OLI**
Professional or Name Signs	2.0	Y	Y	Y	Y	Y	Y
Identification Signs for Estates, Residential Developments, Schools, Farms	20.0	Y	Y	Y	Y	Y	Y
Freestanding Business-exterior illumination	75.0	N	N	Y	Y	Y	Y
Freestanding Business – internal illumination	50.0	N	N	Y	Y	Y	Y
Freestanding Multi-tenant	100.0	N	N	Y	Y	Y	Y
Projecting Signs	24.0	N	N	Y	Y	Y	Y
Type of Sign	**S.F. max**	**R1**	**R2**	**B2**	**V**	**I**	**OLI**
Wall and Individual Letter	varies	N	N	Y	Y	Y	Y
Temporary Real Estate Signs in residential districts	6.0	Y	Y	N	N	N	N
Temporary Real Estate Signs in other districts	20.0	N	N	Y	Y	Y	Y
Other Temporary Signs	Varies	Y	Y	Y	Y	Y	Y
Bed and Breakfast Signs and Home Business Signs	12.0	Y	Y	Y	Y	N	N
Banners (no more than one at a time)	21.0	N	N	Y	Y	N	N

b. There shall be no more than two (2) exterior signs for each business premise, not including directional or informational signs, and only one shall be freestanding. When multiple businesses are located in one structure, only one multi-tenant free standing sign is allowed. A free standing sign may not be erected for each tenant. Each business may still have one additional building mounted sign.

c. A wall sign, or individual letter sign, shall not exceed an area of one (1) square foot for each lineal foot of that wall for externally illuminated signs, and three quarters (3/4) square foot for each lineal foot of that wall for internally illuminated signs. No

such sign shall extend beyond the full width of the premises wall on which it is mounted. No sign shall project above the top of wall on which it is mounted.

d. A projecting sign shall not project more than six (6) feet and shall not contain more than twenty-four (24) square feet of display surface. A sign which projects over a sidewalk may not contain more than six (6) square feet of display surface.

e. A free standing sign may not exceed seventy (75) square feet in non-residential districts and twelve (12) square feet in residential districts.

f. In addition to other allowed signage, there may be one directory sign listing occupants or tenants of the building affixed to the exterior wall of the building at each entrance to the building. A directory sign shall not exceed an area determined on the basis of one (1) square foot for each occupant or tenant of the building.

g. The standard type of gasoline pump, bearing thereon in usual size and form, the name or type of gasoline and the price thereof shall not be deemed to be a sign under this Bylaw.

h. In addition to signs otherwise permitted, window signs are permitted in business districts provided that their aggregate display surface does not exceed twenty-five percent (25%) of the total exterior glass area, and that they are lighted by normal exterior illumination only. Window signs less than three (3) by four (4) feet promoting charitable events shall not count against the allowable twenty-five percent (25%).

i. Temporary signs, other than real estate and contractor signs, may be allowed at the discretion of the Building Commissioner, in compliance with the General Guidelines – Section 3 of the bylaw, for periods not to exceed 3 months and size not to exceed 12 s.f. Banners may be up to 21 s.f. and allowed for no more than 3 months, and also require permitting.

j. Internal illumination shall be allowed in non-residential districts; however, signs with internal illumination may not have translucent or semi-translucent white or light colored backgrounds. Said background colors produce glare that hinders reading of the sign and creates a distraction to passing traffic. White or light background constructed of fully opaque material that allows illumination of only the lettering/logo is permitted.

5. Materials & Design

a. Sign applicants should utilize high quality, durable, materials such as wood, stone and imitation resins for both sign and support construction.

b. Signs should be appropriate in scale and placement for both the specific site and immediate surrounding area.

c. Design reflecting the unique facets and quality of the business as well as the Town and Blackstone Valley is encouraged.

B. Off-Street Parking, Loading and Landscaping Regulations

1. General Standards

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this Section shall hereafter be maintained so long as said use remains. Additional parking or loading spaces may be constructed elsewhere conforming to the requirements hereunder, provided that this regulation shall not require the maintenance of more parking and loading spaces than is required according to the following tables. Parking, maneuvering and driveways shall not be located within the applicable front, side and rear yard setbacks in the B2, Industrial, and OLI Districts. Driveways may go through the front yard setback to provide access into the lot.

2. Definitions

As used herein the following words and phrases shall have and include the following respective meanings:
Driveway: An area on a lot, in addition to parking spaces, maneuvering spaces, and maneuvering aisles, which is designed or used to provide for passage of motor vehicles to and from a street or way.

Loading Space: An off-street space used for loading or unloading and which is not less that fourteen (14) feet in width, forty-five (45) feet in length and fourteen (14) feet in height and containing not less that one thousand three hundred (1,300) sq. ft. including both access and maneuvering area.

Maneuvering Aisle: A maneuvering space, which serves two (2) or more parking spaces, such as the area between two (2) rows of parking spaces.

Maneuvering Space: An open space in a parking area which is used or required for maneuvering a motor vehicle into a parking space but not used for the parking or storage of motor vehicles.

Net Floor Space (nfs): For the purposes of this section of the Zoning Bylaw, net floor space (nfs) shall be the actual occupied area, not including unoccupied areas or thickness of walls.

Parking Area: An open space either used or required for parking of five (5) or more motor vehicles, including necessary maneuvering space, but not including parking on a lot for the passenger cars of residents and guests of a one-family dwelling on said lot.

Parking Space: An open space exclusive of maneuvering area and driveway for the parking of one motor vehicle.

3. Off-Street Parking and/or Loading Requirements

In any district, if any structure is constructed, enlarged and/or extended, and any use of land established, or any existing use changed after the effective date of this section, parking and loading spaces shall be provided in accordance with the following tables. An existing structure which is enlarged or an existing structure which is extended after the effective date of this section shall be required to provide parking spaces, loading spaces, and landscaping in accordance with the following tables for the entire structure or use unless the increase in units or measurements amounts to less than twenty-five percent (25%) of the existing structure whether such increase occurs at one time or in successive stages.

Table 4
Table of Off-Street Parking Standards

Use	Number of Parking Spaces
Residential	
Single Family, Two-family, and Multi-Family Dwelling Units	2 spaces/dwelling unit
Community Facilities Churches/Religious Establishments	1 space/300 sq. ft. nfs
Places of Public Assembly	1 space/300 sq. ft. nfs
Schools	1 space/300 sq. ft. nfs
Use	**Number of Parking Spaces**
Commercial	
Professional/General office	1 space/250 sq. ft. nfs
General Retail	1 space/225 sq. ft. nfs
Banks/Financial Institutions	1 space/225 sq. ft. nfs
Restaurants	1 space for each 3 seats of seating capacity plus one space each, for the number of employees working on the largest shift
Theatres	1 space/275 sq. ft. nfs
Home Occupations	1 space/200 sq. ft. nfs
Bowling Alley	2 spaces/lane

Industrial and Institutional	
Industrial, Contractors	1 space/1,000 sq. ft. nfs
Wholesale Sales, Manufacturing	1 space/1,000 sq. ft. nfs
Wholesale Industrial	1 space/1000 sq. ft. nfs
Manufacturing	1 space/750 sq. ft. nfs
Hospital	1 space/3 beds
Convalescent or Nursing Home	1 space/3 beds
Medical Offices	1 space/250 sq. ft. nfs
Warehouse and/or Distribution	1 space/2000 sq. ft.

Table 5 Table of Off-Street Loading Standards	
Use	**Number of Loading Spaces**
Business, Industrial, Community Facility (school, church, town building, recreation, etc.) or public utility establishments	1 space per 7,500 sq. ft. nfs and an additional space per each additional 15,000 sq. ft nfs.

4. General Parking and Loading Provisions

a. The parking spaces required for the uses listed in the above tables shall be on the same lots as the use they are intended to serve or, when practical difficulties prevent their establishment upon the same lot, they shall be established no further than three hundred (300) feet from the premises to which they are appurtenant. In no case shall the required parking spaces be located on the other side of a public street.

b. The loading spaces required for the uses listed in the above table shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this section.

c. The minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the Table 6.

Table 6 Minimum Parking Space and Aisle Dimensions For Parking Areas			
Angle of Parking	**Width of Parking Space**	**Depth of Parking Space**	**Width of Maneuvering Aisle**
61º-90º	9.0'	18'	24'
46º-60º	9.0'	15'	18'

45º	9.0'	18'	15'
Parallel	8.0'	22'	12'

d. The number of driveways shall be limited to two (2) per street line. Driveways shall be located so as to minimize conflict with traffic on public streets.

e. The width of a driveway for one-way traffic shall be not less than fifteen (15) feet as measured at its narrowest point. The width of a driveway for two-way use shall be a minimum of eighteen (18) feet as measured at its narrowest point and a maximum of thirty (30) feet.

f. Driveways shall be arranged for the free flow of vehicles at all times. The maneuvering spaces and aisles shall be so designed that all vehicles may exit from and enter onto a public street by being driven in a forward direction.

g. All parking areas shall be so arranged and designed that the only means of access and egress to and from such area is by driveway meeting the requirements of this section.

h. All portions of all parking spaces and maneuvering aisles shall be setback a minimum of five (5) feet from any wall of any building. Each off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle.

i. Loading spaces shall be at least six hundred (600) sq. ft. in area for the first seven thousand five hundred (7,500) sq. ft. nfs and five hundred (500) sq. ft. for each additional fifteen thousand (15,000) sq. ft. nfs.

j. Parking and loading areas shall be graded, surfaced with a durable, all-season non-dusting material, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion, or any water flow onto streets or adjoining property.

k. The applicant may be required to provide curbing, wheel stops, or other devices to prevent motor vehicles from being parked or driven into the required setback area or the landscaped area.

5. Landscaping Provisions

Parking lots containing more than fifteen (15) parking spaces shall be effectively landscaped to reduce the visual impact of glare, headlights and parking lot lights from the public right-of-way and from adjoining properties. In addition, parking lots shall be adequately shaded to reduce the amount of reflected heat. The provisions below are intended to be used in conjunction with Site Plan Review.

a. Landscaping Adjacent to Street Right–of-Way

Within the required yard setbacks, a landscaped area consisting of existing and/or new vegetation in addition to grass, shall be provided between parking areas and any adjacent public street, sidewalk, or right of way as follows:

1. A landscaped area shall be at least fifteen (15) feet wide unless a lesser amount is deemed adequate by the Planning Board.

2. The landscaped area will have sufficient trees arranged so that a vegetated buffer is effectively provided from the public street.

3. A masonry wall, solid fence, earth berm or hedge maintained at least five (5) feet in height may be required in the landscaped area.

b. Landscaping Adjacent to Contiguous Properties

Within the required yard setbacks, a landscaped area consisting of existing and/or new vegetation in addition to grass, shall be provided between parking areas and contiguous properties as follows:

1. A landscaped area at least ten (10) feet wide.

2. A masonry wall, hedge, solid fence, or combination thereof at least six (6) feet high may be required if abutting property is a residential use. When contiguous properties are located within a Business or Industrial district, only a naturally vegetated or landscaped buffer shall be required to the rear and sides of the lots when not abutting a public right-of-way.

c. Landscaping in Interior Areas

Landscaping areas shall be provided for interior parking areas so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicle circulation.

1. Interior parking areas shall be deemed to be all parking areas except driveways providing access and egress to the development.
2. At least five percent (5%) of the gross parking area shall be landscaped. These landscaped areas shall include trees sufficient to provide some shading of parking areas.

3. Interior landscaped areas shall be dispersed so as to define aisles and limit unbroken rows of parking to a maximum of one hundred (100) feet. Landscaping between rows of parking shall be at least eight (8) feet in width.

d. Trees

Trees required by the provisions of this Section shall be at least two (2) inches in diameter (measured at one (1) foot above ground level) and a height of five (5) feet at the time of planting. Trees shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practical, existing trees shall be retained and used to satisfy the provisions of this Section.

e. Intersection Visibility

No landscaping, tree, fence, wall, or similar screening shall be maintained in the vicinity of any corner, street intersection, or access-way intersecting a public right-of-way that is determined to be an obstruction to visibility.

6. Exceptions

The Planning Board may modify or waive any requirement of this section upon finding that the requirements of this section would unreasonably restrict the use of the property or would be detrimental to the orderly development of the area. In granting such modification or waiver, the Board shall impose conditions it deems necessary to protect the public interest and to insure that the development will be consistent with the purpose of this section.

C. Site Plan Review

1. Purpose and Intent

This section of the Sutton Zoning Bylaw is enacted under the authority of M.G.L. Chapter 40A to protect the health, safety, convenience and general welfare of the inhabitants of the Town of Sutton. Site Plan Review regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

a. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g. noise, smoke, fumes, dust, odor, glare, storm water runoff, etc.);

b. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;

c. The adequacy of parking, loading facilities, drainage and methods of waste disposal to protect from pollution of surface or groundwater; and

d. The protection of historic and natural environmental features on the site under review, and in adjacent areas (i.e. hills, water bodies, trees and wooded areas, native plants, rock outcrops, wildlife habitat, and other areas of aesthetic and ecological interest).

2. Projects Requiring Site Plan Review

No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building or lot shall be given and no existing use shall be expanded except in conformity with a site plan approved by the Planning Board. Site Plan Review shall also be required for the resumption of any use discontinued for more than two (2) years. “Expansion" shall include a proposed total increase in floor space and/or lot coverage of twenty-five percent (25%) or more within any 10-year period, or the introduction of new materials or processes not previously associated with the existing use. Site plan approval is required for proposals for the following uses:

a. Commercial and retail
b. Industrial
c. General and professional office
d. Multifamily dwellings
e. Municipal, institutional, and utility purposes
f. Fraternal or recreational purposes

3. Exemptions from Site Plan Review

Site Plan Review shall not be required for:

a. The construction or enlargement of any single family or two family dwelling, or building accessory to such dwelling;

b. The construction or alteration of any building used exclusively for agriculture, horticulture, or floriculture;

c. Construction, expansion or alteration providing for not more than two hundred (200) sq. ft. total floor area after construction;

d. Customary home occupations as defined in this Bylaw; or,

e. Condominium Development. (Separate site plan requirements are made under Section VI.A. of this Bylaw.)

The Planning Board may waive Site Plan Review where the nature of the proposed construction, alteration or use is such as to have minimal effect on any of the standards or criteria provided for hereafter in this section when measured against existing conditions of the site.

The Planning Board may also in any particular case, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this Site Plan Review, waive strict compliance with the specific provisions of this bylaw.

4. Site Plan and Supporting Material Requirements

The site plan shall include the following data, plans, and supporting materials. The amount of information submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan, with notations explaining the reasons for any omissions.

Site plans shall be prepared by a registered professional engineer, land surveyor, architect, and/or landscape architect (as necessitated by the size and detail required), on standard 24” X 36” sheets, at a scale of one inch equals twenty feet (1"=20'), or other such scale adequate to show all details required by the Site Plan Review regulations.

The site plans and supporting materials shall include the following information:

a. Name of the project, boundaries, and locus maps showing the site's location in town at a scale adequate to show sufficient detail, date, north arrow, scale of the plan, and five (5) signature lines for Planning Board approval.

b. Name and address of the owner of record, applicant, and seals of the engineer, surveyor, architect or landscape architect.

c. Names and addresses of all owners of record of abutting parcels and those within three hundred (300) feet of the property line.

d. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within one hundred (100) feet of the site. All minimum dimensional requirements in the underlying district and setback requirements shall also be shown on the plan.

e. The locations and use of all existing and proposed buildings and structures within the development tract. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future expansions and alterations within the next ten (10) years, if possible.

f. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, and walls. Location, type, and screening details for all waste disposal containers shall also be shown.

g. The location, height, and intensity of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties shall also be shown.

h. The location, height, size, materials, and design of all proposed signage.

i. The location of all present and proposed utility systems including:

   1. Sewage or septic system;

   2. Water supply system and hydrant location;

   3. Telephone, cable and electrical systems;

   4. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, manholes, and drainage swales; and

   5. Location of any existing or proposed underground storage tanks.

   The Planning Board may also request soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments.

j. Plans to prevent the pollution of surface water or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable. Stormwater management calculations and designs shall be in accordance with the Stormwater Management Guidelines issued by the Department of Environmental Protection (DEP).

k. Existing and proposed topography at a two (2) foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one hundred (100) year flood plain, the area will be shown; and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.

l. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.

m. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the site plan and locus map.

n. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

   1. The projected number of motor vehicle trips to enter or leave the site, estimated daily and peak hour traffic levels;

2. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and

3. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities.

o. For new construction or alterations to any existing building, a table containing the following information must be included:

1. Area of building to be used for a particular use such as retail operation, office, storage, etc;

2. Maximum number of employees;

3. Maximum seating capacity, where applicable; and

4. Number of parking spaces existing and required for the intended use.

p. Architectural elevation plans at a scale adequate to show required detail for all exterior facades of the proposed structures (and/or existing facades, plus additions) showing design features and indicating the type and color of materials to be used.

q. Information on the location, size and type of parking, loading, storage and service areas; and parking calculation based on the requirements for off-street parking and loading in Section IV.B of this Bylaw.

r. The Planning Board may require the applicant to submit a Community and Fiscal Impact Assessment (including the methodology used) that shall address the following:

1. Projections of cost arising from increased demands on public services and infrastructure;

2. Projections of increased tax revenue, employment (construction and permanent), and value of public infrastructure to be provided;

3. Projections of the proposed impacts of the development on the values of adjoining properties;

4. Evaluation of the relation of the proposed new or altered structure to the surrounding community in terms of character and intensity of use (e.g., scale, materials, color, setbacks, roof and cornice lines, and other major design elements); and the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties;

5. Identification of impacts on significant historical properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development;

6. Evaluation of the proposed project's consistency or compatibility with existing local and regional plans; and

7. A copy of all permits, approvals, variances, and applications applied for and obtained for the project and property including an application for public sewer and water connection permits.

s. Waivers may be granted for any of the site plan requirements only if it is determined that:

1. Literal compliance is impractical due to the nature of the proposed use;

2. The location, size, width, depth, shape, or grade of the lot makes compliance impossible;

3. Such waiver would be in the public interest; and/or

4. Such waiver would not sacrifice the protection of natural features. Applicants seeking waivers will submit a formal request for waiver of particular requirements along with the site plan application.

5. Procedures

a. Submission

An applicant for Site Plan Review under this Bylaw shall file with the Planning Board, at a regularly scheduled meeting, twelve (12) copies the site plan and six (6) copies of all required written materials. The Planning Board shall acknowledge receipt of these plans by endorsing them by signature and the date of receipt. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file.

b. Reasonable Fees

A filing fee of $2.00 per $1,000 of construction value, as reported by the proponent and approved by the Board, with a minimum of $200, will be required at the time of submission. The applicant must also submit a check covering the cost of the legal ad and the certified mailings at the time of submission.
For all developments requiring site plan review, the applicant will be responsible for all reasonable fees or costs incurred in reviewing such plans. The Planning Board is authorized to retain a registered professional engineer, architect, landscape architect, attorney, or other professional consultant to review and advise the Board on any or all aspects of the site plan.

A charge as noted below will be deducted from the filing fee to cover costs for administration and staff review of the site plan, all billings received from the Town's consultants will be deducted from the filing fee. If the billings exceed the amount of the filing fee, the Town will bill the applicant for the difference. All bills must be paid prior to issuance of approval. If monies are left after all fees and billings are paid, any excess funds will be returned to the applicant.

Project Size/Type	Staff Review Fee	Administration Fee
New – under 30,000 s.f.	$200	$25
New – 30,000-100,000 s.f.	$350	$40
New – 100,000+	$500	$60
Existing – change of use/redevelopment	$200	$25

c. Review by Other Boards

After reviewing the application for completeness and determining that the site plan requirements have been met, the Planning Board shall transmit to the Conservation Commission, Board of Health, Board of Assessors, Building Inspector, Board of Appeals, Selectmen, Fire and Police Departments, Town Planner, Town Engineer, and other boards as deemed necessary, one copy of the site plan. Said boards and departments shall submit recommendations in writing to the Planning Board within twenty-one (21) days for as-of-right development and within forty-five (45) days for special permit developments. Such recommendations may concern:

1. The adequacy of the data and procedures used by the applicant to determine the impacts of the proposed development;

2. The effects of the projected impacts of the proposed development; and,

3. The recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of other boards and departments to submit recommendations within the allotted time shall be interpreted as non-opposition to the submitted site plan.

d. Decision

For proposals not requiring special permit, the Planning Board shall deliver its decision in writing to the Building Inspector within sixty (60) days after determining that the application is compete, to allow the issuance of a building permit. For proposals also requiring special permits, the Planning Board (when they are the Special Permit Granting Authority) shall hold a public hearing within sixty-five (65) days of receipt of an application and shall take final action within ninety (90) days from the time of hearing, as provided in M.G.L. Chapter 40A, §§ 9 and 11. The Planning Board's final action, rendered in writing, shall consist of either:

1. Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this Bylaw;

2. Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in this Bylaw; or

3. Approval of the site plan subject to any conditions, modifications and restrictions as required by the Board which will ensure that the project meets the Standards for Review.

The time for review of said application may be extended by written concurrence of both the Board and the applicant, and shall be placed on file in the Office of the Town Clerk.

6. Standards for Review

The Planning Board shall review the site plan and supporting materials, taking into consideration the reasonable fulfillment of the objectives listed below. Detailed design guidelines and performance standards shall be adopted by the Planning Board to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

a. Legal: Conformance with the provisions of the Bylaws of the Town, the General Laws of Massachusetts, and all applicable rules and regulations of local**,** state and federal agencies.

b. Traffic: Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

c. Parking: Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.

d. Town Services: Reasonable demands placed on Town services and infrastructure.

e. Pollution Control: Adequacy of methods for sewage and refuse disposal, hazardous substances, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.

f. Nuisances: Protection of abutting properties and Town amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare stormwater runoff, etc.

g. Existing Vegetation: Minimizing the area over which existing vegetation is to be removed. Where tree removal is required special attention shall be given to planting of replacement trees.

h. Amenities: The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of open space and agricultural land.

i. Town Character: The setback areas and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape and the natural landscape.

In determining whether the proposed project meets the standards of Site Plan Review, the Planning Board may seek input from abutters, which may include a public hearing.

7. Modification to Approved Site Plans

a. In the event a modification is made to an approved site plan, the applicant shall submit to the Planning Board a written description of the proposed modifications and twelve (12) copies of the revised plan showing such modification. Modified site instances will be subject to the same review and hearing procedures as was the original filing.

b. However, for small and insignificant modifications, the Planning Board shall determine that the particular modification does not warrant an additional public hearing. Such a determination shall be made only after a written request and ten (10) copies of the plan showing the modifications have been submitted to and reviewed by the Planning Board. A determination that the modification does not require a public hearing shall be made by the Planning Board within twenty-one (21) days of receipt of the written request and plans. A copy of the determination and revised plans shall be filed with the Town Clerk and Building Inspector. Failure to act within twenty-one (21) days on the request for determination shall be deemed as approval.

8. Permit Expiration and Extension

a. Any Site Plan Approval issued under this section shall lapse after two (2) years if a substantial use thereof has not commenced, except for good cause.

b. The Board may grant extensions of the permit for up to two (2) years at a time with good cause. Extensions must be requested prior to the expiration of the original permit. Requests must elaborate on the “good cause” that prevented the applicant from utilizing the permit. Facts presented must demonstrate the applicant’s clear intent and attempt to utilize the permit during the original permit period in order to be granted an extension.

9. Enforcement

The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. It may suspend any permit or license when work is not performed as required.

V. OVERLAY DISTRICTS

A. Flood Plain District

1. Purpose

The purposes of the Flood Plain District are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the flood plain, and to preserve and maintain the groundwater table and water recharge areas within the flood plain.

2. District Delineation

a. The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Sutton designated as Zone A and AE on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Sutton are panel numbers 25027C0814E, 25027C0816E, 25027C0817E, 25027C0820E, 25027C0828E, 25027C0829E, 25027C0837E, 25027C0840E, 25027C0980E, 25027C0982E, 25027C0984E, 25027C0985E, 25027C1001E, 25027C1002E, 25027C1003E, 25027C1004E and 25027C1006E dated July 4, 2011. The exact boundaries of the District shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, Board of Appeals, Conservation Commission and the Board of Health.

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

c. Base Flood Elevation Data – Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, with unnumbered A zones.

3. Use Regulations

All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with

M.G.L. Chapter 131, §40 and with the requirements of the Mass. State Building Code pertaining to construction in flood plains (currently 780 CMR 120G), as well as the following regulations:

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

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

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

a. Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

b. Special Permits

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

1. The proposed use shall comply in all respects with the provisions of the underlying District.

2. Within ten (10) days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, and the 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.

3. In a regulatory floodway all encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited unless certification by the applicant is provided demonstrating that such

encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.

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

5. Violation of any of the conditions and for requirements imposed pursuant to this Bylaw shall be punishable by a fine of two hundred dollars ($200.00) per day for each day said violation is permitted to exist.

4. Rules and Regulations

The Planning Board, Board of Appeals, Conservation Commission, and Board of Health shall promulgate and adopt rules and regulations governing activities and special permits authorized and/or regulated by Sections V.A.3.a and V.A.3.b above, which rules and regulations shall include, but not be limited to the following:

a. Health Regulations Pertaining to the Flood Plain District

The Board of Health, in reviewing all proposed water and sewer facilities to be located in the Flood Plain District established under this Bylaw, shall require that:

1. New and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems, and

2. New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

b. Conservation Commission Duties

1. Notify, in riverine situations, adjacent communities and the Mass. Division of Water Resources, the State Coordinating Agency, prior to any alteration or relocation of a watercourse where an order of conditions has been issued, and submit copies of such notification to the Federal Emergency Management Agency Region 1 Office.

2. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

c. Board of Appeals Rules and Regulations

Should the Board of Appeals consider a petition for a variance from the regulations set forth in Flood Plain District section of this Bylaw, the following procedures will be adhered to:

1. The Board of Appeals shall only issue a variance upon:

    a. A showing of good and sufficient cause, and

    b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

    c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, and
    d. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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

3. If a variance is granted, the Board of Appeals shall notify the applicant in writing over their signature that:

    a. The issuance of such variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

    b. Such construction below the base flood level increases risks to life and property.

4. The Board of Appeals will maintain a record of all variance actions including justification for their issuance and report such variances issued in the Annual Report submitted to the Federal Insurance Administration.

5. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or on State Inventory of Historic Places, without regard to the procedures set forth above.

d. Subdivision Standards for the Flood Plain District

All subdivision proposals and other new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under this Bylaw, it shall be reviewed to assure that:

1. The proposal is consistent with the need to minimize flood damage,

2. All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage,

3. Adequate drainage systems shall be provided to reduce exposure to flood hazards; and

4. Base flood elevation (the level of the l00-year flood) data shall be provided for proposals greater than fifty (50) lots or five (5) acres, whichever is less, for that portion within the Flood Plain District.

5. Disclaimer

Whereas flooding can, on rare occasions, occur within the Flood Plain District and areas immediately surrounding said district, nothing contained in this Section shall be construed as a representation of the Town of Sutton or any of its boards, commissions, agents, servants that these areas will be free from flooding or that the uses permitted by this Section will not be adversely affected in the event of flooding; nor shall the grant of a special permit or the imposition of conditions or restrictions be construed as a representation or warranty that there will be no flood damage experienced in these areas.

B. Groundwater Protection District

1. Purpose of District

The purpose of this Groundwater Protection District is to promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Sutton.

2. Scope of Authority

The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses, which fall within the Groundwater Protection District, must comply with the requirements of this district as well as with the underlying zoning. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

3. Definitions

For the purposes of this section, the following words and phrases shall have the following meanings:

Aquifer: Geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

Groundwater Protection District: The zoning district defined to overlay other zoning districts in the Town of Sutton. The groundwater protection district may include specifically designated recharge areas.

Impervious Surface: Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

Mining: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Public Water Supply: A system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves as the primary source of water for an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year. Includes collection, treatment, storage and distribution facilities.

Recharge Areas: Areas that collect precipitation or surface water and carry it to aquifers.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Sutton. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under M.G.L. Chapters 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

4. Establishment and Delineation of Groundwater Protection District

For the purposes of this district, there are hereby established within the Town certain groundwater protection areas; consisting of aquifers or recharge areas which exist in the Town of Sutton. The Groundwater Protection District is that area defined as follows:

- Wellhead with a projected/approved daily volume of at least 100,000 gpd – ½ mile radius
- Wellhead with a projected/approved daily volume of less than 100,000 gpd – 32 X pumping rate in gallons per minute + 400’ or default radius per Massachusetts Drinking Water Regulations

In those cases where an actual Zone II has been delineated around a public water supply wellhead, the Zone II area will be the Groundwater Protection District as opposed to the above radius.

5. District Boundary Disputes

a. If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through the Special Permit Granting Authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.

b. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s) the town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

6. Use Regulation

In the Groundwater Protection District the following regulations shall apply:

a. Permitted Uses

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state or federal law are also obtained:

1. Conservation of soil, water, plants, and wildlife:
2. Outdoor recreation, nature study, boating fishing, and hunting where otherwise legally permitted;
3. Foot, bicycle and/or horse paths, and bridges;
4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
5. Maintenance, repair, and enlargement of any structure, subject to section V.B.6.b (prohibited uses) and section V.B.6.c (special permitted uses);
6. Residential development, subject to section V.B.6.b and section V.B.6.c; and,
7. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section V.B.6.b and Section V.B.6.c ; and,
8. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts and tunnels. Underground storage tanks related to these activities are not categorically permitted.

b. Prohibited Uses:

The following uses are prohibited:

1. Landfills and open dumps as defined in 310 CMR 19.006;

2. Storage of liquid petroleum products, except the following:

   a. Normal household use, outdoor maintenance, and heating of a structure;
   b. Waste oil retention facilities required by statute, rule or regulation;
   c. Emergency generators required by statute, rule or regulations; and
   d. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters;

   Provided that storage, listed in items a through d above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.

3. Landfilling of sludge or septage as defined in 310 CMR 32.05;

4. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

5. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than one hundred ten (110) gallons of sewage per quarter acre under one ownership per day, or four hundred forty (440) gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design;

6. Storage of deicing chemicals unless such storage, including the loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

7. Storage of animal manure is prohibited, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

8. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) within six (6) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United State Geological Survey, except for excavations for building foundations, roads, or utility works;

9. Facilities that generate, treat, store, or dispose of hazardous waste subject to M.G.L. Chapter 21C and 310 CMR 30.00, except the following:

   a. Very small quantity generators as defined under 310 CMR 30.00;
   b. Household hazardous waste collection centers and events under 310 CMR 30.390;

c. Waste oil retention facilities required by M.G.L. Chapter 21, §52A;
d. Water remediation treatment works approved under 314 CMR 5:00;

10. Automobile graveyards and junkyards, as defined in M.G.L. Chapter 140B, §1*;*

11. Treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except the following:

    a. The replacement or repair of an existing treatment works that will not result in a design capacity greater that the design capacity of the existing treatment works;
    b. The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater that the design capacity of the existing system(s);

    c. Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.

12. Storage of liquid hazardous materials is prohibited unless such storage is:

    a. above ground level, and

    b. on an impervious surface, and either;
       i. in container(s) or above ground tanks(s) within a building, or;
       ii. outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater;

13. Industrial and commercial uses which discharge process wastewater on-site;

14. Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;

15. Storage of commercial fertilizers and soil conditioners, as defined in M.G.L. Chapter 128, §64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;

16. The use of septic system cleaners which contain toxic or hazardous chemicals.

c. Uses and Activities Requiring a Special Permit:

The following uses and activities are permitted only upon the issuance of a special permit by the Special Permit Granting Authority (SPGA) under such conditions as it may require:

1. Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;

2. The application of pesticides, including herbicide, insecticides, fungicides, and rodenticide, for non-domestic or non-agricultural uses in accordance with state and federal standards. The special permit shall be granted if such standards are met. If applicable, the applicant should provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 1.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;

3. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;

4. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under section V.B.6.b). Such activities shall require a special permit to prevent contamination of groundwater;

5. The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements. Such activities shall not adversely affect water quality or quantity;

6. Any use that will render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation; dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells 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.

7. Procedures for Issuance of Special Permit

a. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, Town Engineer, and Highway Superintendent that the intent of this Section, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this Section unless the petitioner's application materials include in the SPGA's opinion sufficiently detailed, definite, and credible information to support positive findings in relation to the

standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Sutton boards or agencies in its decision.

b. Upon receipt of the special permit application, under M.G.L. Chapter 40A, §9, the SPGA shall transmit one copy to the Board of Health, the Conservation Commission, the Town Engineer and the Highway Superintendent for their written recommendations. Failure to respond in writing within twenty-one (21) days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.

c. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section V.B.6 (Use Regulations) of this Bylaw, and any regulations or guidelines adopted by the SPGA. The proposed use must:

    1. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District, and

    2. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

d. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Planning Board.

e. The applicant shall file sixteen (16) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

    1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

    2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:

        a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;

b. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; and

c. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30.00, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

3. Proposed down-gradient locations for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

f. The SPGA shall hold a hearing, in conformity with the provision of M.G.L. Chapter 40A, §9, within sixty-five (65) days after the filing of the application and after the review by the Sutton Boards, Departments and Commissions. Notice of the public hearing shall be given by publication and posting and by first class mail to "parties of interest" as defined in M.G.L. Chapter 40A, §11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Sutton Town Clerk within ninety (90) days following the closing of the public hearing. Failure of the SPGA to act within ninety (90) days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by said §9.

8. Violations

a. Written notice of any violations of this section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Board of Health, Conservation Commission, Town Engineer, Highway Superintendent and Water Department(s). The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

b. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Town of Sutton, the Building Inspector, the Board of Health or any of their agents may order the owner or the operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Sutton, the Building Inspector, the Board of Health or any of their agents may order the owner or the operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Sutton, the Building Inspector, the Board of Health, or any of

their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

9. Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

C. Wireless Communication Services District

1. Purpose

The purpose of this section is to establish a district in which wireless communications services may be provided with minimal harm to the public health, safety and general welfare. Specifically, the Wireless Communications Services District has been created to (a) protect the general public from any hazards associated with wireless communications facilities; and (b) minimize visual impacts from wireless communications facilities on residential districts within Sutton. This section does not apply to satellite dishes and antennas for residential use.

2. Description of Areas Included in the Wireless Communications Services District

a. The Wireless Communications Services District shall include all land owned by the Town of Sutton which is held in the care, custody, management and control of the Board of Selectmen, the Recreation Commission, or the Sewer Commission and all land located in the Village, Business-Highway, Industrial, and Office & Light Industrial districts, and any existing town-owned antenna structures regardless of zoning district.

b. The Wireless Communications Services District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

c. The Wireless Communication Services District shall be construed to include the entire town when a camouflaged/stealth installation is proposed as defined and regulated in section V.C.3. – Use Restrictions.

3. Use Restrictions

A wireless communications facility (including antennas and accessory structures, if any), antennas or satellite dish may be erected in a Wireless Communications Services District

upon the issuance of a special permit by the Board of Appeals pursuant to Section VII.A.2, subject to all of the following conditions:

a. The only wireless communications facilities allowed are freestanding monopoles, with associated antenna and/or panels. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.

b. To the extent feasible, all service providers shall co-locate on a single facility. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical, with particular consideration given to the needs of local police, fire, ambulance, and other public emergency services. The intent of this requirement is to reduce the number of facilities that will be required to be located within the community.

c. Any proposed extension in the height, addition of cells, antennas or panels, construction of a new facility, or replacement of a facility, shall be subject to a new application for an amendment to the special permit.

d. New facilities shall be considered by the Board of Appeals only upon a finding by the Zoning Board of Appeals that existing or approved facilities cannot accommodate the wireless communications equipment planned for the proposed facility.

e. In no event shall any facility be located closer than a half mile to any other such facility.

f. No facility or attached accessory antenna shall exceed ninety (90) feet in overall height as measured from ground level at the base of the facility, unless it shall be demonstrated to the satisfaction of the Board of Appeals that a taller structure is necessary for operation or co-location. In this event, the Zoning Board of Appeals may permit a taller facility, provided that it shall not permit the overall height of the facility or attached accessory antenna to exceed one hundred ninety five (195) feet.

g. All facilities shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use.

h. A new facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished grade of the facility base. This shall not apply to any location upon an existing town-owned antenna structure.

i. A new facility shall not be erected nearer to a residential lot line than two hundred (200) feet; the Board of Appeals may require that additional setback footage be provided for public health, safety, or aesthetic reasons. This shall not apply to any location upon an existing town-owned antenna structure.

j. Siting shall be such that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible. All facilities shall

be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the facility with the landscape below and above the tree or building line. This shall not apply to any location upon an existing town-owned antenna structure.

k. Wireless communications facilities shall be suitably screened from abutters and residential neighborhoods. This shall not apply to any location upon an existing town-owned antenna structure.

l. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town. This shall not apply to any location upon an existing town-owned antenna structure.

m. Existing on-site vegetation shall be preserved to the maximum extent practicable.

n. There shall be no signs, except for mandatory announcement signs, No Trespassing signs, and a required sign giving a phone number where the owner can be reached on a twenty-four hour basis.

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

p. There shall be a minimum of one parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles. This shall not apply to any location upon an existing town-owned antenna structure.

q. To the extent technologically feasible, all network interconnections from the facility shall be via land lines.

r. Applicants proposing to erect facilities on municipally owned land or structures shall provide evidence of authorization from the Town of Sutton to conduct wireless communications services on municipally abutting ways.

s. Traffic associated with the facility and accessory facilities and structures shall not adversely affect abutting ways.

t. Satellite dishes and/or antennas may be located on structures or may be freestanding.

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

v. Antennas or dishes located on a structure shall not exceed ten (10) feet in height above the level of its attachment to the structure.

w. Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission (FCC), FAA and the American National Standards Institute and required maintenance shall be filed with the Building Inspector by the special permit holder.

x. All unused facilities or parts thereof or accessory facilities and structures which have not been used for one year shall be dismantled and removed at the owner's expense.

y. Insurance in a reasonable amount determined and approved by the Board of Appeals after consultation at the expense of the applicant with one (1) or more insurance companies shall be in force to cover damage from the structure, damage from transmissions and other site liabilities. Annual proof of said insurance shall be filed with the Town Clerk.

z. Monitoring, testing and inspection shall be in accordance with the regulations of the Massachusetts Department of Public Health, 105 CMR 122, Regulations Governing Fixed Facilities Which Generate Electromagnetic Fields in the Frequency Range of 300kHz to 100 Ghz and Microwave Ovens, and other requirements of the Department.

aa. Camouflaged/Stealth Installation – A Wireless Communication Facility that is disguised, hidden, an integrated part of an existing or proposed structure, or placed within an existing or proposed structure so as to sincerely minimize or eliminate visual impact on the landscape. Such installations may include, but not be limited to, church steeples, flag poles 50 feet or less (measured from the ground), silos, chimneys, water towers, bell towers, etc.

All provisions of the general Use Restrictions listed above for all installations shall apply to camouflaged/stealth installations, except for those provisions contained in sections a., b., e., f., i., and t.

4. Procedure for a Special Permit:

a. All Wireless Communications Facilities shall require a special permit and site plan approval. All applications for wireless communications facilities, antennas or satellite dishes shall be made and filed on the applicable application forms for site plan and special permit in compliance with the Sutton Board of Appeals Application Instructions. In addition to the requirements for Site Plan Review under Section IV.C of this Bylaw and the special permit requirements under section V.A.2 of this Bylaw, seven (7) copies of the following information must be submitted for an application to be considered complete:

1. A locus plan at a scale of 1" = 200' which shall show all property lines, the exact location of the proposed structure(s), street landscape features, residential dwellings and the neighborhoods and all buildings within five hundred (500) feet of the facility. Said plan shall also show proposed accessory building(s), topography, fencing and landscaping, access and parking, lighting, abutters, and areas to be cleared of vegetation and trees.

2. A color photograph or rendition of the facility with its antennas and/or panels. For satellite dishes or antennas, a color photograph or rendition illustrating the dish or antenna at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole, dish or antenna from the nearest street or streets.

3. The following information must be prepared by a professional engineer:

   a. A description of the facility and the technical, economic and other reasons for the proposed location, height and design.

   b. Confirmation that the facility complies with all applicable Federal and State standards.

   c. A description of the capacity of the facility including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
   d. If applicable, a written statement that the proposed facility complies with or is exempt from applicable regulations administered by the FAA, FCC, Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

   e. The applicable review and advertising fees as noted in the application guidelines.

4. Between the date of advertisement and the date of the public meeting, for a period of at least seven (7) days, a balloon shall be put in place at the height of the proposed tower. The balloon shall be of a size and color that can be seen from every direction for a distance of one mile.

b. For all applications for Wireless Communications Facilities, the applicant shall be responsible for all fees or costs incurred in reviewing such application. The Board of Appeals is authorized to retain professional consultants to review the application and advise the Board on any or all aspects of the application. The cost of this review and advice shall be borne by the applicant and shall be paid prior to the issuance of a special permit pursuant to the Wireless Communications Service District Bylaw.

5. Exemptions

The following types of wireless communications facilities are exempt from this Section V.C:

a. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, provided that (1) the tower is not used or licensed for any commercial purpose; (2) the tower must have a cost or replacement value of less than ten thousand dollars ($10,000); and (3) the tower must be removed if the use is discontinued for one year.

b. Facilities used for the purposes set forth in M.G.L. Chapter 40A, §3.

c. Towers and antenna erected by the Town of Sutton for public safety and communications purposes.

D. Route 146 Overlay District Bylaw

1. Purpose

Route 146 is the Gateway to the Blackstone Valley, and preservation of its scenic qualities is critical to the image residents and visitors have of this region. With the opening of the Massachusetts Turnpike Interchange with Route 146 in 1998, increased opportunities for economic development will provide fiscal benefits to Blackstone Valley communities and create jobs for residents. The five Corridor communities of Millbury, Sutton, Northbridge, Douglas, and Uxbridge recognize that joint planning and cooperation can insure that all communities will benefit economically without causing haphazard and inefficient strip commercial development or degradation of the environment. The Route 146 Corridor Overlay District is intended to facilitate the long-term economic growth of the Corridor by coordinating development among the five communities and by promoting high quality development that preserves the scenic, natural, and cultural resources of the Blackstone Valley.

2. Application of District Regulations

a. **Overlay District**

This by-law is adopted as an overlay district and sets forth the design standards that apply to development in the Route 146 Corridor Overlay District. These standards shall apply to any development proposing a new building, or a re-development or addition containing one thousand (1,000) or more square feet of floor area or requiring the alteration of five (5) or more parking spaces. The use regulations of the underlying district remain in place and other provisions of the Zoning By-Law will apply unless specifically superseded by the provisions of this overlay district. The location of the overlay district is shown on a map entitled Route 146 Corridor Overlay District, which is on file in the office of the Town Clerk. The district shall consist of all parcels currently zoned or zoned in the future to be Industrial(I), Business-2 (B-2), and Office Light Industry (OLI), with frontage on Route 146.

3. Application Approval

a. Plan Review

The Planning Board (Board) shall be the special permit granting authority for developments proposed under these regulations. Applicants shall comply with the procedures for site plan approval and special permits as listed elsewhere in this by-law.

b. Waivers

The Board may modify or waive any requirement of the overlay district upon finding that due to topography, location or other unusual conditions affecting the property, the requirements of this section would unreasonably restrict the use of the property or would be detrimental to the orderly development of the area. In granting such modification or waiver, the Board may impose conditions it deems necessary to protect the public interest and to insure that the development will be consistent with the purpose of this section.

c. Joint Use Agreements

For commercial, office, and industrial centers developed as a single entity, but which include lots under separate ownership, the standards for parking, internal roads, lot coverage and open space may be satisfied by all of the property included within the center. In such event, permanent easements shall be recorded on the approved site plan and subdivision plan, and covenants recorded in the Registry of Deeds providing for the joint use and maintenance of parking, roadways, and open space by all occupants of the center.

d. Review by Other Agencies

1. Inter-Municipal Review: Copies of the application shall be sent to the Planning Boards of the other four communities in the Corridor, who shall have twenty-one (21) days to submit comments to the Board. The purpose of this review is to insure that regional implications are considered by the Board, and that significant impacts of the project on corridor communities can be mitigated.

2. Development Coordination: Applicants shall submit documentation that they have contacted owners of abutting land within the overlay district regarding their proposed plans. The intent of this notice is to give those landowners the opportunity to coordinate existing uses or future development plans with the project before the Board. Where feasible, the parties shall work cooperatively to solve common issues such as improving traffic access, sharing parking, creating frontage roads, allowing connections between properties, buffering incompatible uses, or preserving valuable open space and wetland resources.

4. Design Standards

a. Environmental Controls

1. Water Quality and Quantity: Drainage systems shall be designed using best management practices as found in the most recent version of DEP's "Non-Point Source Management Manual". The applicant shall submit a stormwater management plan implementing the highest practicable level of stormwater treatment. The development shall conform to the Stormwater Management Guidelines of the Department of Environmental Protection (DEP).

2. Erosion and Sedimentation: Uncontrolled erosion during construction can cause sedimentation of adjacent streams, ponds, and wetlands. The applicant shall submit an erosion control plan, which is designed to prevent sedimentation by employing the following best management practices:

    a. Exposed or disturbed areas due to stripping of vegetation, soil removal, and re-grading shall be permanently stabilized as soon as practicable after construction ends.

    b. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sedimentation in runoff shall be trapped by using staked hay bales, sediment traps, or other acceptable methods as determined by the Planning Board.

    c. Permanent erosion control and vegetation measures shall be in accordance with erosion and vegetation practices recommended by the Natural Resources Conservation Service.

3. Slope Protection: No structure, roadway, or earth disturbing activity shall be located or occur on slopes of fifteen percent (15%) or greater.

4. Preservation of Sensitive Natural Features: Development shall be located as to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features. The following features shall be identified on the site development plans by the developer and be preserved as undeveloped open space:

    a. Unique and/or fragile areas including wetlands, vernal pools, and 100-year flood plains.

    b. Habitats of rare species listed by the Mass. Natural Heritage and Endangered Species Program.

    c. Streams and water bodies, including a buffer strip one hundred (100) feet in width along the centerlines of perennial streams, unless an order of conditions is obtained from the Conservation Commission.

b. Open Space Preservation

1. A minimum of thirty-five percent (35%) of the tract shall be left as open space. Open space shall not include land under right-of-ways for utilities and required yard setback areas. Open space may be dedicated to public use subject to approval and acceptance by Town Meeting. Open space in private ownership shall be protected by legal arrangements sufficient to insure its maintenance and preservation for purposes for which it is intended. Up to twenty-five percent (25%) of the required open space may be developed with man-made features such as storm water detention devices, non-commercial recreational structures and uses, septic systems, and similar features.

2. When a proposed development abuts a Residential district in any community, whether presently developed or not, landscaped buffers shall be employed to shield the residential property from view of the proposed development, and to minimize negative impacts such as glare, noise, and odors. Such a buffer shall contain a screen of plantings not less than three feet (3') in width and six feet (6') in height at the time of planting. Individual shrubs or trees shall be planted not more than three feet (3') on center, and shall thereafter be maintained by the owner or occupant so as to maintain a dense screen year-round. At least fifty percent (50%) of the plants shall consist of evergreens. A solid wall or fence, not to exceed six feet (6') in height, complemented by suitable plantings may be substituted for such landscaped buffers.

3. Developments shall seek to leave large tracts as open space to serve as buffers from incompatible land uses. Where existing protected open space abuts the proposed development, the development shall insure proper access to such land, and where possible, to set aside additional land that will complement the protected open space. The Board may waive open space requirements of this By-Law if the proposed open space is of exceptional value, will increase active recreational opportunities for local residents, or will add important links to the Town's trail and bicycle network.

4. Where developments of different character are proposed within the same project, (e.g. retail and industrial), such areas shall be separated by open space at least two hundred feet (200') in width to create defined edges between developments.

c. Site Design Standards

1. Landscaping

   a. A registered landscape architect shall submit a landscape plan drawn to scale, including dimensions and distances. The plan shall clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size and description of all landscaping materials and tree cover.

   b. Access ways into the site and thoroughfares within the development shall be provided with deciduous trees at intervals of approximately fifty feet (50') on both sides of the road to provide an overhanging canopy at maturity. Such trees shall

be a minimum of two-inch (2") caliper at breast height when planted and shall normally attain a height of at least fifty feet (50') at maturity.

c. The development shall contain a series of pedestrian paths linking the major buildings and open space parcels on the property. Between buildings such paths shall be hard-surfaced and at least six (6) feet in width. Landscaping shall be provided on either side and contain varieties of plantings, including shade trees, ornamental trees, shrubs, and flower beds. Paths connecting to open spaces may be simple hiking trails without ornamentation.

d. There shall be provided one central gathering place of unique visual interest. This may include elements such as a fountain, pond, sculpture, gazebo or similar open space or structure. The area shall be provided with benches, stone walls, and similar amenities, and shall be accessible to individuals in wheelchairs.

e. Outside storage areas for materials, equipment or trash shall be provided with an opaque screen to shield such areas from view from adjacent streets and residential districts. Such screens may be walls, fences, landscaped berms, evergreen plantings, or any combination thereof. Fences shall consists of wood, stone, or brick materials; chain link, plastic, or concrete materials are prohibited. Walls or fences exceeding four and one-half (4½) feet shall have plantings on any side facing a residential district.

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

2. Circulation and Access

a. Each development under common ownership within an overlay district shall be limited to one entrance and one exit per street. At the main entrance, one combined entrance/exit location is encouraged to facilitate traffic movement; such an entrance shall be separated by a traffic island with separate in and out movements. If needed, the applicant shall construct separate right and/or left turning lanes to facilitate entry and exit from the site. Access shall not be provided through residential areas unless authorized by the Board.

b. The main entrance to the development shall contain one ground sign announcing the name of the development. Such sign shall consist of natural materials and shall be reminiscent of the heritage of the Blackstone Valley. For example, the use of iron, wood or brick surrounding the sign face is encouraged to reflect the Valley's industrial heritage. Around the sign shall be placed grass, flowers, and shrubs to provide color and visual interest. There may also be used fencing materials such as split rail, granite, stone, or other materials as may be seen in the Valley's agricultural areas. Applicants should incorporate design elements of specific themes from the

Valley's past (e.g. mill village, agricultural, industrial) and not mix inappropriate elements from different theme types.

c. To minimize turning movements onto adjacent public ways, developers are encouraged to provide internal circulation systems that connect to adjacent developments. When several adjacent lots front onto one street, the Board may require such lots to share a single driveway, or that the lots be accessed by an internal service road. Where such sharing cannot be achieved in the short run, the means and location for future long term inter-parcel connections shall be required through right-of-way reservation and/or dedication. Thought should be given to continuing such internal ways between two public ways to facilitate town-wide traffic flow. The Board may waive height, open space, or other requirements of this by-law to achieve such purposes.

d. Each development shall contain facilities that will enhance transit services as a means of reducing automobile travel. Shelters shall be installed at central locations in the development to provide convenient access for buses. Secure bicycle racks shall be installed to promote bicycle commuting.

e. Uses that propose drive-through facilities such as automatic teller machines (but not fast food restaurants) shall be designed to be an integral component of the building complex. Such uses shall be safely and conveniently accessible from surrounding uses via a clearly defined pedestrian circulation system which minimizes points of conflict between vehicular and pedestrian traffic.

f. Ways intended to become public shall comply with the design and construction standards of the Planning Board's Rules and Regulations Governing the Subdivision of Land.

g. Private streets may be approved provided such streets are not through streets, and a plan is submitted and approved by the Board for access for fire, ambulance, and police vehicles and for snow clearance. Deeds for abutting property must state that the street will not be maintained by the Town.

3. Parking

a. All off-street parking and loading spaces shall be provided with safe and convenient access. Access locations shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.

b. The number of parking and loading spaces required shall be determined by using the standards for each use as provided elsewhere in this Zoning By-Law. The Board may allow a reduction of the required number of spaces by up to twenty-five percent (25%) if it can be demonstrated that two or more uses within a single development can share parking areas due to different hours of normal activity. A change in use of

one of the businesses shall require the construction of the full amount of parking otherwise required unless the Board grants a special permit to allow the parking reductions to remain in effect.

c. When two (2) or more adjacent property owners agree to share parking and a combined entrance, the required number of parking spaces may be reduced by as much as fifteen (15) percent for each business. In addition, the side yards (including associated landscaping) between the two parcels are not required. The property owner(s) shall file a written agreement with the application, which shall be recorded at the Worcester District Registry of Deeds. The agreement may be revoked by the parties only if parking is provided in accordance with this Zoning By-Law, and a revised plan is approved by the Planning Board.

d. Parking lots shall generally be sited to the side or rear of buildings in order to minimize the obtrusiveness of large parking areas on the visual quality of the Corridor. Up to twenty-five percent (25%) of the total parking spaces may be sited in the front of the building to accommodate short-term parking needs of the proposed uses.

e. Any parking lot of more than twenty (20) spaces shall be provided with interior landscaping covering not less than five percent (5%) of the total area of the lot. Landscaping shall also be provided around the perimeter of the lot for a width of ten feet (10') and planted with trees and shrubs. In total, there shall be provided one shade tree for every ten (10) spaces and complemented by shrubs and other planting material. Such trees shall be at least two (2) inches in trunk diameter at the time of planting, and shall be located in planting beds at least six feet (6') in width or diameter. In case it can be shown to the Planning Board that the planting of trees is impractical, the Planning Board may authorize plantings and shrubbery instead of trees.

f. Sidewalks and pedestrian paths shall connect the lots to the principal uses they will serve. Such walkways shall be constructed with brick, decorative pavers, or other materials, and may be bordered with fencing or shrubbery to clearly separate pedestrians from automobile traffic. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas. Car stops shall be provided to prevent parked cars from damaging trees and shrubs or disrupting pedestrian walkways.

g. For non-retail uses, to facilitate alternatives to single occupancy automobiles, parking lots shall have designated areas for car and van pool vehicles at a more convenient location near building entrances than for other employee parking areas. Such areas shall be shown on the site plan and when built shall be clearly signed for identification purposes.

h. Parking garages are permitted as an alternative to extensive surface lots. Exterior treatment of the garages shall consist of the same materials as the principal buildings

in the development. Above ground garages shall be sited behind the principal structures and shall be limited in height by the requirement of the underlying district.

4. View Protection

   a. The Route 146 Corridor offers many scenic vistas of the Blackstone Valley. Each development shall recognize the visual quality of its site in relation to the scenic qualities of the immediate area and the Corridor as a whole. The applicant shall submit photographs of the area to the Board and describe the most prominent features of existing visual quality. Through means of sketches or computer simulations, the applicant shall document the impacts of the proposed development on visual quality. This analysis shall present how the project will be viewed from Route 146 in both directions and how views from the site to the surrounding area can be integrated into the development to enhance the project design. Within the development, the applicant shall preserve open vistas of important features such as lakes, farms, forests, historic sites, etc.

   b. Where possible, structures should not be located on ridge tops. The visual impact of structures near ridge tops should be mitigated through reducing structure height below the crown of a mature tree stand where possible or through innovative architectural design.

5. Lighting and Utilities

   a. All electric, telephone, television and other communication lines, both main and service connections, servicing new developments shall be provided by underground wiring within easements. These lines shall be installed in accordance with the prevailing standards and practices of the utility company providing such services. Electric transmission lines responsible for transporting power through the area and provision of three-phase power are exempt from the underground requirement.

   b. All exterior lights and illuminated signs shall be designed and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. The lighting must be shielded to prevent direct glare and/or light trespass.

   c. Each outdoor luminaire shall be a full cutoff luminaire, and the use of decorative luminaires with full cutoff optics is desired. A full cutoff luminaire is an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture is projected below the horizontal plane. Light standard design shall be consistent with the architectural objectives of the development.

   d. The development shall eliminate glare onto adjacent properties through the use of lighting shields, earthen berms, or retention of existing natural vegetation. All

outdoor lighting fixtures, including display lighting, shall be turned off after close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

6. Signage

    a. Unless specifically stated below, the sign requirements contained elsewhere in this Zoning By-Law shall determine the number, size, and location of signs for buildings and uses within the development.

    b. The use of materials such as brick in entry signs, or the use of signboards that use architectural motifs from the Valley's mill or colonial heritage are to be used where possible.

7. Building Layout

    a. It is the intent of this overlay district to promote compact patterns of development where buildings are clustered in close proximity in order to reflect historical settlement patterns of the Blackstone Valley. Building layouts shall promote pedestrian use by reducing walking distances between buildings and providing walking paths to major entrances. Parking lots shall be sited in convenient locations such that visitors can conveniently access more than one facility in the development. Within the development, there is no minimum separation distance between buildings.

8. Redevelopment of Existing Property

    a. Where it is proposed to re-develop property, existing curb cuts shall be re-designed to improve traffic flow. Where possible, multiple curb cuts shall be combined to minimize traffic entry points onto adjacent streets. There shall be no more than two curb cuts onto each street to which the development has access.

    b. If existing buildings are to remain, their facades shall be renovated to reflect the architectural treatments noted above.

    c. Parking lots shall be re-designed according to the standards noted above. The Board may waive landscaping requirements or other standards upon demonstration that such relief is necessary due to site constraints and other amenities will be substituted that are consistent with the purpose of this by-law.

9. Infrastructure Availability

    a. Each development shall tie-in to a public water system if an available connection is located within one thousand feet (1000') of the property, unless evidence is submitted by the water supplier that its available capacity is insufficient to service the development.

b. Each development shall tie-in to a public sewer system if an available connection is located within one thousand feet (1000') of the property line unless evidence is submitted by the sewer provider that the sewer mains or treatment plant has insufficient capacity to service the development. If an on-site package treatment plant is proposed, the plant shall be built prior to the issuance of any occupancy permits.

c. Intensity of development shall vary with the proposed sewage treatment method. The floor area ratio (FAR) shall vary depending up the proposed sewage treatment method, as follows:

Sewage Treatment Method	FAR
Connection to Public Treatment Works	0.75
Package Treatment Plant	0.25
On-Site Septic System	0.10

10. Architectural Standards

a. Buildings shall be designed in keeping with the historical patterns of the Blackstone Valley. Architects should research building types that typify the region's heritage and incorporate details in their structures that are based upon examples from the region. Use of materials such as clapboard, stone, and brick that reflect housing and mill styles should be used.

b. Buildings should contain variation in detail to provide visual interest and to avoid monotony. Use of pitched roofs, breaks in roof and wall lines, towers, cupolas and building ornamentation are examples of measures to incorporate Valley elements into contemporary life.

c. Architecture based upon generic franchise design is prohibited. Rather, where franchise buildings of national chains are proposed, architects should rely upon models of Blackstone Valley building types to incorporate elements of historic design into the development.

11. Dimensional Regulations

a. Building height shall be limited to forty-five feet (45') if: 1) the development is connected to a public water supply; 2) the Fire Chief determines that water pressure is sufficient for fire fighting purposes; and 3) the Town has fire apparatus capable of extinguishing fires at the highest part of the buildings. If such facilities are not present, the height limit of the underlying district shall govern.

b. In lieu of minimum lot size and frontage requirements, the FAR and open space requirements specified above shall govern the overall project development intensity.

VI. SPECIAL REGULATIONS

A. Condominium Development

1. Intent

This Bylaw seeks to protect and enhance the rural character of the Town of Sutton by encouraging the orderly development of condominium developments, and regulating such growth. To this end, it shall be determined that a proposed development offered hereunder:

a. Promotes the more efficient use of land in harmony with its natural features;

b. Encourages the preservation of open land for conservation, agriculture, open space and recreational use;

c. Preserves historical and archaeological resources;

d. Protects existing and potential water supplies; and/or,

e. Protects and promotes the health, safety and convenience and general welfare of the inhabitants of the Town of Sutton.

2. Special Permit Granting Authority

The Planning Board is hereby designated as the Special Permit Granting Authority for all purposes under this section and shall adopt rules and regulations with respect to the administration of applications under this section of the Zoning Bylaw.

3. Definitions

In addition to the definitions contained in Section I.B, the following shall apply for purposes of this Section:

Board: Planning Board, Town of Sutton.

Buffer: A perimeter area of the tract designed to separate the proposed development from abutting properties.

Common Land and Facilities: All open land, interior ways, permitted supporting facilities, and land on which such supporting facilities are located.

Home Association: A corporation, trust, or unincorporated association, the membership of which consists of the owner or owners of dwelling units within the tract, which shall own and/or manage all interior ways and the land not occupied by residential units, including facilities and structures thereon, in perpetuity.
Interior Way: Vehicular access within the tract, not including parking spaces or individual unit driveways.

Open Land: All land within the tract not occupied by structures or interior vehicular ways or parking areas. The open space shall be situated so it is usable by all residents of the Condominium Development, and is not located to imply use or "ownership" by only the unit or units in its proximity. There shall be at least one bulk area of open space equal to at least one third of the total required open space. The open space shall be delineated on the site plans and shall be protected by a recorded restriction enforceable by the Town of Sutton.

Tract: Single parcel or group of contiguous parcels under common ownership or proposed for common ownership.

4. Minimum Requirements for Initial Review

a. Tract Size: Minimum twenty-five (25) and maximum one hundred (100) acres in R-1 or R-2 zones. A tract bisected by a public way shall be deemed two tracts.

b. Frontage: Minimum of fifty (50) feet on a public way as defined in the Subdivision Control Law and the Sutton Zoning Bylaw.

c. Density: The overall tract density (i.e., total dwelling units divided by total acres) shall not exceed eight-tenths (.8) dwelling units per acre, except as otherwise expressly provided in this section VI.A.4. For a tract or tracts contiguous to a professionally managed, full service golf course of at least eighteen holes and at least as many acres as the tract or tracts being developed, the overall tract density shall not exceed one and six-tenths (1.6) dwelling units per acre if the land on which such golf course is located contains deed restrictions requiring such land to be used for purposes of at least an eighteen hole professionally managed full service golf course for no less than ninety-nine (99) years from the date that the special permit for such Condominium Development is approved by the Planning Board, and the special permit shall contain a condition to that effect. The land on which the golf course is located shall not be considered open land for purposes of the open land requirements of each tract as provided in this Bylaw and in M.G.L. Chapter 40A, §9. No more than one Condominium Development may be located on any one golf course.

   A density bonus may be permitted when the proposed project provides permanently affordable housing opportunities for households earning less than or equal to 80% of the median income for Worcester County. Affordable units shall be developed concurrently with the market rate units and shall be dispersed evenly throughout the entire project with no two units adjacent. For each affordable dwelling unit provided

under this section, one additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in number of dwelling units."

d. Layout: Structures shall be no closer than seventy-five (75) feet to an adjacent structure. The minimum building space requirement is intended to provide privacy. Where windows are placed in only one of two facing walls, or there are no windows, or where the windows are at a height or location to provide adequate privacy, the building spacing can be reduced to fifty (50) feet. No structure shall be closer than fifty (50) feet to an interior way.

e. Utilities: Each structure shall be served by public water and sewerage. All utility services shall be underground.

e. Design: Each structure shall not exceed thirty-five (35) feet in height nor contain more than four (4) dwelling units. The exterior design shall reflect the rural residential character of Sutton and achieve architectural diversity. The interior design of the dwelling units shall be limited to two (2) bedrooms, except that up to five percent (5%) of the units may contain three (3) bedrooms.

f. Parking: There shall be two and one-half (2½) parking spaces for each dwelling unit. A one-car garage shall be deemed one (1) parking space.

g. Interior Way: Access within the tract shall consist of vehicular ways of minimum twenty-four (24) feet in width and shall otherwise be constructed in accordance with the design standards of the "Rules and Regulations Governing the Subdivision of Land in the Town of Sutton."

h. Open Land: At least forty percent (40%) of the tract area shall be maintained as Open Land. No more than fifty percent (50%) of Open Land shall be wetlands and/or land with slopes in excess of 2:1.

i. Further Subdivision: There shall be no further subdivision of the tract proposed.

j. Construction Activity: All construction activity shall be in accordance with the provisions of the Wetlands Protection Act and the River Protection Act.

k. Buffer: There shall be a perimeter buffer, as determined by the Planning Board, to provide visual separation from abutting properties, planted with a mixture of coniferous and deciduous trees and shrubs.

l. Supporting Facilities: In addition to residential structures, structures and facilities supporting recreational or maintenance use may be permitted in an appropriate proportion to the development. Such new structures shall not exceed twenty-five (25) feet in height.

m. Ownership and Maintenance Responsibility: All Common Land and Facilities shall be owned and maintained by a private corporation, in the form of a Homes Association, as set forth in M. G. L. Chapter 40A, § 9. The Town shall not be responsible for such ownership or maintenance.

5. Procedure for Application and Review by Planning Board

Any person who desires a special permit under this section shall submit an application, including all supporting documents, in writing to the Board in such form and number as the Board may require. Applicant agrees to pay required fees prior to commencing the Condominium Development Definitive Plan process, and all subsequent fees, as specified herein, which may result from revisions, whether by the applicant or the Board, in the process of obtaining a special permit or during any phase of construction under said special permit.

a. Plan Requirements

Application for a special permit under this section shall be accompanied by a Plan which shall show all of the information required for a Condominium Development Definitive Subdivision Plan as specified in the Subdivision Rules and Regulations and any additional information required under Site Plan Review. Review under this section shall constitute review under Site Plan Review.

b. Other Requirements

The Applicant shall also include other information the Board may require, including but not limited to:

1. Proposed building plans of a general nature to indicate building elevations, and a plan view of the individual dwelling units by floor.

2. Proposed informational, identification, and directional signage.

3. Proposed features relating to safety including but not limited to: proposed street names, unit and structure numbering sequence; street and exterior lighting; and, screened trash collection facilities.

4. Environmental and traffic impact studies.

5. All proposed instruments to be recorded with the plans, including the Open Land perpetual restriction, the Home Association articles of incorporation including provision for ownership and maintenance of Open Land and Common Land and Facilities, and a typical deed for transfer of individual interests.

6. A Development Statement which shall consist of a list of the parties of interest; the names of the development team; a long-range plan for maintaining the

development after construction, including provision for a permanent organization responsible for such maintenance; proposed measures and schedules to guarantee construction in accordance with the plan which may include but are not limited to cash deposits, bonds, covenants, easements and grants which are enforceable by the Town and will oblige in a like manner subsequent holders of all or part of the applicant's interest. No application shall be approved until the Planning Board has in its possession all items listed above.

6. Review by Other Boards:

a. The Planning Board shall forward copies of the application and plan, including all supporting documents to the following boards and agencies which may review it jointly or separately: Board of Health, Conservation Commission, Building Inspector, Police Department, Highway Department, Fire Department, Earth Removal Board, Board of Appeals, Board of Selectmen, Sewer Commission, and the appropriate Water District Commission.

b. Each such board or agency shall submit such comments or recommendations as it deems appropriate to the Board with copy to the Applicant. Failure to make recommendations within thirty-five (35) days of receipt of the application shall be deemed lack of opposition.

7. Homes Association

a. The developer, in deeding rights of ownership to individual dwelling units, shall include beneficial rights to all Common Land and Facilities. He shall also ensure through deed restrictions that Open Land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or interior ways. In addition, the developer shall be responsible for the maintenance of the Common Land and Facilities until such time as a Homes Association is able to assume such responsibility. In order to insure that the Association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded in the Worcester County Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

1. Mandatory membership in an established Homes Association as a requirement of individual ownership of any dwelling unit within the tract.

2. Provisions for maintenance assessments on all individual dwelling units in order to ensure that the Common Land and Facilities be maintained in perpetuity in a condition suitable for the uses approved by the Homes Association. Failure to pay such an assessment shall create a lien on the property assessed, enforceable by either the Homes Association or the owner of any individual dwelling unit membership in the Homes Association.

3. Provisions, which so far as possible under existing law, will ensure that the restrictions placed on the use of the Open Land will not terminate by operation of law.

b. The Homes Association shall be structured as an organization in accordance with the laws of the Commonwealth of Massachusetts and an instrument shall be recorded at Worcester County Registry of Deeds, which shall at a minimum provide:

1. The type and name of the Homes Association which will own, manage and maintain the Common Land and Facilities in perpetuity.

2. The ownership or beneficial interest in the Homes Association of each owner of a dwelling unit and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom.

3. Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and/or officers of the organization.

4. Procedures for the conduct of the affairs and business of the corporation including provisions for the calling and holding of meetings of members and directors and/or officers of the corporation and provision for quorum and voting requirements for action to be taken. Each owner of a dwelling unit shall have voting rights proportional to his ownership or beneficial interest in the organization.

5. A legal description of the Common Land and Common Facilities.

6. A statement of the purposes for which the Common Land is intended to be used and the restrictions on its use and transfer.

7. Provision for the management, maintenance, operation, improvement and repair of the Common Land and Facilities, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the dwelling owners common charges to pay for expenses associated with the Common Land and Facilities, including real estate taxes. It shall be provided that common charges are to be allocated among the dwelling unit owners in proportion to their ownership or beneficial interest in the corporation and that each dwelling owner's share of the common charge shall be a lien against his real estate in the development, which shall have priority over all other liens with the exception of municipal liens and first mortgages of record.

8. The method by which such instrument or instruments maybe amended.

8. Hearing

a. Following filing of the application with the Board with a copy to the Town Clerk, the Board shall advertise and hold a public hearing in accordance with the requirements of M.G.L. Chapter 40A §§ 9 and 11. After such hearing and within ninety (90) days, the Board shall act on the application for special permit. Failure of the Board to take final action as above shall be deemed to be an approval of the application unless an extended time shall be agreed upon at the request of the applicant.

b. Unfavorable action by the Board shall cause the applicant to be governed by M.G.L. Chapter 40A, §16, with regard to Repetitive Petitions.

9. Fee Schedule and Security

a. The applicant shall, with initial submittal of his application for a special permit, include a fee as set by the Planning Board to cover the cost of administration and professional review of plans. The applicant shall also pay the cost of legal review as necessary, and inspection of interior way construction and other required site improvements and/or required off-site improvements.

b. Prior to issuance of building permits pursuant to any special permit granted under this section, the applicant shall provide performance security in a form acceptable to the Board and an amount to be determined to assure the completion of interior ways and required site improvements.

c. All fees tendered to the Board are non-refundable and shall be by certified check or money order made out to "Town of Sutton". No cash will be accepted.

10. Administration

a. Enforcement of this Bylaw shall be by the Building Inspector or a duly appointed inspector working for the Building Department.

b. If a special permit is granted under this section, substantial performance must commence within six (6) months. Should substantial performance fail to commence, the special permit shall be revoked and the land returned to the normally applicable density regulations of this Bylaw unless the applicant has received a written extension from the Board, such extension being of six (6) months duration. Time of completion of all phases of construction shall be as determined by the Board and stated as a condition of granting the special permit.

c. The Building Inspector shall periodically inspect progress and compliance with this Bylaw and shall take whatever actions may be necessary in the event of non-compliance. No required performance bond or other security shall be released, nor shall occupancy permits be granted, until the Conservation Commission, Highway Surveyor, and Board of Health shall have notified the Board that the development conforms in all respects to those requirements for which each is responsible. No title to any dwelling unit shall pass nor shall any beneficial rights to Open Land be granted

until the requirements of individual Certificates of Occupancy and Certificates of Compliance have been issued. Certificate of Occupancy shall only be issued to cover an entire structure and not any single dwelling unit therein.

d. Should completion of the development fail to occur within the time stated in the Special Permit, all securities held shall be called and the Town of Sutton or its agent may enter the premises to engage in and complete such works as will, in its opinion, bring the development to a state acceptable to state and local regulations.

B. Planned Business Development Bylaw

1. Purpose and Intent

It is the purpose of this Planned Business Development (PBD) Section to allow and encourage the efficient and creative use of land in Sutton that is particularly suited for commercial and industrial use. It is also the purpose of this overlay district to encourage a diversity of compatible land uses including a mix of office, retail, light industrial and other compatible land uses. The Town of Sutton desires to encourage development in the Planned Business District that meets market demands and improves the economic base of the community, provides substantial and quality employment opportunities, is designed within the natural constraints of the land, and preserves the Town's rural character.

2. Definitions

In addition to the definitions contained in Section I of this Bylaw, the following definitions shall apply for the purposes of this Section:

Applicant: The person or people, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. An agent, representative or his assigns may act for an owner, provided that written evidence of such fact is submitted. Evidence in the form of a list of its officers and designated legal authority to sign legal documents shall be required for a corporation.

Board: Planning Board, Town of Sutton

Buffer: A perimeter area of the tract designed to separate the proposed PBD from abutting properties.

Interior Ways: Vehicular access within the tract, not including parking spaces or individual unit driveways. All interior ways shall be privately owned and maintained unless the PBD contains a conventional subdivision plan.

Impervious Surfaces: Any surface on which water cannot penetrate.

Open Space: All lands within the PBD tract in their natural state, which are not landscaped, covered by principal or accessory structures, or any other impervious surfaces.

Planned Business Development (PBD): The development of an area of land as a single entity, in which a mixture of business, light industrial and other compatible uses as determined by the Special Permit Granting Authority (SPGA) under section VI.B.4, in a variety of building types and designs, are determined to be sufficiently advantageous to render it appropriate to grant a special permit to depart from the normal requirements of the zoning district, to the extent authorized by this section of the Bylaw.

Tract: Single parcel or group of parcels under common ownership or proposed for common ownership.

3. Special Permit Granting Authority

The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes under this section and each applicant shall be required to obtain special permit approval from the Planning Board in the review process. The Planning Board shall base its review and decision on all PBD proposals on the criteria listed below. A special permit shall not be granted if the applicant cannot demonstrate compliance herewith:

a. The site plan and written materials meet all the requirements as listed under this section.

b. Methods satisfactory to the Planning Board of ensuring the performance of any conditions included in the site plan have been submitted by the applicant.

c. The PBD is consistent with the purpose and intent of this section.

d. The applicant successfully demonstrates to the Planning Board that this method of land design will be as, or more, appropriate for the tract than a conventional subdivision.

4. Permitted Uses

a. The applicant shall submit a program of uses to be incorporated within the proposed Planned Business Development. Uses which may be included in the proposal are those institutional, agricultural, office, retail, trade and service, vehicular and automotive, and manufacturing uses allowed by right or by special permit in the B-2 Business-Highway, I Industrial, or OLI Office Light Industrial districts as specified in the Table of Use Regulations.

b. Uses within the PBD may change over time and such changes do not necessarily require amendment of the PBD special permit. Notice of a proposed change in use

shall be given in writing to the Planning Board. The Planning Board shall discuss the proposed change in open meeting. If the Planning Board finds that the new use will not result in such impacts, then no amendment will be made. If the Planning Board finds that there may be significantly increased impacts on abutters, the Planning Board shall schedule a public hearing to review the changes and amend the existing special permit and impose additional conditions or require that a new application be submitted for review and approval.

5. Minimum Development Standards

a. Applicable Zoning Districts: Planned Business Developments shall be allowed by special permit hereunder in the Industrial (I) District, Office and Light Industrial (OLI) District, and the Business-Highway (B-2) District.

b. Minimum Tract Dimensions: The minimum tract size for a PBD project shall be twenty (20) acres. Minimum tract width along a public way shall be a total of two hundred fifty (250) feet located in either one contiguous area, or in two areas of the property with the condition that each frontage area must have a minimum of seventy-five (75) contiguous feet. The minimum tract width at any point shall be one hundred fifty (150) feet and the minimum tract depth shall be at least three hundred (300) feet.

c. Maximum Coverage: The maximum coverage of a PBD tract by impervious surfaces including principal and accessory buildings, parking and loading facilities, interior way and drives, sidewalks and recreational facilities, shall not exceed forty percent (40%) of the total tract size.

d. Open Space: At least forty percent (40%) of a PBD tract shall be left in its natural state and preserved as open space. No more than fifty percent (50%) of the open space shall be wetlands (as defined in M.G.L. Chapter 131, §40), slopes in excess of fifteen percent (15%), and utility or other restrictive easement, or any combination thereof. Open space shall be predominantly vegetated and no principal or accessory uses other than passive recreational uses will be permitted.

e. Perimeter and Interior Buffers: There shall be a perimeter buffer of at least one hundred (100) feet in a PBD tract consisting of natural vegetation. On certain PBD tracts additional planting and landscaping may be required to effectively screen abutting lands. The perimeter buffer may be considered part of the open space and passive recreational uses may be permitted within. An interior buffer of fifty (50) feet will be required between principal buildings and between their associated parking areas.

f. Interior Ways: Access within the tract shall consist of vehicular ways with a minimum lane pavement width of fifteen (15) feet. Interior ways shall include two lanes, separated by a vegetated traffic island ten (10) feet in width and broken at certain points to allow turns. Interior ways will be paralleled on one side by a five (5) foot wide sidewalk, which is to be placed ten (10) feet from the paved roadway. Interior

ways shall otherwise by constructed in accordance with the Town of Sutton Rules and Regulations Governing the Subdivision of Land. Where a PBD contains a conventional subdivision, interior ways shall be publicly maintained and a sixty (60) foot public right-of-way shall be required to allow efficient maintenance.

g. Parking: Parking, loading and landscaping requirements shall be consistent with the requirements listed in Section IV.B. of this Bylaw.

h. Utilities: All principal buildings and uses in a PBD project shall be serviced by public water and sewer. All utilities including, but not limited to, gas, electric, water, and sewer shall be placed underground.

i. Lighting: Exterior illumination shall only be located as necessary for safety, lighting of buildings, walks, and interior ways and drives, and shall be subject to approval and limitation by the SPGA. All lighting shall be placed so that no light source is visible beyond the PBD tract boundary.

j. Public Dangers and Disturbances: Other than time and emergency signals and noise necessary for the construction or demolition of buildings on the tract, no unreasonable or objectionable noise shall be transmitted from the PBD tract, nor shall any offensive odor, noxious, toxic, or corrosive fumes or gases, dirt, dust, smoke, or materials be emitted into the air or water so as to endanger public health or safety.

k. Landscaping: Landscaping shall be required in the PBD tract in certain areas to ensure proper sound and visual screening, and to enhance or maintain the aesthetic quality of the tract. All land not considered part of the natural open space or covered by impervious surfaces will be areas of landscaping.

l. Height: No principal or accessory building shall be greater than two (2) stories or thirty-five (35) feet in height unless the SPGA determines that the higher building is properly protected against fire hazard and will not be detrimental to the character or aesthetic quality of the PBD tract or surrounding area.

m. Compatibility: No PBD will be approved within a permitted zoning district if the SPGA determines that such land use would have a detrimental effect on the surrounding area.

n. Further Development: There shall be no further development beyond those of an approved site plan.

o. Compliance with Subdivision Regulations: All proposed PBD projects shall comply with all other provisions of the Town of Sutton Rules and Regulations Governing the Subdivision of Land in effect at the time of application, insofar as they are applicable.

6. Special Permit Procedures

a. Special Permit Application and Site Plan

Each PBD applicant shall submit a special permit application along with a site plan and application. The site plan and written materials shall be consistent with the requirements of Site Plan Review in this Bylaw.

b. Definitive Subdivision Plan

All PBD projects containing a conventional subdivision shall submit a definitive plan complying with the Sutton Rules and Regulations Governing the Subdivision of Land in addition to the Special Permit and Site Plan applications required above.

c. Public Hearing

The SPGA shall conduct a public hearing within sixty-five (65) days of the filing of the site plan, site plan application, and special permit application with the Board. A public hearing shall not be scheduled until all information and materials that constitute a complete application are filed.

d. SPGA Decision

The SPGA shall within ninety (90) days following the public hearing certify in writing that the application and site plan are approved as submitted; approved subject to modifications; or denied. If the SPGA fails to issue its findings within ninety (90) days, the plan shall be deemed approved.

7. Administration and Enforcement

a. Enforcement of this section of the Bylaw shall be the duty of the Building Inspector or duly appointed inspector.

b. The Building Inspector shall periodically inspect progress and compliance with this section and shall take whatever actions necessary in the event of non-compliance. No required performance bond or other security shall be released nor shall occupancy permits be issued until the Conservation Commission, Town Engineer, and Board of Health shall have been notified by the Planning Board that the development conforms in all respects to those requirements for which each is responsible. No title to any principal building shall pass nor shall any beneficial rights to open space be granted until the requirements of individual certificates of occupancy have been issued. Certificates of occupancy shall only be issued to cover an entire structure and not any single unit therein.

c. Should completion of the development fail to occur within the time frame allowed for special permits, all securities held shall be called and the Town of Sutton or its agent may enter the premises to engage in the completion of such work as will, in the opinion of the Board, bring the development to a state acceptable to state and local regulations.

8. Fee Schedule and Security

a. The applicant shall, with the initial submission of the application for special permit, include a fee as set by the SPGA to cover the cost of professional review of plans and materials, legal review as necessary, and general administration and processing of such application. If the application is approved, the applicant will have to submit inspection fees to cover the cost of inspecting interior way construction and other required site improvements.

b. Prior to the issuance of building permits, the applicant shall provide performance security in a form acceptable to the SPGA in an amount sufficient to assure the completion of interior ways and other required site improvements.

c. All fees tendered the SPGA are non-refundable and shall be by certified check or money order made out to the Town of Sutton. No cash will be accepted.

9. Severability

A determination that any portion of this section is invalid shall not render any other portion thereof invalid.

C. Home Businesses

1. Purpose

Home businesses, as accessory uses within single family dwellings, or buildings accessory thereto, may be permitted to allow for local economic development, encourage the creation of new businesses, and to provide flexible or accessible working conditions for town residents.

2. Special Permit Granting Authority

The Board of Appeals is designated as the special permit granting authority under this section and may adopt rules and regulations to administer applications under this section.

3. Home Business Conditions

Home businesses may be permitted subject to the following conditions:

a. The home business shall be clearly incidental and secondary to the use of the dwelling as a residence, shall be located within the dwelling unit or a single building accessory thereto, and shall not change the residential character of the premises.
b. The area utilized for the purpose of the home business shall not exceed twenty-five percent (25%) of the total floor area of the dwelling unit.

c. In a home business, not more than two (2) non-resident full-time employees, or equivalent thereof, may be employed.

d. Not more than three (3) customers, clients, pupils, or patients for business or instruction shall be present at any one time. The Board of Appeals shall establish allowable hours of operation for the business.

e. There shall be one (1) parking space per each full-time equivalent employee plus the number required to serve customers, clients, pupils, or patients in addition to the parking spaces required for the residence. Newly created parking spaces shall be screened from adjacent properties and roadways. No more than a single commercial vehicle belonging to the resident business person, with total vehicle weight including chassis, body, and payload not exceeding fourteen thousand (14,000) pounds, shall be parked on the lot in the rear yard or in the side yard set back from the street at least as far as the front line of the dwelling and shall be screened from adjacent properties and ways, or stored within a structure.

f. There shall be no exterior display or storage of goods or materials, and no exterior indication of the home business or occupation other than one (1) non-illuminated identification sign not to exceed two (2) square feet in area.

g. There shall be no noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in a residential area.

4. Approval

Approval for the home business shall be issued initially for a period not to exceed three (3) years. The permit may be extended for additional three (3) year periods prior to the expiration of the preceding permit upon determination of the Board of Appeals that all the required conditions have been met.

5. Changes in the Home Business

Any increases in the number of non-resident employees, increases in the number of clients, customers, or patients, changes in type of business, changes in the portions of the premises utilized for the business, or other circumstances detailed in the submission and application shall be reviewed by the Board of Appeals and upon determination that the impacts on the surrounding neighborhood have increased, the Board of Appeals shall hold a public hearing to determine whether additional conditions shall be imposed.

6. Violations

Upon notification from the Building Inspector of a violation of any conditions of the permit, the Board of Appeals may hold a public hearing. The Board may impose additional conditions or rescind the permit if it determines that the impacts of the home

business on the surrounding neighborhood cannot be mitigated, or if the home business negatively impacts the residential character of the neighborhood.

7. Continued Ownership of the Home Business

All special permits granted for a home business shall be conditioned upon the continued ownership of the premises by the applicant.

D. Bed and Breakfast Facilities

1. Purpose

The purpose of this section is to preserve the existing housing stock and neighborhood character while providing efficient use of larger homes, providing tourist accommodations at a scale appropriate for residential districts in the town, and providing stimulus for further local economic development efforts.

2. Special Permit Granting Authority

The Board of Appeals is designated as the Special Permit Granting Authority under this section and may adopt rules and regulations to administer applications under this section.

3. Applications

Applications shall include a written description of the premises, evidence of ownership of the premises, with details of any changes or additions necessitated by the alteration of the premises to a bed and breakfast facility, a list of abutters as they appear on the most recent tax list certified by the Assessors, application and advertising fees as specified in the Board's Schedule of Fees, a sketch plan of the premises showing the location of the sign (if any) and the screened parking spaces for guests, and any determinations or inspections as required by this section or the Board. If changes or additions are proposed to the dwelling, photographs or elevation sketches shall be submitted as part of the application.

4. Bed and Breakfast Regulations

Bed and breakfast operations shall be subject of the following regulations:

a. Meals shall only be served to guests taking lodging in the facility.

b. Rooms used for sleeping shall be part of the existing residential structure or existing accessory building thereto (such as a barn or carriage house) and shall not have been specifically constructed for rental purposes.

c. The premises shall retain the appearance of a single-family residence. If an accessory building is converted to a bed and breakfast operation, it shall retain its previous appearance from the street. No exterior alterations other than a single wall or free-

standing sign not exceeding two (2) square feet in area and those required by law to ensure the safety of the structure shall be made.

d. The bed and breakfast operation shall not use more than fifty percent (50%) of the floor area of the principal residence. Common areas such as the kitchens are not included in this calculation.

e. A bed and breakfast operation shall not allow any guest to stay at the bed and breakfast operation for more than thirty (30) consecutive days.

f. If the premises are not connected to public sewer, the Board of Health shall determine the existing septic system is adequate to serve the premises.

g. One (1) parking space per guestroom in addition to the two (2) required parking spaces for the residence shall be provided. Newly created parking spaces may be located only in the rear and side yard and shall be screened from adjacent properties by a four-foot high wood or masonry fence or by sight-obscuring vegetation of the same height.

h. No areas shall be floodlit. Drives and parking areas shall not be illuminated by lighting fixtures higher than fifteen (15) feet. Sidewalks shall not be illuminated by lighting fixtures higher than ten (10) feet. All lighting fixtures shall be shielded to have a total cutoff of all light at less than ninety (90) degrees. The total cutoff of all light shall occur within the property lines of the parcel on which the bed and breakfast operation is located.

i. All special permits granted for the bed and breakfast operation shall be conditioned on the continued ownership of the premises by the applicant.

E. Open Space Residential Development

1. Purpose and Intent

Open Space Residential Development is the preferred form of residential development in the Town of Sutton for residential developments in the R-1 Residential-Rural district and R-2 Residential-Suburban district. Use of this Open Space Residential Development bylaw will:

a. Allow for greater flexibility and creativity in the design of residential developments.

b. Encourage the permanent preservation of open space, agricultural and forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources.

c. Maintain the town's traditional character and land use pattern in which small villages contrast with open land.

d. Protect scenic vistas from the town's roadways and other places.

e. Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.

f. Protect existing and potential municipal water supplies.

g. Encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.

h. Minimize the total amount of disturbance on the site.

i. Preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.

j. Encourage the provision of diverse housing opportunities and the integration of a variety of housing types.

2. Applicability

The Planning Board may grant definitive subdivision approval for an Open Space Residential Development for any parcel or contiguous parcels in the same ownership totaling at least five (5) acres.

3. Procedural Requirements

a. Rules and Regulations

The Planning Board shall adopt Rules and Regulations consistent with the provisions of this Bylaw and shall file a copy of said Rules and Regulations with the Town Clerk. Such rules shall address the size, form, contents, and number of copies of plans and other submittals and the procedure for the review of special permits. The Planning Board shall establish fees for the submission, processing, and administration of the application and shall assess review fees for the engineering and technical review of any proposal.

b. Pre-Application Meeting

A pre-application meeting between the Planning staff and the applicant is strongly encouraged.

c. Preliminary Plan/Open Space Concept Plan

1. Applicants considering Open Space Residential Development are strongly encouraged to submit an Open Space Concept Plan along with a Preliminary Subdivision Plan for review by the Planning Board. An Open Space Concept Plan consists of the existing conditions plan required in Section VI.E.3.e below, clearly indicating areas suitable for preservation or conservation as described in Section VI.E.5 and 6 of this Bylaw and a sketch plan of the overall development concept.

2. In addition to identifying appropriate areas for open space preservation, one of the purposes of this review is to determine the maximum number of lots which may be created in the Open Space Residential Development. Approval of a preliminary plan pursuant to M.G.L. Chapter 41, §81-S will also shorten the period of review for the Definitive Subdivision and Open Space Residential Development Plan.

d. Definitive Subdivision and Open Space Residential Development Plan

The Definitive Open Space Residential Development Subdivision Plan shall be prepared by a team including a Registered Civil Engineer, Registered Land Surveyor, and a Registered Landscape Architect. The plan shall show:

1. Location and boundaries of the site
2. Proposed land and building uses
3. Lot lines
4. Location of open space
5. Proposed grading
6. Location and width of streets and ways, parking, landscaping
7. Existing vegetation to be retained
8. Water supply or approximate location of wells
9. Drainage
10. Proposed easements and methods of sewage disposal.

e. Existing Conditions Plan

An accompanying Existing Conditions Plan shall depict:

1. Existing topography
2. Wetlands, water bodies and the 100 year flood plain
3. All existing rights of way
4. All existing easements and structures
5. The location of significant features such as woodlands, tree lines, open fields or meadows and scenic views
6. Watershed divides and drainage ways
7. Fences and stone walls
8. Roads, driveways, and cart paths
9. Priority areas for open space preservation and conservation as described in Sections VI.E.5 and 6 below
10. Historic and archaeological resources

11. Boundaries of any National Register Historic District
12. The application shall also show locations of soil test pits and percolation tests, with supporting documentation on test results. Applicants shall also include a statement indicating the proposed use and ownership of the open space as permitted by this Bylaw, number and types of dwelling units, and lot plans, if any.

    Applicants shall refer to the Subdivision Rules and Regulations for provisions regarding preparation and submittal of definitive subdivision plans.

f. Density/Number of Dwelling Units

1. The number of dwelling units permitted shall generally not exceed that which would be permitted under a conventional ("grid") subdivision that complies with the Town Zoning Bylaw and the Subdivision Rules and Regulations of the Planning Board and any other applicable laws and regulations of the Town or the state.

2. The Planning Board may require that a preliminary subdivision plan be submitted to assist in demonstrating the allowable number of units.

g. Review and Decision

With respect to materials submitted, time limits for action and other such procedural matters, the Planning Board shall act in accordance with the procedures specified in the Town of Sutton Subdivision Rules and Regulations regarding Definitive Subdivision submittal, review and decision. Where this bylaw requires additional submittals, those items shall also be submitted.

h. Approval Criteria

1. Findings: The Planning Board may approve the development upon finding that it complies with the purposes and standards of the Open Space Residential Development bylaw and is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The Planning Board shall consider the following criteria in making its decision:

    a. Upland open space as required by this Bylaw has been provided and generally conforms to the Design Requirements in Section VI.E.5 of this Bylaw.

    b. Approximate building sites have been identified and are not located closer than one hundred (100) feet to wetlands and water bodies.

    c. Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to

avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for the lots.

d. All lots and structures meet the applicable dimensional requirements of Section VI.E.4 of this Bylaw.

2. The Planning Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.

i. Conditions

The Planning Board shall impose conditions in its decision as necessary to ensure compliance with the purposes of this Bylaw. If individual or separate lots are proposed, approval of an Open Space Residential Development shall be conditioned upon Definitive Subdivision approval and shall be conditioned to provide that no further division of land which increases the number of lots or results in an alteration to the area to be set aside as open space may occur without a modification of the special permit. Any alteration of lot lines or layout of ways shall require approval of the Planning Board and shall be in compliance with the requirements of the Open Space Residential Development Bylaw and the Subdivision Rules and Regulations.

j. Time Limit

A special permit is granted for a period of two (2) years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. The Planning Board is encouraged to grant extensions to allow construction of subdivisions within the grandfathering limits set forth in M.G.L. Chapter 40A, §6, except where such extension would derogate from the intent and purpose of this Bylaw.

k. Relationship to Subdivision Control Law

Nothing contained herein shall exempt a proposed subdivision from compliance with other applicable provisions of this Bylaw or the Subdivision Rules and Regulations of the Planning Board, nor shall it affect the right of the Board of Health and of the Planning Board to approve, condition or disapprove a subdivision plan in accordance with the provision of such Rules and Regulations and of the Subdivision Control Law. To the extent possible, the application for approval of an Open Space Residential Development and a definitive subdivision application shall be processed and administered contemporaneously.

4. Standards and Dimensional Requirements

Where the requirements of this section differ from or conflict with the requirements in the Table of Area Regulations and Table of Height and Bulk Regulations found elsewhere in this Bylaw, the requirements of this section shall prevail.

a. Dwelling Units per Structure

The Planning Board may permit structures to be constructed containing more than one (1) dwelling unit, but not more than four (4) dwelling units per structure. If multiple unit structures are to be constructed, the number of dwelling units per structure shall be varied within the Open Space Residential Subdivision, but structures containing four (4) dwelling units shall be limited to two (2) bedrooms per dwelling unit, and structures containing three (3) dwelling units shall be limited to three (3) bedrooms per dwelling unit.

b. For Structures on Individual Lots

1. Minimum Lot Size: The minimum lot size shall be not less than one-third (1/3) the square footage otherwise required by the Zoning District in which the subdivision is located or fifteen thousand (15,000) square feet, whichever is less.

2. Minimum Frontage: The minimum frontage may be reduced from the frontage otherwise required in the Zoning District, provided, however, that no lot shall have less than fifty (50) feet of frontage and provided further that such frontage reduction shall apply only to lots fronting on proposed internal roadways. The sharing of driveways to reduce curb cuts is encouraged.

3. Lot Shape: All building lots must be able to contain a circle of a minimum diameter of fifty (50) feet from the front lot line to the rear building line.

4. Setbacks: The Planning Board may reduce by up to one-half the setbacks otherwise listed in Section III.B.3, the Table of Area Regulations, in this Bylaw, if the Board finds that such reduction will result in better design, improved protection of natural and scenic resources, and will otherwise comply with this Bylaw.

c. Minimum Spacing

If structures, regardless of the number of dwelling units contained therein, are not located on individual lots, the minimum spacing between structures shall be not less than twenty (20) feet, unless the Fire Chief specifically recommends a greater separation.

d. Road and Perimeter Setbacks

Every dwelling fronting on the proposed roadways shall be set back a minimum of twenty-five (25) feet from the roadway right-of-way, and a minimum of fifty (50) feet

from the outer perimeter of the land subject to the application. This fifty (50) foot setback shall be maintained in a naturally vegetated state to screen and buffer the development. The Planning Board may waive this requirement if it finds the proposed development abuts existing permanent open space.

e. Required Open Space

All land area not utilized for lots or building sites, roads, and drainage shall be set aside as open space. A minimum of forty percent (40%) of the area of the parcel shall be provided as open space. Roadway rights-of-way shall not count toward the area to be provided as open space.

5. Open Space Design Requirements

The location of open space provided through this bylaw shall be consistent with the policies contained in the Master Plan and the Open Space and Recreation Plan of the Town. The following design requirements shall apply to open space and lots provided through this bylaw:

a. Open space shall be planned as large, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than one hundred (100) feet wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space areas.
b. Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails, and archeological sites, and to avoid development in hazardous areas such as flood plains and steep slopes. The development plan shall take advantage of the natural topography of the parcel, and cuts and fills shall be minimized.

c. Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by trails.

d. Where the proposed development abuts or includes a body of water or a wetland, these areas and the one hundred (100) foot buffer to such areas shall be incorporated into the open space. Where appropriate; reasonable access shall be provided to shorelines.

e. The maximum number of dwelling units compatible with good design shall abut the open space and all homeowners within the Open Space Residential Subdivision shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. Such access may be limited where the Planning Board finds that resource areas are vulnerable to trampling or other disturbance.

f. Open space shall be provided with adequate access, by a strip of land at least twenty (20) feet wide, suitable for a footpath, from one or more streets in the development.

g. The visual impact of new development shall be minimized from scenic and historic roads by open space parcels or buffers separating the Open Space Residential Development from the road. Creation of new driveway openings on existing arterial roadways and existing scenic roads shall be minimized.

h. Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections shall be provided where appropriate.

6. Allowable Uses of Open Space:

a. Purposes

Open space shall be used solely for recreation, conservation, agriculture or forestry purposes by residents and/or the public. Where appropriate, multiple use of open space is encouraged. At least one-half (½) of the required open space may be required by the Planning Board to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur in what areas. The Planning Board shall have the authority to approve or disapprove particular uses proposed for the open space.

b. Recreation Lands

Where appropriate to the topography and natural features of the site, the Planning Board may require that at least ten percent (10%) of the open space or two (2) acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the subdivision.

c. Leaching Facilities

If not connected to public sewerage, and subject to the approval of the Board of Health, <u>or</u> as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the subdivision, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands or water bodies, and enhances the site plan. The Planning Board shall require adequate legal safeguards and covenants, to be included in the deeds to the lots in the Open Space Residential Development, that such facilities shall be adequately maintained by the lot owners within the development.

d. Accessory Structures

Up to five percent (5%) of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking.

e. Agriculture and Forestry

Agriculture, horticulture, floriculture, viticulture, or forestry provided, if the land is not conveyed to the Town, the owner shall submit a long-term management plan for the use of the land, including, as appropriate, sustainable forestry or agricultural processes, pesticide, insecticide, fertilizer, and animal waste management plans, and other issues pertaining to the stewardship of the land. The Planning Board shall review and approve the plan in making its decision.

7. Ownership of Open Space

a. Ownership Options

At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be either:

1. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for open space use. Land conveyed to the Town shall be open for public use;

2. Conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in Section VI.E.7.b below. Such organization shall be approved by the Planning Board as a non-profit conservation organization.

3. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e. “homeowners association”) and placed under a conservation restriction. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

b. Permanent Restriction

In any case where open space is not conveyed to the Town, a permanent conservation or agricultural preservation restriction in accordance with M.G.L. Chapter 184, §31, approved by the Planning Board and Board of Selectmen and enforceable by the

Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted by this bylaw and approved by the Planning Board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the definitive subdivision plan. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices.

c. Encumbrances

All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

d. Maintenance of Open Space

In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land and to allow the Town to enter the property for the purposes of inspecting the maintenance of the property. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses.

e. Monumentation

Where the boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds sufficient to identify the location of the open space.

8. Density Bonuses

The Planning Board may approve density bonuses pursuant to one or both of the following provisions, provided, however, that in no case shall the density bonus permit greater than a fifteen percent (15%) increase in the number of lots permitted in the subdivision.

a. A density bonus may be permitted when the proposed subdivision provides permanently affordable housing opportunities, whether within the Open Space Residential Subdivision or elsewhere in Sutton. When located within the Open Space

Residential Subdivision, affordable units shall be developed concurrently with the market rate units.

1. For each affordable dwelling unit provided under this section, one additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in number of dwelling units. For Open Space Residential Subdivisions with individual lots for each dwelling unit or structure, the increase in dwelling units shall correspond with an increase in the number of lots otherwise allowed to be created in the subdivision.

b. A density bonus may be permitted when the proposed subdivision provides for public access to open space areas within the subdivision. For every five (5) acres of land that is donated to the municipality and open to public use, one additional building lot may be permitted, up to a maximum fifteen percent (15%) increase in the number of building lots. Open space that is open to public use shall be accessible from a public way and adequate parking shall be provided to meet anticipated demand for the use.

9. 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 Sutton Zoning Bylaw.

F. Traditional Neighborhood Development

1. Purpose and Intent

Traditional Neighborhood Development (TND) is an alternative form of residential development in the Town of Sutton for new residential developments in the Residential-Suburban (R-2) and Village (V) zoning districts. Use of this Traditional Neighborhood Development bylaw will:

a. Maintain the Town's traditional character and land use pattern in which small villages contrast with open land.

b. Create a buffer of new, complementary residential development between the historic village centers and the remainder of the Town.

c. Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.

d. Preserve small-scale neighborhood open space areas for active and passive recreational use, including the encouraging of the construction of new neighborhood parks and playgrounds.

f. Encourage the provision of diverse housing opportunities and the integration of a variety of housing types.

2. Applicability

The Planning Board may grant a special permit for Traditional Neighborhood Development (TND) for any parcel or contiguous parcels for twelve (12) or more dwelling units, as calculated in this section.

3. Procedural Requirements

a. Rules and Regulations

The Planning Board shall adopt Rules and Regulations consistent with the provisions of this bylaw and shall file a copy of said Rules and Regulations with the Town Clerk. Such rules shall address the size, form, contents, and number of copies of plans and other submittals, the procedure for the review of special permits for a TND, and specify fees for the submission, administration, review, and inspection of TNDs. The Planning Board, in concert with the Historical Commission and others, may adopt a "pattern book" or manual providing design and layout guidance for TNDs.

b. Pre-Application Meeting

A pre-application meeting to identify issues relating to the proposed TND between the Planning staff and the applicant is strongly encouraged. At this pre-application meeting, applicants are encouraged to submit a TND Concept Plan for review and comments by the Planning Board. A pre-application meeting between the applicant and the Historical Commission or historic district commission, if any, is also encouraged.

c. TND Concept Plan

A TND Concept Plan consists of a sketch plan showing the possible configuration of new development and the street layouts, lotting, and number of dwelling units on all land within five hundred (500) feet of the proposed development. This sketch plan shall show the proposed TND in a general or schematic way. The applicant is further encouraged to submit several alternative plans where appropriate.

d. Traditional Neighborhood Development Plan

The TND Plan shall be prepared by a team including a Registered Civil Engineer, Registered Land Surveyor, and a Registered Landscape Architect. The plan shall show:

1. Location and boundaries of the site
2. Proposed land and building uses
3. Lot lines
4. Location of open space
5. Proposed grading
6. Location and width of streets and ways, parking, landscaping
7. Existing vegetation and development to be retained
8. Drainage
9. Proposed easements and methods of sewage disposal
10. Historic and archaeological resources
11. Boundaries of any National Register Historic District
12. The application shall also show locations of soil test pits and percolation tests, with supporting documentation on test results. Applicants shall also include a statement indicating the proposed use and ownership of the open space as permitted by this bylaw, number and types of dwelling units, and lotting plans, if any. If the plan shows either the creation of lots approval under subdivision control not required ("Form A lots" or "ANR plans") or a definitive subdivision plan, applicants shall refer to the Subdivision Rules and Regulations for provisions regarding preparation and submittal.

e. Density/Number of Dwelling Units

1. The number of dwelling units shall be determined by dividing the total developable area by thirty thousand (30,000) square feet if the land to be developed as a TND is serviced by municipal water and municipal sewer or if municipal sewer is not available, a package wastewater treatment plant approved by the Board of Health, which is constructed to accommodate twice the design flow for the TND, the surplus to be utilized for remediation of existing dwellings and other uses adjacent to or near the proposed TND.

   [Total area of land subject to the application] - [60% of the Area of wetlands and 100% of the area of water bodies] = Total Developable Land Area

   90% [Total Developable Land Area] / 30,000 = Maximum number of dwelling units allowed

f. Density Bonuses

The Planning Board may approve density bonuses pursuant to one or more of the following provisions, provided, however, that in no case shall the density bonus permit greater than a twenty-five percent (25%) total increase in the number of dwelling units permitted in the TND as calculated above.

1. A density bonus may be permitted when the proposed TND provides permanently affordable housing opportunities. For each affordable dwelling unit provided under

this section, one (1) additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in number of dwelling units.

2. A density bonus may be permitted when the proposed TND develops and constructs a playground or park on required open space areas within the development. For every one-half (½) acre of land developed and constructed as a playground, playing field, tot lot, or other active recreation area for children and donated to the Town, one (1) additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in the number of dwelling units. When deemed necessary by the Planning Board, adequate parking shall be provided to meet anticipated demand for the use.

g. Design Standards

1. Lots: The parcel as a whole shall be systemically divided into streets or ways, lots, and public space. The minimum lot size shall be relatively uniform throughout the TND, varying for the number of dwelling units per structure if necessary. Unless the existing lotting and street layout pattern abutting the TND would indicate otherwise, the lots shall be nominally rectangular. Whenever possible, lots shall not be created such that dwellings on them face or front on existing arterial roads in town.

2. Buildings within the TND shall be orientated to face the sidewalk and street. Parking shall locate along the side of buildings, setback equal to the structure and screened from the street, or in the rear of the lot. Lighting, including street lights, shall be generally historic in nature and not exceeding sixteen (16) feet in height. The architecture of the dwellings and other structures shall be consistent with the historic and design context of the abutting neighborhood. Accessory buildings, if any, shall set-back deeply on lots.

3. The Planning Board shall establish standards and specifications for streets, sidewalks, street trees, and the paved width of streets.

4. Open Space: Two thousand (2,000) square feet of public open space is required for each dwelling unit. This open space may take any one of the following forms:

    a. An area of land suitably located and configured to be developed and used as a playground, playing field, tot lot, or other active recreation area for children.

    b. Community garden plots for TND and neighborhood residents.

    c. Greens, commons, or other public green spaces for passive recreation.

    d. Conservation land.

e. Greenspace buffer between the TND and an existing abutting nonresidential use.

f. Public trails or bikeways.

g. Leaching Facilities: If not connected to public sewerage, and subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the TND, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands or water bodies, and enhances the overall plan of the TND. The Planning Board shall require adequate legal safeguards and covenants to be included in the deed to the lots in the TND that such sewage disposal facilities shall be adequately maintained by the homeowners. The Planning Board may require that such septic disposal system be conveyed to the Town at no cost.

h. Accessory Structures: Up to five percent (5%) of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking.

i. Another open space or conservation use approved by the Planning Board.

j. Any combination of the above as approved by the Planning Board.

h. Standards and Dimensional Requirements

Where the requirements of this section differ from or conflict with the requirements in the Table of Area Regulations and Table of Height and Bulk Regulations found elsewhere in this Bylaw, the requirements of this section shall prevail.

1. Dwelling Units per Structure

Consistent with the character, scale, and massing of existing adjacent residential developments, the Planning Board may permit structures to be constructed containing more than one (1) dwelling unit, but not more than four (4) dwelling units per structure. If multiple unit structures are to be constructed, the number of dwelling units per structure shall be varied, but structures containing four (4) dwelling units shall be limited to two (2) bedrooms per dwelling unit and structures containing three (3) dwelling units shall be limited to three (3) bedrooms per dwelling unit.

2. Front Set-Back

Instead of a minimum setback for dwellings within the TND, structures shall be built to the "build-to" line twenty (20) feet back from the street right-of-way line

for minor streets, twenty-five (25) feet back from the street right-of-way line for arterial and collector streets (unless a greater distance is recommended by the police chief, highway superintendent, or the Board's engineer). Corner lots shall have front build-to dimensions facing both streets, although the side lot lines shall have a minimum setback of ten (10) feet (or one-half (½) the greater distance if required by the fire chief.)

3. For Structures Not on Individual Lots

If structures, regardless of the number of dwelling units contained therein, are not located on individual lots, the minimum spacing between structures shall be not less than twenty (20) feet, unless the Fire Chief specifically recommends a greater separation.

4. For Structures on Individual Lots:

a. Minimum Lot Size: The minimum lot size shall be not less than one-third ($^1/_3$) the square footage otherwise required by the zoning district in which the subdivision is located or eight thousand (8,000) square feet, whichever is less.

b. Minimum Frontage: The minimum frontage may be reduced from the frontage otherwise required in the zoning district, provided, however, frontage shall be determined as the linear distance needed per lot, based on either the average frontages on existing residential lots abutting and adjacent to the TND, or the linear measure generated by separating structures by twenty (20) feet (or greater distance if required by the fire chief). In only the most exceptional situations shall the frontage be less than sixty (60) feet.

c. For rear setbacks, the Planning Board may reduce by up to one-half (½) the setbacks otherwise listed in the Table of Area Regulations in this Bylaw, if the Board finds that such reduction will result in better design of the TND as a whole.

i. Ownership of Open Space

Ownership Options: At the developer's option and subject to approval by the Planning Board, all areas to be protected as open space shall be either:

1. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use. Land conveyed to the Town shall be open for public use.

2. Conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in Section VI.F.9 below. Such organization shall be approved by the Planning Board as a non-profit conservation organization.

3. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e. "homeowners association") and placed under a conservation restriction. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

j. Permanent Restriction

In any case where open space is not conveyed to the Town, a permanent conservation or agricultural preservation restriction in accordance with M.G.L. Chapter 184, §31, approved by the Planning Board and Board of Selectmen and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways except as permitted by this Bylaw and approved by the Planning Board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the definitive subdivision plan. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices.

k. Encumbrances

All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

l. Maintenance of Open Space

In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses.

m. Monumentation

Where the boundaries of the open space are not readily observable in the field, the Planning Board may require placement of surveyed bounds or other permanent markers sufficient to identify the location of the open space.

4. Review and Decision

a. Comments and Recommendations from Local Boards

Upon receipt of the application and the required plans, the Planning Board shall transmit one copy each to the Board of Health, the Conservation Commission, the Park and Recreation Commission, and the Historical Commission or historic district commission, if any. Within forty (45) days of their receipt of the application/plans, these agencies shall submit any recommendations to the Planning Board. The Planning Board shall act on applications according to the procedure specified in M.G.L. Chapter 40A, §9. Notice shall be provided of hearings in accordance with Chapter 40A, §11 and Chapter 41, §81-T. Public hearings for a definitive subdivision application if required and the special permit application shall be conducted concurrently.

b. Approval Criteria

1. Findings

The Planning Board may approve the development upon finding that:

a. The proposed development complies with the purposes and standards of this Traditional Neighborhood Development Bylaw.

b. The proposed development is superior in design and layout to a conventional development with regard to the historic and scenic resources near the site .

c. The proposed streets and ways have been aligned to provide vehicular access to each house in a reasonable and economical manner.

d. All lots and structures meet the applicable dimensional requirements of the Sutton Zoning Bylaw, except as provided for in the TND section of this Bylaw.

e. The Planning Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.

2 Conditions

The Planning Board shall impose conditions in its decision as necessary to ensure compliance with the purposes of this Bylaw. Approval of a Traditional Neighborhood Development shall be conditioned upon Definitive Subdivision approval and shall be conditioned to provide that no further division of land which increases the number of lots or results in an alteration to the area to be set aside as open space may occur without a modification of the special permit. Any alteration of lot lines or layout of ways shall require approval of the Planning Board and shall be in compliance with the requirements of the Traditional Neighborhood Development Bylaw and the Subdivision Rules and Regulations.

c. Time Limit

A special permit is granted for a period of two (2) years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. The Planning Board is encouraged to grant extensions to allow construction of subdivisions within the grandfathering limits set forth in M.G.L. Chapter 40A, §6, except where such extension would derogate from the intent and purpose of this Bylaw.

d. Relationship to Subdivision Control Law

Nothing contained herein shall exempt a proposed subdivision from compliance with other applicable provisions of this Bylaw or the Subdivision Rules and Regulations of the Planning Board, nor shall it affect the right of the Board of Health and of the Planning Board to approve, condition or disapprove a subdivision plan in accordance with the provision of such Rules and Regulations and of the Subdivision Control Law. To the extent possible, the application for approval of a Traditional Neighborhood Development and a definitive subdivision application shall be processed and administered contemporaneously.

5. 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 Sutton Zoning Bylaw.

G. Adult Entertainment Use Bylaw

1. Authority

This bylaw in enacted pursuant to M.G.L. Chapter 40A and pursuant to the Town's authority under the Home Rule amendment to the Massachusetts Constitution to serve the compelling Town interests in limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, as defined and designated herein, in response to studies demonstrating their deleterious effect in generating crime and blight.

2. Purpose

a. It is the purpose of this bylaw to address and mitigate the secondary effects of adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on the business climate of the town, adverse impacts on the property values of residential and commercial property, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Sutton and its inhabitants.

b. The provisions of this bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials.

c. Similarly, it is not the purpose or intent of this bylaw to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials.

d. Neither is it the purpose or intent of this bylaw to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

3. Definitions

Adult Entertainment Uses shall include the following:

a. Adult Bookstores, as defined by M.G.L. Chapter 40A, §9A;
b. Adult Motion Picture Theaters, as defined by M.G.L. Chapter 40A, §9A;
c. Adult Paraphernalia Store, as defined by M.G.L. Chapter 40A, §9A;
d. Adult Video Store, as defined by M.G.L. Chapter 40A, §9A;
e. Establishment which displays live nudity for its patrons, as defined by M.G.L. Chapter 40A, §9A.

4. Adult Entertainment Uses by Special Permit

Adult entertainment uses shall only be allowed by special permit granted by the Zoning Board of Appeals. Such special permit shall not be granted unless each of the following standards has been met:

a. The application for a special permit for an adult entertainment use shall provide the name and address of the legal owner of the establishment, the legal owner of the property, and the manager of the proposed establishment.

b. No adult entertainment use Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, §63 or M.G.L. Chapter 272, §28.

c. Adult entertainment uses shall not be located within:

    1. Seven hundred fifty (750) feet of the nearest residential or village zoning district; or
    2. One thousand (1000) feet of the nearest church, school, licensed child care facility, public library, park, playground, play field, youth center; or
    3. Five hundred (500) feet from the nearest adult entertainment use as defined herein; or
    4. Five hundred (500) feet from the nearest establishment licensed under M.G. L. Chapter 138, §12 (liquor license).

d. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public

e. No adult entertainment use shall be allowed to display for advertisement or other purposes any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through the glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. Chapter 272, §31.

f. No adult entertainment use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.

g. No adult entertainment use shall have flashing lights visible from outside the establishment.

h. No adult entertainment use shall have a freestanding accessory sign.

i. No adult entertainment use shall exceed two thousand (2,000) sq. ft. per building.

j. Adult entertainment uses shall also undergo Site Plan Review per section IV.C of this Bylaw.

5. Conditions

The Special Permit Granting Authority may impose reasonable conditions, safeguards and limitations on time or use of any special permit granted. The Special Permit Granting authority shall require that the any such special permit granted shall be personal to the applicant, shall not run with the land and shall expire upon the expiration of the applicant's lease or upon sale or transfer of the subject property.

6. Expiration

A special permit to conduct an adult entertainment use shall expire after a period of three (3) calendar years from its date of issuance and shall be automatically renewable for successive three year periods thereafter, provided that a written request for such renewal is made to the Special Permit Granting Authority prior to said expiration and that no objection to said renewal is made and sustained by the Special Permit Granting Authority based upon the standards applied at the time that the original permit was granted.

7. Severability

The provisions of this section are severable and, in the event that any provisions of this article are determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

H. Retreat Lots

For the purposes of creating reasonable and safe residential use of backland, there may be established so-called retreat lots. A Form A plan creating a buildable retreat lot may be endorsed by the Planning Board after the issuance of a special permit by the Planning Board in accordance with this Section with the exception of access to a retreat lot via a common driveway for which a legal Special Permit has been acquired.

1. Procedure

The applicant shall file seven (7) copies of the proposed Form A land division plan as well as all other materials required for an application for Special Permit.

At a minimum the Form A shall show:

a. Property owner
b. Name of Registered Professional Land Surveyor and stamp
c. Zoning district
d. Lot area
e. Lot dimensions
f. Regularity factor or buildable area notation
g. Locus
h. Notation: "The retreat lot depicted on this Form A shall never be further divided."

The plan shall also comply with the standards for Form A plans detailed in the Sutton Subdivision Rules and Regulations and M.G.L. Chapter 41, §81K-GG.

2. Requirements

A Special Permit may not be granted unless the following conditions have been met:

a. Said lot shall be entirely within a residential zoning district.

b. Said lot shall have a minimum street frontage of fifty (50) feet and a width of not less than fifty (50) feet at all points.

c. The area of said lot shall be at least three (3) times the minimum required lot area in the applicable residential zoning district.

d. Said lot shall be at least two hundred fifty (250) feet from any other lot granted a special permit pursuant to this section, measured at the road frontage.

e. Said lot shall not be further divided. The Form A plan submitted to the Planning Board for endorsement after grant of the special permit pursuant to this section, shall contain a notation as in section VI.H.1.h above. Prior to granting of the special permit, the proponent shall provide a covenant, in a form acceptable to the Planning Board, prohibiting further division of said retreat lot in perpetuity.

f. Access from the frontage of said lot to the principal structure on said lot shall be within the boundary lines of said lot and shall not be via a right-of-way or any public or private easement over an adjacent lot with the exception of access to a retreat lot via a common driveway for which a legal Special Permit has been acquired.

g. Frontage of said lot shall be situated entirely on a public way.

h. Said lots shall either (1) meet the regularity factor established in Section III.B.2 of this Bylaw , or (2) contain a contiguous buildable area of at least 200’ X 200’.

i. Said lot shall comply with the Sutton Zoning Bylaw and Subdivision Rules and Regulations in all other respects

j. The special permit shall contain a condition requiring that the access from the frontage of said lot to the principal structure (driveway) shall be of bituminous surface, no greater than twelve percent (12%) grade with a minimum paved width of twelve (12) feet and cleared width of fifteen (15) feet. If a retreat lot is being created containing a pre-existing home that is to remain, and installation of a bituminous driveway is not practical, safe, and/or would cause environmental issues, the Planning Board may waive this requirement after findings in open meeting that a waiver may be made to allow an environmentally and structurally sound non-bituminous driveway.

k. Underground utilities shall be provided on retreat lots, unless the Planning Board makes findings in open meeting that underground utilities are not practical due to extreme topographical or environmental constraints and/or safety issues. Above ground utilities shall not be allowed solely for the convenience and/or preference of a petitioner. If a Retreat Lot contains an existing dwelling that is to remain, the applicant may maintain existing above ground utilities.

l. The house number of the retreat lot shall be clearly visible at the street.

m. An occupancy permit for any structure on the retreat lot shall not be granted until all conditions of the special permit are 100% complete including driveway construction.

3. Recording

After the grant of the special permit by the Planning Board and endorsement of the Form A plan by the Planning Board, the proponent shall provide said board with recorded copies of both the Form A plan and covenant. The recorded plan and covenant must be received prior to the building permit being issued.

I. Common Driveways

Common Driveway - A driveway which provides access to more than one lot, each of which has at least the minimum required frontage on a town way as required by the Zoning Bylaw.
Private Driveway – A driveway which serves a singular private house lot.

Common driveways may be allowed by Special Permit from the Planning Board in all zoning districts when deemed in the best interest of the Town under the provisions of M.G.L. Chapter 40A §9 and in accordance with the following provisions:

1. Lots to be served by a common drive must meet the minimum dimensional standards of the Zoning Bylaw in effect at the time they were created.
2. Common drives may only access the street where the lots served have required legal frontage.
3. Minimum width of eighteen feet (18’)
4. Maximum grade of ten percent (10%), three percent (3%) within 50 feet of the street line.
5. Maximum length of five hundred feet (500’)
6. No closer than 50’ to any intersecting way
7. Construction: 6” gravel road base, 1 ½” binder course, 1” top course
8. Maximum number of lots that may be served by a common drive is three (3)
9. Minimum center line radius of 60’
10. Said driveway shall be located entirely within the lots served.
11. Sight distance at the street line shall be in accordance with MHD standards, in no case shall it be less than 200 feet.
12. The plan for the common driveway and the deed to lots serviced by a common driveway shall contain a restriction that said common driveway shall remain private in perpetuity, no parking will be allowed on the common drive and all roadway maintenance, snow-plowing and rubbish collection shall be the land owners responsibility. A copy of said

recorded deeds shall be provided to the Board prior to issuance of a Building Permit for the homes located on said lots.

13. Private driveways branching off the common drive shall be reviewed and approved in each case by highway, fire and police to ensure emergency vehicle access. This stipulation applies specifically to private drives off a common driveway.
14. Underground utilities shall be provided on common driveways, unless the Planning Board makes findings in open meeting that underground utilities are not practical due to extreme topographical or environmental constraints and/or safety issues. Above ground utilities shall not be allowed solely for the convenience and/or preference of a petitioner.
15. An occupancy permit for any structure accessed via the common driveway shall not be granted until the house numbers of the lots serviced by the common driveway are clearly posted on a single permanent post at the street so as to be visible from both directions of travel, and are also posted on a permanent post at the point at which each private driveway splints from the common driveway.
16. Applicants must provide drainage calculations relative to the design of the common driveway in accordance with the standards of Section 4.B. of the Subdivision Rules & Regulations, and propose appropriate mitigation for impacts to stormwater quantity and quality.
17. An occupancy permit for any structure accessed via the common driveway shall not be granted until the common driveway site work is 100% complete. In order to be considered complete, the design engineer must submit a stamped letter certifying the common driveway site work has been constructed as shown on the approved plans.

J. Continued Care Retirement Community

Section 1 – Intent and Applicability

The intent of this section is to allow flexibility in development of parcels for housing and related services for retired and aging persons, with particular interests in meeting the needs of residents of Sutton. Continued Care Retirement Communities (CCRC), as defined herein, may be allowed upon grant of a Special Permit from the Planning Board.

Section 2 – Definition

As used in this bylaw, Continued Care Retirement Community (CCRC) shall mean a development on a parcel of five (5) acres or more which may be comprised of any type or combination of dwelling units as defined herein. Said development may include independent housing, congregate housing, assisted living and restorative care/skilled nursing facilities. A CCRC shall operate under common management serving the principal purpose of assisting the elderly in maintaining an independent lifestyle. Said development shall be limited to persons at least one of whom is each household shall have attained an age of fifty-five (55) years. No persons under the age of eighteen (18) shall be allowed to permanently reside in said dwellings. The program of in house resident services offered by a CCRC shall be primarily for the benefit of residents and their guests and shall include a majority of the following:

- Restorative care/skilled nursing

- Transportation services
- Financial assistance
- Barber/beautician
- Medical evaluation/health care maintenance
- Home health
- Assisted care
- Adult day care and respite care services
- Food services
- Cleaning services
- Exercise, recreational, educational and social services
- Other services, activities and accessory uses incidental to the operation of a continued care development as individually approved at the discretion of the Planning Board.

In house services may only be provided to residents and their guests and may not display exterior advertising. The program of in house services offered by the CCRC shall be specified in the special permit application and the scale of each service shall be in proportion to the number of dwelling units in the CCRC and subject to approval by the Planning Board.

Section 3 – Types of dwellings and facilities permitted

The Planning Board may grant a Special Permit to allow a CCRC in any zoning district. A Special Permit granted by the Planning Board may allow the construction of detached or attached dwellings of any combination, and may also allow the construction of a restorative care center/skilled nursing facility/clinic, congregate housing, assisted living facility and accommodation for in house resident services. All facilities shall fully comply with standards of the Architectural Access Board. Enclosed or non-enclosed walkways connecting buildings shall be permitted.

Independent Living Retirement Housing - As used in this bylaw, independent Living Retirement Housing means private residential dwelling units, individually equipped with a minimum of a kitchen, bedroom, bathroom and living area. Geared toward independently functioning adults, this housing typically may offer on-site supportive services and is designed to be barrier free and may include emergency call features complemented by housing management and maintenance services.

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

Assisted Living Facility – As used in this bylaw, as Assisted Living Facility means a twenty-four (24) hour staff along with private dwelling units which may contain independent efficiency kitchens, but which contain common kitchen, dining and other activity areas.

Assisted Living facilities are geared to an adult population which may have difficulty functioning independently and may require oversight including, but not limited to the provision of a full meal plan, transportation services, personal care and assistance with medications. Special care programs specifically designed for adults with memory loss are included in this category. Assisted Living facilities under this section of the bylaw must obtain all required permits and/or licenses required to operate such facility by any department of the United States of America, the Common wealth of Massachusetts including Certification by the Executive Office of Elder Affairs pursuant to M.G.L., Chapter 19D and the Town of Sutton.

Restorative Care/Skilled Nursing Facility - Includes any institution which provides services primarily to three or more individuals admitted thereto with long-term nursing, convalescent or rehabilitative care; supervision and care incident to old age; or retirement home care for elderly persons and includes services provided by nursing homes, convalescent homes, long term care facilities, rest homes, infirmaries for older adults, charitable homes for the aged. Restorative care/Skilled nursing facilities under this section of the bylaw must obtain all applicable permits and licenses required by any agency of the United States of America, the Commonwealth of Massachusetts and the Town of Sutton.

Dwelling Units – One or more living or sleeping rooms arranged for the use one or more individuals living as a single housekeeping unit with individuals or congregate cooking, living, sanitary and sleeping facilities, excluding mobile homes and trailers. The intent of this definition is to define a "home" with private sleeping rooms rather than a dormitory arrangement of sleeping quarters.

Section 4 – Specific Requirements

A CCRC as provided herein shall also be subject to the following specific requirements.

Frontage & Acreage

The minimum contiguous road frontage for any project developed under this bylaw shall be 100'. Said frontage shall be on a public way.

The minimum acreage of a project developed under this bylaw shall be 5 acres.

Density, Affordability & Preference

The maximum number of dwelling units permitted shall be determined as follows:

Land area contained in wetlands, as defined by M.G.L., Ch. 131, and permanent easements may not be utilized when calculating density. The Site Plan shall show this calculation.

- Independent Living detached – ½ acre per dwelling unit
- Independent Living attached – 20,000 s.f. for the first unit + 12,000 for each additional unit

- Congregate housing, assisted living, restorative care/skilled nursing. - 7 dwelling/care units per acre

Ten percent (10%) of the dwelling units in the Continued Care Retirement Community shall be available to households that qualify as low to moderate income under HUD guidelines.

An increase in the number of units of up to twenty percent (20%) of the maximum dwelling units allowed may be permitted on a one to one basis for units above and beyond the required ten percent (10%). The Planning Board shall require that the developer provide legally enforceable assurances, which are acceptable to the Planning Board that the affordable dwelling units will continue to be affordable in perpetuity. Affordable units shall be dispersed throughout the development and shall be indistinguishable from market rate units.

Except for restorative care/skilled nursing facilities, individual dwelling units shall be a minimum of 1,000 s.f. Care units in restorative care/skilled nursing facilities shall be a minimum of 700 s.f. Dwelling units shall have a maximum of 2 bedrooms.

The developer shall provide a plan and evidence their efforts to attract existing Sutton residents to the project.

Setback & Height

All dwelling units and group facilities shall be setback from property lines a minimum of 70 feet. This setback is intended to remain in a vegetated state. Where alterations to this area are determined necessary by the Planning Board, the Board may require fencing, plantings or other means to make this setback a visual buffer to abutting properties.
Minimum separation between structures is 75'.

The maximum height of any structure within a CCRC shall be 35 feet in height, not including uninhabited appurtenant/decorative structures.

No more than 25,000 s.f. shall be allowed in a single structure. Massing shall be carefully considered particularly when siting larger structures that should be located to minimize their impact on abutting uses.

Structures shall be designed with a goal of being consistent with adjacent/area architecture (ie: farm village, mill village, Victorian era neighborhood), when applicable. When no unique context exists, said structures shall contain elements of architectural interest such as Victorian or art deco ornamentation, porches, cornices, unique windows and doors, varying roof lines, use of stone, etc… that provide the project with a distinctive identity.

Coverage & Open Space

Lot coverage for building footprints shall not exceed 25% and for all impervious surfaces shall not exceed 50% of the total parcel.

The remainder of the parcel shall remain as open space. No more than 50% of the open space area shall be wetlands or contain infrastructure facilities such as detention basins. Said open space may contain active and passive recreational and social facilities and uses as approved by the Planning Board.

The Open Space shall be situated so it is usable by all residents of the CCRC, and is not located to imply use or "ownership" by only the unit or units in its proximity. There shall be at least one bulk area of open space equal to at least one third of the total required open space. The open space shall be delineated on the site plans and shall be protected by a recorded restriction enforceable by the Town of Sutton.

Parking & Loading

Off street parking spaces shall be provided as follows:

Single family detached dwellings - one and one half (1.5) per dwelling unit
Congregate housing – one per dwelling unit
Assisted living and restorative care/skilled nursing - .5 per dwelling unit
Loading – One per 40,000 s.f., at least one loading space per project

Infrastructure

All roads, driveways, utilities and drainage facilities shall be designed and constructed in accordance with the Town of Sutton Subdivision Rules and Regulations.

Section 5 – Other Objectives

The Following objectives are important in the development of CCRC and are to be considered by the Planning Board in determining whether to grant a Special Permit for a CCRC.

a. It is desirable to minimize maintenance costs and environmental impacts through reduction, to the extent reasonable, in the amount of impervious areas, utilities and drainage systems per dwelling unit served.
b. It is desirable to increase the size of contiguous areas assured of preservation in a natural state and the number of off-street pathways and trails, recreational areas and wilderness areas open to all residents of the CCRC.

c. It is desirable that all existing scenic vistas be respected and preserved and that new scenic vistas be created.

d. It is desirable to increase vehicular safety by having fewer, better located and designed egresses onto existing streets.

e. It is desirable to preserve environmental quality by reduction of 1) the total area over which vegetation is disturbed by cut , fill or displacement; 2) work on slopes over

15%; 3) work in the buffer area and river way protection areas as defined by M.G.L., Chapter 131

f. It is desirable that the design of dwellings and facilities be sensitive to the traditional architectural styles in the area of the development and that building mass and siting is carefully considered to reduce the impact of the development on the natural landscape.

Section 6 – Application and Submission Requirements

The general procedure to obtain a Special Permit from the Planning Board for a continued care development shall conform to M.G.L. Chapter 40A §9.

A. Application – 2 originals Special Permit Application

B. Plans – 12 sets to include existing and proposed site plan, road profiles, open space and landscaping plan, elevations (detailing color and materials), floor plans, detail sheets related to previous plans. Said plans shall meet the specific requirements as detailed in the Town of Sutton Site Plan Review Bylaw and Subdivision Rules and Regulations.

C. Fees – Filing fee - $1,000 + $50 per dwelling unit with a minimum of $1,500 and maximum of $15,000, will be required at the time of submission. The applicant must also submit a check covering the cost of the legal ad and the certified mailings at the time of submission.

   Five hundred dollars ($500) will be deducted from the filing fee to cover costs for administration and staff review of the plans, all billings received from the Town's consultants will be deducted from the filing fee. If the billings exceed the amount of the filing fee, the Town will bill the applicant for the difference. All bills must be paid prior to action on the project. If monies are left after all fees and billings are paid, any excess funds will be returned to the applicant.

   The applicant will be responsible for all reasonable fees or costs incurred in reviewing such plans. The Planning Board is authorized to retain a registered professional engineer, architect, landscape architect, attorney or other professional consultant to review and advise the Board on any or all aspects of the plan and/or related documents.

   Senior Services Fee – As it is likely that many of the residents of the CCRC will utilized services supported by the Sutton Senior Center, a one time fee of $100 per unit shall be required to be paid to the Sutton Senior Center prior to issuance of a building permit. Said fee shall be used to on and off site support services available to seniors through the Sutton Senior Center.

D. Support Material – The applicant shall provide a traffic study and impact statement as detailed in the Town of Sutton Site Plan Review Bylaw.

Section 7 – Waivers

The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained. Written record must be kept of such waivers including the reasons for them.

Section 8 – Conditions

The Planning Board may impose reasonable conditions to safeguard the surrounding area, or otherwise serve the purpose of the bylaw.

Section 9 – Appeals

Any appeal to the Planning Board's decision under this section of the bylaw may be made in accordance with M.G.L., Chapter 40A §17.

K. Drive through Windows

The intent of this section of the bylaw is to recognize that this use produces unique traffic generation and visual concerns. This bylaw is intended to carefully regulate the establishment of drive through windows to ensure a higher visual quality of development as well as safe operation of the use both on the parcel and in relation to abutting ways.

The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained. Written record must be kept of such waivers including the reasons for them.

a. Minimum drive through queue on site shall comply with the following table. In addition, the applicant shall design and designate an additional 50% of the required number of queue spaces on the plan should it become necessary to construct them in the future. If queuing issues arise in the future, the Board shall have the right to require the applicant to construct these additional spaces immediately.

Restaurants and fast food establishment	20 cars
Bank	4 cars
Pharmacy	4 cars

b. Queue lines may not pass through and/or divide parking areas.
c. All buildings, parking and circulation areas shall be setback a minimum of 100 feet off the roadway. This area shall remain undisturbed except for where the Planning Board gives permission for alterations.
d. Landscaping and other aesthetic means shall be utilized to contain and screen the queue line.
e. On site circulation plans shall carefully minimize conflicts between drive through customers and walk in customers as well as deliveries to the site.

f. A minimum 50’ buffer shall be maintained along all side and rear lot lines. This area shall remain undisturbed except for where the Planning Board gives permission for alterations. A larger buffer may be required in areas abutting residential uses to further reduce visual and audible impacts.
g. Due to sight distance and traffic concerns, there shall be no less than 1000’ separation between lots with restaurant drive through windows.
h. There shall be separate parking and circulation for cars and large trucks/vehicles to maximize safety and facilitate smooth traffic flow on site.

L. Accessory Apartments

The intent of this section of the bylaw is to 1) increase the diversity of housing options for town residents in response to demographic changes, particularly the demand for housing for senior family members; 2) encourage better utilization of existing housing stock while maintaining the appearance and character of the town’s single family neighborhoods; and 3) eliminate the continued construction of illegal unregulated apartment units, and 4) create another potential source of affordable housing units.

An accessory apartment is a dwelling unit constructed within and/or added onto a single family dwelling or detached accessory building. Accessory apartments must be complete separate housekeeping units that can be isolated from the original unit of the single family dwelling.

The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained. Written record must be kept of such waivers including the reasons for them.

a. An accessory apartment shall only have no more than one bedroom.
b. Only one (1) accessory apartment shall be allowed per lot.
c. The owner(s) of the property shall reside on the premises.
d. An accessory apartment shall be designed to maintain the appearance of the single family dwelling or which it is a part, and shall be clearly subordinate to the single family dwelling. A detached accessory apartment shall look like a barn or garage.
e. Accessory apartments shall not exceed 1,200 s.f. No floor area may be excluded from this calculation, other than unfinished attic or basement areas, or storage areas that cannot be accessed directly from the accessory apartment.
f. No more than two (2) persons may occupy an accessory apartment.
g. Board of Health must approve the addition of the unit before the permit can be granted.
h. An accessory apartment cannot be its own stand-alone structure. It must be a portion of the main dwelling, or no more than 50% of a detached accessory structure such as a garage or barn.

M. Small Wind Turbines

Purpose: It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.
Additionally the purpose of the regulation is to promote alternative energy sources, reduce peak power demands in existing utility power grids, reduce reliance on fossil fuels, and provide choices to property owners that have possible cost savings and positive environmental impacts.

Definitions:
Small Wind Turbine – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20 kW and which is intended to provide power primarily for on site uses as opposed to generation for sale to the commercial power grid.
Tower Height - The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

Submission Requirements: The applicant shall provide thirteen (13) copies of each of the following to the Special Permit Granting Authority (SPGA):

1. A completed application form with a review fee as required by Section IV.C.5.b.

2. Existing conditions site plan prepared by a Professional Engineer and Professional Registered Land Surveyor drawn in sufficient detail to show the following:

    a. Property lines, dimensions, landowners, acreage, and contours at two-foot intervals of the subject property and properties within three hundred (300') of the small wind turbine.
    b. Location and dimensions of all existing buildings, accessory structures and uses, public and private roads, driveways, easements, stone walls, and fence lines within 300 feet of the system.
    c. Height of any structures over 35 feet, and the location and average height of trees on the subject property and adjacent properties, within 300 feet of the proposed small wind turbine.

3. Proposed conditions site plan prepared by a Professional Engineer and Professional Registered Land Surveyor drawn in sufficient detail to show the following:

    a. The location of the proposed small wind turbine and any appurtenances and equipment. Indicate property boundaries and distances to the base(s) of the wind turbine(s) and to the nearest corners of each of the appurtenant structures and equipment.
    b. Limits of areas where vegetation is to be cleared or altered and justification for any such clearing or alteration.
    c. Detailed storm water management plans and plans to control erosion and sedimentation both during construction and as a permanent measure.

d. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, exterior lighting or signs.
e. Plans of proposed access driveway or roadway and parking area at the small wind turbine whether temporary or permanent; include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface material.
f. Location of access easements or rights-of-way, if any, needed for access to the small wind turbine from a street.

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

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

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

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

Design and Siting Requirements:

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

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

3. Height: The small wind turbine shall not exceed 120’ in height, and must comply with Federal Aviation Administration (FAA) Regulations.

4. Visual Impact: Installation of the small wind turbine will not create a substantially adverse visual impact. The small wind turbine shall have a non-reflective finish of an unobtrusive color. The SPGA may require the structure to be painted or otherwise camouflaged to minimize visual impact.

5. Electromagnetic Interference: The small wind turbine shall cause no disrupting electromagnetic interference. If it is determined that a small wind turbine is causing

interference, the operator shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Commissioner.

Approval:

In acting on the special permit application, the SPGA shall proceed in accordance with the procedures and timelines for special permits in Chapter 40A Section 9 of MGL as well as Section VII.A.2. of this bylaw. As authorized by Section IV.C.5.b., the SPGA may hire professional consultants at the expense of the applicant to assist it in evaluating the proposed small wind turbine and the impacts on the community.

Said Special Permit approval will run with the property and shall not be specific to a particular owner unless otherwise noted.

Maintenance Requirements:

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

2. Should the turbine fall into disrepair and/or experience a situation where it is producing unusual noise or other emissions, the applicant shall have no more than 24 hours to implement actions to correct the situation.
3. Failure to properly maintain the small wind turbine or correct other issues may result in revocation of the Special Permit.

Removal Requirements:

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

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

Waiver Provisions:

The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained. Written record must be kept of such waivers including the reasons for them.

N. 43D Expedited Permitting

In accordance with the provisions of Chapter 43D of Mass General Law as amended pursuant to Section 11 of Chapter 205 of the acts of 2006, the Town of Sutton has established an expedited permitting process on sites that have been designated as Priority Development Sites (PDS) in accordance with the statute.

Review and development on these sites will be conducted in accordance with the provisions of the statute and with local regulations contained herein.

A. General

The municipal point of contact for streamlined permitting under this regulation is the Sutton Planning Director.

The Planning Director and Town Administrator will assist in determining what permits are necessary for each project presented, and will review each application on behalf of the governing body to determine, within 20 days, whether the application is complete.

B. Review Periods

Priority development permit reviews and final decisions shall be completed within 180 days subject to the extension herein. The time period shall begin the day after the issuance of the notice that the application materials are complete pursuant to clause (e) of G.L. c. 43D §4. The governing body shall notify the applicant in writing within 20 business days from receipt of the completed form of additional information needed or requirements that it may have.

The resubmission of the application or the submission of such additional information required by the governing body shall commence a new 30-day period for review of the additional information.

If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall where public notice and comment or hearings are not required complete action on the application filed for the previously unidentified permit within 30 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows. The failure of the governing body to notify an applicant of the requirement of a public hearing or comment period shall not constitute a waiver of the requirement.

The 180 day time period may be waived or extended for good cause upon written request of the applicant with the consent of the governing body or upon written request of the issuing authority with the consent of the applicant. The 180-day period may be extended for up to 30 days by the governing body in the event an additional permit or other predevelopment review

is required in accordance with subsection (c) of G.L. c. 43D §5, if the requirement for the previously unidentified permit or review has been determined no less than 150 days after the issuance of the notice of completeness. The 180 day time period shall be extended when the issuing authority determines either: (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In those circumstances, the issuing authority shall provide written notification to the secretary. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued.

An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter.

C. Project Review

Projects submitted in accordance with this regulation shall complete a Priority Development Site – Streamlined Permit Application and shall also comply with the submission requirements for each permit determined necessary by the Planning Director and Town Administrator, as already established through bylaws, laws and regulations. However, a Community Fiscal Impact Assessment, Stormwater Management Plan, and a Traffic Study will be required in all cases.

Pre-filing and Issue Reviews: The applicant is encouraged to request a pre-filing review of the application to assist in formulation of a complete application. The applicant may also request reviews at any time with specific departments to aid in resolution of any issues with the application. Said reviews shall be requested through the Planning Director and/or Town Administrator. Said reviews are not intended to be "Advisory or Technical Reviews" as referenced in the statute.

Each project shall undergo the permitting processes as identified by the Planning Director and Town Administrator and/or prescribed by law or local regulation. Every effort shall be made to conduct joint permit hearings.

D. Fees

The applicant shall submit fees for each permit that has been determined necessary by the Planning Director and Town Administrator, as already established by existing bylaws, laws and regulations. A PDS permit coordination fee of $500 shall also be submitted to cover cost for administration of this coordinated process.

E. Automatic Grant of Approval

Failure by any issuing authority to take final action on a permit or approval within the 180-day period or extended time, if applicable, shall be considered a grant of the relief requested of that authority. In that event, within 14 days after the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to notice of hearing in connection with the application.

The grant shall not occur where: (1) the governing body has made a timely determination that the application is not complete in accordance with its requirements and notified the applicant as set forth herein and the applicant has not made a timely response to complete the application; (2) the governing body has determined that the final application contained false or misleading information; or (3) the governing body has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

F. Consolidated and streamlined appeals

Appeals of issuing authority decisions or automatic grants of approval must be filed in accordance with G.L. c. 43D §10, within 20 days of the last permit issued or within 20 days of the 180 day expiration, which ever is later.

All appeals must be consolidated and filed within the Division of Administrative Law Appeals (DALA) within 20 days. The consolidated appeal does not apply to wetlands. DALA shall render appeals decisions within 90 days and aggrieved parties may further appeal to the Superior Court within 20 days of the DALA decision.

G. Transfers, renewals, permit modification requests, expiration

Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.

Issuing authorities having substantive jurisdiction over permit issuance may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in conjunction with this chapter.

Issuing authorities shall make reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 20 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested

modification is substantial, the original review period for permit categories as set forth in section 5 shall apply.

Permits issued pursuant to this chapter shall expire 5 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of 1 building shall preserve the permit validity. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates. Nothing in this section shall limit the effectiveness of G.L. c.40A §6.

O. Large Scale Solar Photovoltaic

1.0 Purpose

The purpose of this bylaw is to reasonably regulate large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

1.1 Applicability

This bylaw applies to large-scale ground-mounted solar photovoltaic installations, as defined herein, proposed to be constructed after the effective date of this bylaw. This bylaw also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.
The bylaw in not intended to regulate systems of less than 250 kW or roof-mounted systems It is also not intended to regulate systems that are consumptive power systems, where all power that is generated is utilized to power onsite operations.

2.0 Definitions

Building Permit: A permit issued by the Building Inspector allowing for the construction of a large-scale ground-mounted solar photovoltaic installation consistent with the state and federal building codes and the Zoning Bylaw.

Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI): A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, has a minimum nameplate capacity of 250 kW DC, and generates power utilized at least in part off-site.

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

Zoning Bylaw: The Sutton Zoning Bylaw.

3.0 General Requirements for all Large Scale Solar Power Generation Installations

The following requirements are common to all LGSPI.

3.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all LGSPI shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

3.2 Building Permit

No LGSPI shall be constructed, installed or modified except pursuant to a building permit. The building permit application for a LGSPI must be accompanied by the required fee.

3.3 Site Plan Review

No LGSPI shall be constructed, installed or modified except in conformity with a site plan approved by the Planning Board in accordance with the Zoning Bylaw. The Planning Board shall consider and apply the requirements set forth in this bylaw in reviewing and deciding an application for site plan approval. Upon receipt of an application for site plan approval of a LGSPI, the Planning Board may engage, at the applicant's cost, professional and technical consultants, including legal counsel, to assist the authority with its review of the application, in accordance with the requirements of Section 53G of Chapter 44 of the Massachusetts General Laws. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted, and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the application. Upon approval of the application, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the applicant.

3.4 Site Control

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

3.5 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the LGSPI, which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.

3.6 Utility Notification

No LGSPI shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

3.7 Design Standards

3.7.1 LGSPI in R1, R2, and V, no more than 30% of the parcel shall be utilized for the entire installation, including screening.

3.7.2 Setbacks and Screening

Front, side and rear yards for LGSPI shall be as follows:

(a) Front yard: The front yard depth shall be at least 100 feet
(b) Side yard. Each side yard shall have a depth at least 50 feet
(c) Rear yard. The rear yard depth shall be at least 50 feet
(d) Every abutting property shall be visually screened from the LGSPI through any one or combination of the following: location, distance, plantings, existing vegetation and fencing (not to exceed 6 feet in height)

3.7.3 Appurtenant Structures

All appurtenant structures to a LGSPI shall be subject to the same regulations that pertain to primary structures as set forth in the Zoning Bylaw.

3.7.4 Landscaping

The project proponent shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting and screening vegetation and/or fences/walls.

3.7.5 Land Clearing & Grading, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LGSPI or otherwise prescribed by applicable laws, regulations, and bylaws. Land clearing and grading plans shall avoid practices that cause erosion and shall minimize habitat disruption.

3.7.6 Lighting

Lighting of LGSPI, including appurtenant structures, shall be consistent with local, state and federal law, and otherwise shall be limited to that required for safety and operational purposes. It shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light-pollution.

3.7.7 Signage

Signs on LGSPI shall comply with all applicable legal requirements, including the Zoning Bylaw. One sign consistent with the Zoning Bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

3.7.8 Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3.8 Monitoring and Maintenance

3.8.1 Solar Photovoltaic Installation Conditions

The owner or operator of the LGSPI shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and local emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

3.8.2. Emergency Services

Prior to issuance of a building permit, the LGSPI owner or operator shall provide a project summary, electrical schematic, and approved site plan to the town's local safety officials, including the Police Chief, Fire Chief and Building Inspector. Upon request the owner or operator shall cooperate with local safety officials in developing an emergency response plan, which may include ensuring that emergency personnel have immediate, 24-hour access to the facility. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation, and shall provide a mailing address and telephone number for such person(s).

3.9 Modifications

All material modifications to a LGSPI made after issuance of the required building permit shall require approval by the Planning Board through Site Plan Review.

3.10 Discontinuance and Removal

3.10.1 Removal Requirements

Any LGSPI, or any substantial part thereof, not used for a period of one continuous year or more without written permission from the Planning Board, or that has reached the end of its useful life, shall be considered discontinued, and shall be removed. Upon written request from the Building Inspector addressed to the contact address provided and maintained by the owner or operator as required above, the owner or operator shall provide evidence to the Building Inspector demonstrating continued use of the LGSPI. Failure to provide such evidence within thirty days of such written request shall be conclusive evidence that the installation has been discontinued. Anyone intending to decommission and/or remove such an installation shall notify the Planning Board and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal.
The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. Removal shall consist of:

(a) Physical removal of all parts of and appurtenances to the LGSPI, including structures, equipment, security barriers and transmission lines from the site.
(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
(d) Gravel or ground cover consistent with landscape.

If the owner or operator of the LGSPI fails to remove the installation in accordance with the requirements of this section, the town shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and remove the installation at the expense of the owner of the installation and the owner(s) of the site on which the facility is located.

3.10.2 Financial Surety

Proponents seeking to construct and operate an LGSPI shall provide, prior to construction, a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the LGSPI and remediate the landscape. The amount and form of such surety shall be determined by the Planning Board. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of

the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

VII. ADMINISTRATION AND ENFORCEMENT

A. Administration

1. Board of Appeals:

a. Membership: There shall be a Board of Appeals of five members and two associate members.

b. Appointment: Members of the Board in office at the effective date of this Bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to The Zoning Act.

c. Powers: The Board shall have those powers granted under The Zoning Act.

d. Adoption of Rules: The Board shall adopt rules to govern its proceedings pursuant to The Zoning Act.

e. Appeals: Appeals to the Board shall be taken in accordance with the Rules of the Board and The Zoning Act.

2. Special Permit

Certain uses, structures or conditions are designated as special permit in Section III, Table of Use Regulations, and elsewhere in this Bylaw. Upon application duly made to the Board, the Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant a special permit for such uses, structures or conditions and no others.

a. In acting upon an application for a special permit, the Board shall take into consideration:

1. The appropriateness of the specific site as a location for the use;

2. The adequacy of public sewerage and water systems;

3. The effect of the developed use upon the neighborhood;

4. Whether there will be undue nuisance or serious hazard to vehicles or pedestrians; and,

5. Whether adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use, structure, or condition.

The Board shall authorize such special permit only when it finds that, in view of these considerations, such special permit is consistent with the spirit of this Bylaw and generally in conformity with the Master Plan for the Town.

b. The Board shall impose, in addition to the conditions specified for the following uses, such additional conditions to those specified in this Bylaw as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purpose of this Bylaw, including, but not limited to, the following:

    1. Front, side or rear yard greater than the minimum required by this Bylaw;

    2. Screening, buffers or planting strips fences or walls, as specified by the Board;

    3. Modification of the exterior appearance of the structures;

    4. Limitation upon the size, number of occupants, method and time of operation, or extent of facilities;

    5. Regulation of the number and location of driveways, or other traffic features; and,

    6. Off-street parking or loading or other special features beyond the minimum required by this Bylaw.

c. For the use of a trailer located in a trailer camp in any R-1 district provided that any trailer shall not be used for more than one hundred twenty (120) days by any family; no wheels, tires, or other means of keeping the trailer mobile shall be removed; any trailer shall have a current state motor vehicle license; and no skirts, porches, fences or similar materials or equipment shall be added to any trailer which would detract from its mobility. Each trailer and its lot shall be subject to the same requirements as for a one-family detached dwelling, in a R-2 District.

d. Construction or operations under a special permit shall conform to any subsequent amendment of the by-law unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

e. A special permit granted under these bylaws shall lapse after two years if a substantial use thereof has not sooner commenced except for good cause.

    The SPGA may grant extensions of the permit for up to two (2) years at a time with good cause. Extensions must be requested prior to the expiration of the original permit. Requests must elaborate on the “good cause” that prevented the applicant from utilizing the permit. Facts presented must demonstrate the applicant’s clear intent and attempt to utilize the permit during the original permit period in order to be granted an extension.

3. Associate Member of the Planning Board

The Board of Selectmen may appoint an associate member of the Planning Board. Such associate member, when designated by the chairman of the Planning Board, may sit on the Planning Board for the purpose of acting on any matter before the Board, in case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

B. Enforcement

1. Building Inspector

The Building Inspector, who shall be appointed by the Board of Selectmen, shall enforce the provisions of this Bylaw, and to that end, shall have the authority to institute legal proceedings to enforce and prevent violations of said provisions. He shall immediately report all such violations to the Board of Selectmen and to the Planning Board.

2. Permit Required

It shall be unlawful for any owner or person to erect, construct, reconstruct, or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot without applying for and receiving from the Selectmen, or, if appointed, the Building Inspector, the required permit therefore.

3. Previously Approved Permits

The status of previously approved permits shall be as determined by The Zoning Act.

4. Certificate of Use and Occupancy Required

It shall be unlawful to use or occupy any structure or lot for which a permit is required herein without the owner applying for and receiving from the Selectmen, or if appointed, the Building Inspector, a certificate of use and occupancy.

5. Permit and Certificate Fees

Fees shall be established by the Selectmen but not less than the annual cost usually necessary to administer and enforce this Bylaw.

6. Permit Time Limits

A permit shall be applied for to the Selectmen, or if so appointed, the Building Inspector, by the applicant. Any work for which any permit has been issued by the Selectmen or

Building Inspector shall be actively prosecuted within ninety (90) days and completed within one (1) year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended for up to an additional year at the discretion of the Board of Selectmen.

7. Violations

The Selectmen, or if so appointed, the Building Inspector, shall serve notice of VIOLATION and ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion, or alteration of a structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of the provisions of this Bylaw or in violation of any approved plan, drawing, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Bylaw, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the Selectmen, or if so appointed, the Building Inspector. Any owner, who having been served with a notice and who ceases any work or other activity, shall not leave any structure or lot in such condition as to be a hazard or menace to the public safety, health, morals or general welfare.

8. Prosecution of Violation

If the notice of VIOLATION and ORDER is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation.

a. Penalty for Violation

The penalty for violations of this Bylaw shall be three hundred dollars ($300) for each such violation. Each day any violation continues to exist shall constitute a separate offense.

b. Non-Criminal Disposition

In addition to civil and criminal procedures available for enforcement of this Bylaw, the provisions of this Bylaw may also be enforced by the Building Inspector or his agent, by non-criminal complaint issued pursuant to the provisions of Mass. General Laws, Chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of any provision of this bylaw shall be fifty dollars ($50) for the first offense; one hundred dollars ($100) for the second offense; and three hundred dollars ($300) for the third and each subsequent offense.

C. Amendment, Validity, Repealer and Effective Date

1. Amendment

This Bylaw may be amended from time to time in accordance with The Zoning Act. During the amendment procedure, subdivision plans in process of review by the Planning Board under the Subdivision Control law shall be subject to The Zoning Act.

2. Validity

The invalidity, unconstitutionality or illegality of any provisions of this Bylaw or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary.

3. Repealer

The Zoning By-Laws for the Town of Sutton Massachusetts, adopted in 1955 and all subsequent amendments thereto are repealed in whole.

4. Effective Date

This Bylaw shall take effect upon the date resulting from this procedure provided for in M.G.L Chapter 40, §32.