

**CHAPTER IX
ZONING**

TABLE OF CONTENTS

Section 1. Purpose & Authority
Section 2. Zoning Districts
Section 3. Use Regulations
Section 4. Dimensional Requirements
Section 5. Nonconforming Structures, Uses and Lots
Section 6. Off Street Parking Requirements
Section 7. Sign Regulations
Section 8. Special Regulations
 A. Temporary Structures
 B. Driveways
 C. Access Roads
 D. Fencing Regulations
 E. Earth Removal Regulations
 F. Travel Trailer, Mobile Home
 G. Additional Requirements for Non-Municipal Educational & Religious Uses
 H. Solar Photovoltaic Installations
Section 9. Overlay Districts
Section 10. Special Permits
Section 11. Administration & Enforcement
Section 12. Definitions

Section 1. Purpose & Authority

- A. Purpose:** The purpose of this bylaw is to protect the health, safety and general welfare of the inhabitants of the Town of Sandisfield and to provide the Town of Sandisfield all the protection authorized by the General Laws of the Commonwealth of Massachusetts, Chapter 40A and any amendments thereof.
- B. Authority:** This bylaw is enacted in accordance with the provisions of the General Laws of the Commonwealth of Massachusetts, Chapter 40A and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

Section 2. Zoning Districts

- A. Base Zoning District:** For the purposes of this bylaw the whole area of the town shall constitute a single base district with uniform regulations for each class or kind of structure or use permitted
- B. Overlay District(s):** For the purposes of this bylaw the following overlay districts have been established:
 - 1. Floodway / Floodplain Districts.

Section 3. Use Regulations

- A.** Except as provided by law or in the bylaw, no building or structure shall be erected, and no building, structure, or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth in the Table of Permitted Uses.
- B.** Table of Permitted Uses:

Symbol Key

Y = allowed by-right

SP = may be allowed by special permit from the Board of Selectmen

Principal Uses	Permitted
<i>Residential Uses</i>	
1. One-family dwelling unit	Y
<i>Agricultural, Educational, Municipal, Religious, Recreational Uses</i>	
2. Golf course	SP
3. Logging, subject to the regulations of the special permit granting authority	SP
4. Municipal or governmental use including parks, playgrounds or other recreational facilities owned or operated by a town agency	Y
5. Recreational camp	SP
6. Recreational camp for children	SP
7. Religious or educational use on land owned or leased by the Commonwealth or any of its agencies, sect, or denomination, or by a non-profit educational corporation subject to the regulations set forth in Section 8 (G)	Y
8. Riding Stable	SP
9. Ski Tow	SP
10. Summer Camo	SP
11. Use of land and structures for agriculture, horticulture or floriculture	Y
<i>Commercial, Industrial Uses</i>	
12. Antique Shop	SP
13. Aviation field	SP
14. Boat livery	SP
15. Commercial dog kennel	SP
16. Commercial greenhouse	SP
17. Craft or gift shop	SP
18. Earth removal, subject to the regulations set forth in Section 8 (E)	SP
19. Ice house	SP
20. Motel	SP
21. Movie theatre	SP
22. Sawmill	SP
23. Veterinary hospital	SP
<i>Other Uses</i>	
24. Any other use determined by the special permit granting authority to be similar in character to one or more uses specifically authorized herein, provide the special permit granting authority finds that the propose use is in harmony with the general purpose and intent of this bylaw and not offensive or detrimental to the neighborhood	SP

Accessory Uses	Permitted
25. Accessory uses and structures that are normally associated with a principal permitted use on the same premises	Y
26. An accessory use to a by right use, whether or not on the same parcel, which is necessary in connection with scientific research or development or related production provided the special permit granting authority finds that the proposed accessory use does not substantially derogate from the public good	SP
27. The use of a room or rooms in a dwelling or accessory building by a resident occupant for practice of a recognized profession, or by a resident carpenter, painter, plumber, electrician, or other tradesman and artisan in connection with his trade, or by a resident engaged in a customary home occupation, provided that there is no external evidence of any business other than a permitted sign	Y
28. Rental of not more than four (4) rooms in a dwelling unit by a resident family provided no separate kitchen facilities are maintained	Y
29. The display and sale by a resident of the premises at a roadside stand or otherwise, of natural products the major portion of which are produced on the premises	Y
30. Display of a sign or signs regulated in Section 7 of this bylaw	Y

C. Prohibited Uses: The following uses are expressly prohibited:

Prohibited Uses
1. Junk yard
2. Fur farm
3. Slaughter house
4. Travel trailer
5. Mobile home park
6. Any use which may create undue traffic or is commonly regarded as hazardous, injurious, or noxious.
7. The collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste.

Section 4. Dimensional Requirements

A. Density Regulations: No building or structure shall be constructed nor shall any existing building or structure be enlarged or altered except in conformance with Table of Dimensional Requirements, except as may otherwise be provided elsewhere in this bylaw.

B. Table of Dimensional Requirements:

Dimensional Requirements	
Minimum Lot Size	1 acre
Frontage	200 feet
Minimum Lot Depth	150 feet
Front Setback	30 feet
Rear Setback	30 feet
Side Setback	30 feet

Notes:

- 1. Frontage shall be on a public road or right away*
- 2. The front setback shall be measured from the nearest point of the right-of-way line of the bounding street or road.*
- 3. The side and rear setbacks shall be measured from the property lines.*

C. Additional Dimensional Requirements:

- 1.** No more than one dwelling unit shall be erected on any such lot.

Section 5. Nonconforming Structures, Uses and Lots

- A.** The provisions of this bylaw shall not apply to structures or uses lawfully in existence or lawfully begun at the time of the adoption of this bylaw as provided in Section 6, Chapter 40A. (G.L.)
- B.** Pre-existing nonconforming structures or uses may be extended, alter, or changed to another nonconforming use by special permit from the Board of Selectmen provided that the Board finds that such change, extension, or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

Section 6. Off Street Parking Requirements

- A.** Any building or structure hereafter erected or converted for business use or public use shall be located on a lot sufficient in size so as to provided suitable off-street parking area and shall be at least one hundred (100) feet from and lot line, with adequate disposal of storm water capable to accommodate, in the judgment of the Board of Selectmen, Parked vehicles for maximum use of the proposed facility

Section 7. Sign Regulations

A. Permitted Accessory Signs:

1. A Sign not exceeding two (2) square feet in area and bearing only the names of residents or their identification of premises not having commercial connotations.
2. One sign, not exceeding ten (10) square feet in area for a permitted accessory use with a permit from the Board of Selectmen.
3. One sign for a commercial or other non-residential use, not exceeding twenty (20) square feet in a total area.
4. Temporary signs which do not comply with this bylaw may be authorized for a period not over ten (10) days by the Board of Selectmen for special events such as an opening of a new business or industry, or announcing a public event sponsored by a civic, fraternal, social, or religious organization. The Board of Selectmen may at their discretion require the posting of a bond or cash deposit large enough to cover the cost of removal of temporary signs if such signs are not removed promptly after expiration of the permit.
5. The provisions of this bylaw shall not apply to signs lawfully in existence at the time of the adoption of this bylaw.

B. Sign Restrictions:

1. No sign shall use moving parts, noise making devices, or blinking, rotating, or flashing, or red lights, or lights changing in light intensity, and no sign shall be placed on the roof of any building or structure, or extend above the parapet or eave line.
2. No sign or light shall be placed so as to constitute a traffic hazard or a nuisance.
3. A free standing sign may not exceed fifteen (15) feet in height above grade or be closer to the front property line than twenty (20) feet, except with a special permit from the Board of Selectmen where the Board finds the requirements of the particular location dictate greater height or smaller setback.
4. No sign shall be located off the premises to which it applies, except that directional, informational, or identification signs may be permitted by special permit from the Board of Selectmen where the Board finds the such signs will serve the public convenience and not be detrimental to the neighborhood with respect to size, location, or design.

Section 8. Special Regulations

A. Temporary Structures:

1. Temporary structures include all portable buildings used for storage or temporary shelter such as trailer, dog houses, and small outbuildings not set on a permanent foundation. Not included are children's playground equipment and structures set on permanent foundations and structures used for habitation.
2. All temporary structures shall conform to the following requirements:
 - a. Temporary structures shall not be placed closer than fifteen (15) feet from any property boundary.
 - b. Temporary structures shall not be over fourteen (14) feet high.
 - c. Temporary Structures may be located closer than fifteen (15) feet from a property boundary if the owner has first obtained a written agreement from the owner of the abutting property and given a copy of that agreement to the Sandisfield Building Inspector prior to erection or placement of the temporary structure.

B. Driveways:

1. "Driveways" is defined as any road used for vehicular access from a public road to a public or private building. Access roads used only occasionally such as those used to access a field for haying, are not intended to be included in these bylaws.
2. Should terrain or other conditions make these driveway bylaws exceedingly difficult or impossible to follow, a solution must be developed and approved by consulting with the Sandisfield Building Inspector. If a solution cannot be developed in this manner, then the Sandisfield Board of Selectmen will determine the solution.
3. Driveway entrance into public or private road shall be situated so the driver has a minimum sight line of 100 feet each direction when entering any of Sandisfield's roads.
4. No driveway entrance shall be located closer than 75 feet to any intersection.
5. No portion of a driveway including its cuts, fills, culverts, etc. shall come closer than 10 feet to any abutting property.
6. Driveways coming down to a public road shall have a grade steeper than 12% within the first 50 feet from the edge of the traveled roadway.
7. Any new or additional driveway entering onto a paved road must have a paved, concrete or asphalt apron at least 4 inches thick, not less than 20 feet wide and not less than 20 feet long connecting the driveway and the road.
8. Driveways shall be a minimum of 15 feet wide with a surface of 6 inches of well compacted gravel within the first 50 feet from the edge of the traveled roadway.
9. Driveways shall be adequately crowned to direct surface water runoff to appropriate gutters within the first 50 feet from the edge of the traveled roadway.

10. Driveway gutters and culverts shall be of adequate size and location to handle all anticipated surface runoff, and shall be directed to follow previous natural runoff pattern and shall in no instance be changed to flow on to adjacent property or roads, private or public.
11. Driveway cuts and fills shall be no steeper than 1 foot rise to 2 feet run.
12. Cuts and fills must be stabilized with vegetation or stone covering and protected from erosion with straw mulch and hay bales and/or stabilization fabric until vegetation or stone covering is effectively in place.
13. All driveway plans must be inspected and approved by the Sandisfield Highway Superintendent with respect to necessary culverts, paved apron and sight lines.
14. All driveway excavation and construction must follow the approved plan and be inspected and approved by the Sandisfield Building Inspector. The property owner is responsible for notifying the proper Town Authorities at least 48 hours before any inspection is due.
15. All driveways must have house number posted before final approval is given. Number must be posted with 911 regulations.

C. Access Roads:

1. "Access Road" is defined as any vehicular way onto private property from a public way for intermittent use. This is not to be used as a permanent driveway which would require a driveway permit. An access road is not a street with the meaning of this zoning bylaw or the subdivision control law and may not be used to meet the lot frontage requirements.
2. The access road entrance into a public or private road shall be situated so a driver had a minimum sight line of 100 feet in each direction when entering any of Sandisfield's roads.
3. No access road entrance shall be located closer than 75 feet to any intersection.
4. No portion of the access road including its cut, fills, culverts, etc. shall come closer than 10 feet to any abutting property at its entrance to the road.
5. The access road owner is responsible for the tracking of any materials onto the public way. Any materials tracked onto a public way must be cleaned by the access road owner. A stone tracking pad may be required as per the Sandisfield Highway Superintendent.
6. Access road gutters and culverts shall be of adequate size and location to handle all anticipated surface runoff, and shall in no instance be changed to flow onto adjacent property or roads, private or public.
7. Access roads shall in no instance impede or restrict the water flow of existing culverts.
8. The owner of the access road is responsible for any run-off or erosion onto adjacent property or roads, private or public.

9. All access road plans must be inspected and approved by the Sandisfield Highway Superintendent with respect to necessary culvert, tracking pad, and sight lines prior to the construction of the access road.

D. Fencing Regulations:

1. Fences erected more than 30 feet from any property boundary may be of any material and height.
2. Fences erected within 30 feet of any property boundary are setting to the following restrictions:
 - a. Fences may be of any material but may not exceed 10 feet in height and must have at least 50% open area above the 6 foot height.
 - b. Fences may be located on the owner's private property.
 - c. Fences may be located 3 feet or more from any property boundary between private properties.
 - d. Fences may be located on or within 3 feet of a private property boundary if the owner has first obtained a written agreement from the owner of the abutting property and given copy of the agreement to the Sandisfield Building Inspector prior to erection of the fence.
 - e. No fence may be of a height or in a location which, in the opinion of the Sandisfield Road Superintendent, shall obstruct a driver's ability to see approaching traffic at an intersection.
3. Repair and/or replacement of fences in existence prior to adoption of this bylaw is permitted providing that the repaired and/or replaced fence is no higher, is of the same type material and construction, and is the same location as the existing fence.
4. The Town of Sandisfield Building Inspector shall serve as fence viewer and enforcer of this bylaw.

E. Earth Removal Regulations:

1. Removal of earth materials for commercial purposes including loam, top soil, gravel, sand or stone, may be authorized with a Special Permit from the Board of Selectmen subject to the following requirements:
 - a. An application for a Special Permit under this section must be accompanied by a plan, which shall show all structures, property lines, vegetative cover, presence of natural waterways, wet areas, flood plains, and groundwater recharge areas, and topographic lines at five (5) foot intervals, or less, carried on hundred (100) feet beyond the limit of the proposed excavation.

- b.** No excavation, processing, loading or other operations, structures or facilities shall be closer than fifty (50) feet of any property line and one hundred (100) feet from a town or state highway, except if otherwise authorized by Special Permit.
- c.** No permit shall be issued under this section until a plan for rehabilitation of the land, showing existing and proposed final contours, and restoring the land for its ultimate reuse, has been submitted to the Board of Selectmen.
- d.** A bond with surety satisfactory to the Board of Selectmen has been furnished to the town and approved as to form by the Town Counsel in an amount sufficient in the opinion of the Board of Selectmen to secure performance of the restoration of the land in accordance with the approved plan, and for preserving the sightlines of the area, and for meeting the requirements of public safety.
- e.** The Board of Selectmen may impose conditions and restrictions with regard to length of time the Permit will remain in force; the hours of the day during which activities related to the removal of earth materials may be conducted; the method of excavating earth materials; the routes of transporting excavated earth materials from the premises; the control of underground and surface drainage; the protection of groundwater supplies; the disposal of rocks, trees, stumps and other debris; the provision for landscaping, screening, fencing or other barriers against nuisances and hazards to the public safety and welfare; and in other to protect the area from becoming an eyesore.
- f.** The Board of Selectmen is authorized to exempt earth removal operations consisting of less than one hundred (100) cubic yards within twelve (12) months from any or all of the conditions and requirements of this section.

F. Travel Trailer, Mobile Home:

- 1.** A travel trailer or mobile home may be permitted by the Selectmen, in accordance with the provisions of the General Laws and Section 8 thereof, in their capacity as enforcing agents, but only to be occupied for temporary living quarters by the owner of the premises on which it is located for one (1) year provided that such owner is in of the process of constructing a dwelling for his own occupancy and further provided that such travel trailer or mobile home is, and the dwelling being constructed will be in conformity to the Sanitary Code of the Commonwealth of Massachusetts. Such permits may be extended if the work on the dwelling is proceeding in good faith.

2. A travel trailer or mobile home issued a permit by the Selectmen and located and occupied prior to the adoption of this bylaw may continue to be used provided a certificate from the Board of Health is submitted to the Selectmen stating compliance with the Sanitary Code of the Commonwealth of Massachusetts, and further provided the such trailer or mobile home may be placed by another on the same premises and under the same conditions.
3. Notwithstanding other provisions of this section, a travel trailer may be parked upon on owner's premises provided the same is not used for purposes of human habitation on such site.

G. Additional Requirements for Non-Municipal Educational & Religious Uses:

1. Any non-municipal educational use or religious use is subject to the following regulations:
 - a. A site plan and information statement must be presented to the permit granting authority before any change of use of the land or building or before any construction, reconstruction, or alteration of any building or structure. The site plan at a scale of 1" to 40' (or Larger) prepared by a registered architect or civil engineer must show existing buildings, roads, parking areas, sewer and water lines, drainage systems, water courses, trees over twelve inches in diameter at the breast height, and any other significant existing manmade or natural features.
 - b. The informational statement shall detail the probable effect of the use on the following:
 1. Attendance at public schools.
 2. Increase in vehicle traffic.
 3. Change in the number of legal residents.
 4. Increase in municipal service costs.
 5. Load on public utilities or future demand for them.
 6. Public safety, police and fire protection.
 7. Change in tax revenue.
 8. Changes in surface drainage.
 9. Increase in refuse disposal.
 10. Land erosion or loss of tree cover.
 11. Character of surrounding neighborhood.
 - c. The following restrictions shall apply:
 1. Maximum building coverage of four percent (4%)
 2. Setback of a two – hundred (200) foot buffer surrounding the property to be kept undeveloped except for entrance and exit roadways.

3. Major access roads and major parking areas subject to frequent use by day or night shall be approved by the Planning Board. Major roads are to be eighteen (18) feet wide and shall not exceed seven and one – half percent (7 ½) grade.
4. Parking areas shall be within three hundred (300) feet of the building to be served.

H: Large-Scale Ground-Mounted Solar Photovoltaic Installations Within Designated Areas

1.0 Purpose

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, modification, operation and monitoring of such installations within designated areas. The purpose of the **Solar Photovoltaic Overlay District** is to identify designated locations where certain large-scale solar photovoltaic installations are allowed by right.

1.1 Applicability

The provisions set forth in this section shall apply to the construction, operation, modification and/or repair of large-scale ground-mounted solar photovoltaic installations within a designated Solar Photovoltaic Overlay District.

1.2 Solar Photovoltaic Overlay District

There shall be a Solar Photovoltaic Overlay District with As-of-Right Siting consisting of all land owned by the Town of Sandisfield, with the exception of the area known as “Yanner Park”, as depicted on a map entitled Solar Photovoltaic Overlay District, which map shall be maintained by the Town Clerk as part of the Zoning Map of the Town and incorporated therein. Large-Scale Ground-Mounted Solar Photovoltaic installations within the Solar Photovoltaic Overlay District shall be allowed ad-of-right upon review and approval of the Site Plan Review Authority in accordance with the requirements of this section. Large Scale Ground-Mounted Solar Photovoltaic installations outside the Solar Photovoltaic Overlay District shall be allowed following issuance of a special permit in accordance with the requirements of Section 8E, “Solar Photovoltaic Installations”.

2.0 Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit or other discretionary approval. As-of-Right development shall be subject to site plan review to determine conformance with local zoning ordinances or bylaws, and to protect the public health, safety and welfare. Projects cannot be prohibited, but can be reasonably regulated by local inspectors and/or a designated Site Plan Review Authority.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 50 kW DC.

Site Plan Review: review and approval by the Site Plan Review Authority to determine conformance with local zoning ordinances or bylaws.

Site Plan Review Authority (SPRA): Ground-mounted large scale solar photovoltaic installations shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this Section. For the purpose of this Section of the Zoning Bylaw, the Zoning Board of Appeals shall be the Site Plan Review Authority.

3.0 General Requirements for all Large-Scale Ground-Mounted Solar Photovoltaic Installations

Zoning Section 8H shall apply to all ground-mounted large scale solar photovoltaic installations.

3.1 Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3.2 Required Documents

Pursuant to the site plan review process, the Project Proponent shall, in addition to the filing requirements of Section 8H.8, provide the following documents to the Site Plan Review Authority:

- a. One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices;
- b. Name, address, and contact information for proposed system installer;
- c. Name, address, phone number and signature of the Project Proponent;
- d. The name, contact information and signature of any agents representing the Project Proponent;
- e. An operation and maintenance plan (see Sec. 3.3);
- f. Proof of liability insurance;
- g. A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required site plan review notification procedures and otherwise inform abutters and the community.

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

The SPRA may waive documentary requirements as it deems appropriate. The SPRA shall issue a permitting decision within six months of receipt of documents in this section.

3.3 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

3.4 Monitoring and Maintenance

The Project Proponent 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 local Fire Chief and Emergency Medical Services. The Project Proponent shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

Section 8.I

Adopted at Special Town Meeting Oct. 16, 2018

Approved by the Attorney General on March 11, 2019

Section 9. Overlay Districts

A. Floodway/ Floodplain District:

- 1. Purpose:** The purpose of Flood Plain Districts is to ensure that the development of land is done with the awareness and understanding of the potential flood hazards in these areas, and more specifically:
 - a.** To provide that lands in the Town subject to seasonal or periodic flooding shall not be used for residence or other purpose in such a manner as to endanger the health or safety of the occupants thereof or of public.
 - b.** To protect, preserve, and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety of the residents of the Town.
 - c.** To assure the continuation of the natural flow pattern of the water course(s) within the Town in order to provide adequate and safe flood water storage capacity to protect persons and property against hazards of flood inundation.
- 2. District Delineation:** The Flood Plain Districts shall be considered as overlaying the other zoning districts and shall include all zones A, A1-30, and the regulatory
- 3.** floodways shown on the Flood Insurance Rate Map and Flood Boundary and Floodway Map, a part of the U.S Department of Housing and Urban
- 4.** Development, dated December 4, 1984, which is hereby made a part of this bylaw, and is on file with the Town Clerk.

- 5. Permitted Uses:** Land in Flood Plain Districts may be used for any purpose otherwise permitted and as regulated in the underlying zoning district, subject to the restriction and conditions set forth herein.
- 6. Restrictions, Conditions, and Procedures:**
- a. Any person desiring to establish, change or expand any permitted use, make alterations on a river, (stream) course or to make alterations to the landscape (other than those listed in Section 4 E exceptions) in a flood plain district involving or requiring: the erection of new structures or alterations of or moving of existing structures; the dumping, filling, transfer, relocation or excavation of earth materials; the outdoor storage of materials or equipment or the construction of roadways, shall submit an application for a special permit to the Selectmen describing in detail the proposed use of the property and work to be performed; accompanied by plans showing:
 - 1. The boundaries, dimensions, and the specific location of the lot in relationship to the Floodway and/or base level.
 - 2. Mean sea level contour line elevations of two feet or less separation for the existing and proposed land surface, basement, first flood, and sewage disposal facilities.
 - b. Copies of the application and plans shall be delivered by the applicant and plans shall be delivered by the applicant to the Building Inspector, Planning Board, Board of Health, and Conservation Commission; all of whom shall report back to the Selectmen in writing within thirty (30) days of receipt of application and plans.
 - c. The Selectmen may issue a special permit, after utilizing the latest flood data and reports, if they find that the proposed use is in compliance with requirements set forth below and that it will not endanger the health, safety or welfare of the public, or the occupants of the proposed use or of the flood hazard area. The Selectmen may impose such additional requirements and conditions as are necessary to insure the required protection and further safeguard of the surrounding area and the Town. The burden of proving that the proposed use will not endanger health, safety, and welfare shall rest upon the applicant who shall submit such engineering and hydrological data as may be necessary. Without limiting the generality of the forgoing, the Selectmen shall insure:
 - d. Within Zone A (100 year flood boundary), where the base flood elevation is not provided on the Flood Insurance Rate Maps, the applicant shall produce any already existing, reasonable base flood elevation data and it shall be used to meet the requirements of D 1 above.
 - e. Where watertight flood-proofing of a structure is permitted, a registered professional engineer or architect shall certify to the Building Inspector that the methods used are adequate to withstand the flood depths,

- f. pressures and velocities, impact and uplift forces, and other factors associated with the 100 year flood.
- g. In the floodway, designated on the Flood Boundary and Floodway Maps, the following provisions shall apply:
 - 1. Prohibit encroachments including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the 100 year flood.

A special permit under this section shall take effect only after all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law and a copy of each such permit has been filed with the Selectmen. No building permit shall be issued and no fills shall be put in place until the special permit has been issued under this section or until ninety (90) days have elapsed following action thereon.

- h. Granting of a special permit by the Selectmen does not indicate in any way compliance with Wetlands Protection Act, Chapter 131, Section 40 (G.L.), or with any order by the Conservation Commission. In riverline situations the Conservation Commission shall notify adjacent communities and the Massachusetts Division of Water Resources prior to any alterations or relocation of a water course and submit copies of such notifications to the Flood Insurance Administration.
 - i. The Building Inspector shall obtain and maintain records of elevations and flood-proofing levels for all new or substantially improved structures as provided in the State Building Code and keep records whether elevated structures contain a basement or not.
7. **Exceptions:** The requirements of this section are not intended to govern the normal customary grading in the area of an existing or newly constructed building, including but not limited to, the preparation and construction of sidewalks, driveways, and patios. Such grading and earth moving shall be approved by the Building Inspector at the time of the issuance of the building permits, provided that a plan showing proper drainage and protection of adjoining property has been submitted.

Section 10. Special Permits

- A.** Any Board designated as Special Permit Granting Authority (SPGA) in the bylaw may hear and decide applications for special permits upon which such Board is specifically authorized to act under this bylaw, in accordance with provisions of Section 9, Chapter 40A of the General Laws.
- B.** A special permit shall only be issued following a public hearing held within sixty five (65) days after filing an application with the SPGA, a copy of which shall forthwith be given to the Town Clerk by the applicant.
- C.** Upon the receipt of a request for a special permit the SPGA shall notify the Planning Board and the Board Health of the request and said Boards shall respond to the SPGA within thirty-five (35) days thereafter by written reports of their findings in respect to their specific fields of responsibilities. If deemed necessary said Boards shall make on site plan review and inspections.
- D.** Prior to issuing a special permit, the SPGA shall determine that the proposed use:
 - 1.** Is in compliance with all provisions and requirements of this Bylaw and in harmony with its general intent and purpose;
 - 2.** Is essential or desirable to the public convenience or welfare at the proposed location;
 - 3.** Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;
 - 4.** Will not create undue traffic congestion or unduly impair pedestrian safety; and
 - 5.** Will not overload any public water, drainage or sewer system or any other municipal facility to such extent that the proposed use or any existing use in the immediate area of the Town will be unduly subjected to hazards affecting the public health, safety or general welfare.
- E.** A special permit shall lapse in two (2) years if substantial use or construction has not begun under the permit by such date except for a good cause.

Section 11. Administration & Enforcement

- A. Enforcement.** This bylaw shall be administered and enforced by the Board of Selectmen through the Building Inspector.
- B. Penalties.** Anyone violating any of the provisions of this bylaw may be fined not more than one hundred dollars (\$100) for each offense. Each day such violation continues shall constitute a separate offense.
- C. Compliance.** No permit shall be issued by the Building Inspector unless the application for a permit indicates compliance with this bylaw, the State Sanitary Code and the Board of Health Regulations, the Planning Board's Subdivision Control Regulations, and the Wetlands' Protection Act, if applicable.

Section 12. Definitions

A. Interpretation of Terms and Words. For the purpose of this bylaw certain terms and words are defined in the Glossary and shall have the meanings thereby assigned to them. Words not defined in said Glossary shall have the meaning given in Webster's Unabridged Dictionary. The word "shall" is mandatory; the word "may" is permissive.

B. Glossary

Accessory Use of Structure: A use of a structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of the structure.

Basement: that portion of a building which is partly below and partly above grade, and having at least one-half its height above grade.

Cellar: that portion of a building which is partly or completely below grade having at least one-half its height below grade.

Dwelling, One Family: A detached residential building designed for or occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

Dwelling Unit: one or more rooms constituting a separate, independent house-keeping establishment with cooking, living, sanitary and sleeping facilities for the use of one family.

Floodplain: Low lying land near rivers, lakes, etc. that is expected to flood during a 100 year flood.

Floodway: Land adjacent to rivers, lakes, etc. subject to seasonal annual flooding.

Grade: A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

Home Occupation: A business engaged in a dwelling by a resident thereof involving no external evidence thereof or no undue traffic or noise. For the purpose of the bylaw "Home Occupation" does not include gift shop or any similar retail establishment.

Lot: An area of land in one ownership or one leasehold with ascertainable boundaries established by deed or deeds of record, or a segment of land ownership defined by lot boundary lines on a land division plan duly recorded, said plan having been either approved by the Planning Board under Subdivision Control Law, or endorsed by the Planning Board "approval under the Subdivision Control Law not required"

Lot, Frontage: The continuous distance along the street line which provides direct access to the lot. A private street approved by the Planning Board under the Subdivision Control Law may provide frontage only for lots which are contained within the approved subdivision.

Lot, Width: The Width of the lot measured at the minimum front setback line.

Mobile Home: A portable completely enclosed vehicular structure built on a permanent chassis, designed as a dwelling unit to be transported after fabrication on its own wheels or on a flatbed or detached wheels. For the purpose of this bylaw mobile home as herein defined.

Street: A public way, or a private way either shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying lots along it for frontage under the Subdivision Control Law.