

# TOWN OF BECKET



## ZONING BY-LAWS

EFFECTIVE AS OF FEBRUARY 16, 2011  
Approved by the Attorney General on December 26, 2010



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## **SECTION 1.0                    PURPOSE AND AUTHORITY**

**1.1 PURPOSE.** These regulations are enacted to promote the general welfare of the Town of Becket, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the town and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them.

**1.2 AUTHORITY.** This Zoning By-Law is enacted in accordance with the provisions of the Zoning Act, Massachusetts General Laws, chapter 40A (G. L., c. 40A), as amended, Section (§) 2A of 1975 Mass. Acts 808 and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1.3 SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

**1.4 APPLICABILITY.** All buildings or structures hereafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Zoning By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning By-Law shall control.

**1.5 AMENDMENTS.** This Zoning By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, §5, and any amendments thereto.

**1.6 SEPARABILITY.** The invalidity of any Section or provision of this Zoning By-Law shall not invalidate any other Section or provision herein.

## **SECTION 2.0                    DISTRICTS**

**2.1 ESTABLISHMENT.** For the purpose of this Zoning By-Law, the whole area of the Town shall constitute a single zoning district with uniform regulations for each class or kind of structure or use permitted, except as otherwise permitted herein.

**2.2 OVERLAY DISTRICTS.** In addition, the following overlay districts are established in Section 8.0:

FPOD                    - Flood Plain Overlay District

**2.3 MAP.** [reserved]

## SECTION 3.0 USE REGULATIONS

**3.1 PRINCIPAL USES.** No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Table, or as otherwise set forth herein, or as exempted by General Laws. Not more than one principal use shall be located on a lot unless otherwise provided herein. Any building or use of premises not herein expressly permitted is hereby prohibited.

**3.1.1 Symbols.** Symbols employed in the Table of Use Regulations shall mean the following:

- Y - Permitted as of right
- N - Prohibited
- ZBA - Special Permit / Zoning Board of Appeals
- PB - Special Permit / Planning Board
- SB - Special Permit / Board of Selectmen
- SPR - Site Plan Review / Zoning Board of Appeals (See subsection 9.4.)

**3.1.2 If Classified Under More than One Use.** Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

**3.1.3 Table of Use Regulations.**

### Table A: Table of Use Regulations

Y = Permitted as of right, N = Prohibited, ZBA = Special Permit / Zoning Board of Appeals  
 PB = Special Permit / Planning Board, SB = Special Permit / Board of Selectmen  
 SPR = Site Plan Review / Zoning Board of Appeals  
 Any building or use of premises not herein expressly permitted is hereby prohibited.  
 All uses are subject to dimensional requirements established in Section 4.

**Residential Uses**

One-family dwelling	Y
Two-family dwelling or multi-family dwelling (See Subsection 4.2.9)	PB
Common driveways (See subsection 7.2)	PB
Conversion of dwelling as set forth in Subsection 4.2.9	PB
Rear lots (See subsection 7.3)	PB

**Institutional and Exempt Uses (Exempt uses per G.L. c. 40A §3)**

Cemetery	PB
Child care facility	Y/SPR
Hospital, sanitarium, nursing, rest or convalescent home, orphanage, or continuing care facility	PB
Municipal administration buildings; fire, ambulance or police station	Y/SPR

## Table A: Table of Use Regulations

Y = Permitted as of right, N = Prohibited, ZBA = Special Permit / Zoning Board of Appeals

PB = Special Permit / Planning Board, SB = Special Permit / Board of Selectmen

SPR = Site Plan Review / Zoning Board of Appeals

Any building or use of premises not herein expressly permitted is hereby prohibited.

All uses are subject to dimensional requirements established in Section 4.

Other municipal use not specifically listed herein	PB
<b>Institutional and Exempt Uses (continued)</b>	
Public park, playground or other public recreation facility	Y/SPR
Reservation, wildlife preserve or other conservation use	Y
Reservoir, pumping station building, sewage treatment plant or water supply facility	PB
Surface water impoundment, flood retention ponds or other surface water storage use	PB
Telephone exchange, transformer station, radio or television station or broadcasting facility, railroad or bus depot or other public utility or communication use	PB
Use of land for religious purposes	Y/SPR
Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation	Y/SPR
<b>Agricultural Uses (Exempt uses per G.L. c. 40A §3)</b>	
Agricultural use, exempt	Y
Farm stand, exempt	Y
Agricultural use, nonexempt; orchard, market garden nursery or other commercial agricultural production	Y
Agricultural use, nonexempt: forestry and the selective harvesting of forest products	Y
Agricultural use, nonexempt: commercial greenhouse	PB
Agricultural use, nonexempt, commercial poultry or livestock farm, raising of animals	PB
Farm stand, nonexempt (open less than 6 months in any year)	Y
Farm stand, nonexempt	PB
<b>Commercial Uses</b>	
Adult Entertainment Use (See subsection 8.2 for definitions, applicability, standards and conditions for Adult Entertainment Uses)	PB
Artisan shop, retail	PB
Artisan workshop	Y/SPR
Auction gallery for exhibition, sale by auction and flea market	PB
Bank, loan agency, or business office	PB
Buildings containing a dwelling unit in combination with a store or other permitted business or commercial use	PB
Camping, hunting or fishing ground, ski area, golf course, riding academy or other predominantly outdoor recreational use, conducted for gainful purpose	PB
Funeral establishment	PB
General service establishment (See Section 10, Definitions)	PB
Golf driving range, miniature golf course, or similar outdoor commercial amusement use	PB

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Y = Permitted as of right, N = Prohibited, ZBA = Special Permit / Zoning Board of Appeals

PB = Special Permit / Planning Board, SB = Special Permit / Board of Selectmen

SPR = Site Plan Review / Zoning Board of Appeals

Any building or use of premises not herein expressly permitted is hereby prohibited.

All uses are subject to dimensional requirements established in Section 4.

Hotel or motel	PB
<b>Commercial Uses (continued)</b>	
Library or museum conducted as a for profit business	PB
Lunch room, restaurant, cafeteria or similar place, for serving food or beverages to persons <b>inside</b> the buildings	PB
Medical or dental office or laboratory	PB
Motor vehicle or farm implement repair to be wholly conducted within a building sufficiently sound insulated to confine disturbing noise to the premises	PB
Multiple Retail or Consumer Services in a single structure, provided that the total building footprint not exceed 20,000 square feet	PB
Personal service establishment (See Section 10, Definitions)	PB
Private lodge or club	Y/SPR
Real estate, insurance or professional office (other than home occupation)	PB
Refreshment stand, drive-in, or other place for the serving of food or beverages to persons <b>outside</b> the building	PB
Retail store for the sale of food, beverages, or merchandise, with all display, storage and sales to be conducted within the building	PB
Sale of motor vehicle fuel, related products and services, not to include motor vehicle repair	PB
Theater, motion picture house, bowling alley, dance hall, arcade, or other indoor commercial amusement or assembly use	PB
Trade, professional or other school conducted as a for profit business	PB
Veterinary establishment, kennel, or place for the boarding of animals	PB
<b>Industrial Uses</b>	
Extractive operations (See Subsection 6.1)	PB
Lumber yard	PB
Publishing, data processing and computer software manufacturing, including associated office and distribution facilities	PB
Research and test facility	PB
Manufacturing, small scale	PB
Warehouse or other enclosed building for the storage, distribution, or wholesale marketing of material, merchandise, products, or equipment	PB
<b>NOTE:</b> Refer to Subsection 6.3 for other requirements related to industrial uses.	
<b>Accessory Uses</b>	
Accessory apartment (See Subsection 3.2.3.6)	Y
Accessory scientific uses	PB

## Table A: Table of Use Regulations

Y = Permitted as of right, N = Prohibited, ZBA = Special Permit / Zoning Board of Appeals

PB = Special Permit / Planning Board, SB = Special Permit / Board of Selectmen

SPR = Site Plan Review / Zoning Board of Appeals

Any building or use of premises not herein expressly permitted is hereby prohibited.

All uses are subject to dimensional requirements established in Section 4.

Adult day care	Y/SPR
Adult Entertainment Use	N
Airstrip or helipad for private use	PB
Artisan shop, retail	PB
Artisan workshop	Y/SPR
<b>Accessory Uses(continued)</b>	
Bed and breakfast	Y/SPR
Boarding house	PB
Commercial auto repair (See Subsection 3.2.1)	PB
Commercial kennel (See Subsection 3.2.1)	PB
Contractor's yard (See subsection 3.2.1.6)	PB
Family day care, large (Refer to G.L. c. 28A, §9)	PB
Family day care, small (Refer to G.L. c. 28A, §9)	Y/SPR
Home occupation by right (See Subsection 3.3.1)	Y
Home occupation by Special Permit (See Subsection 3.3.2)	PB
Overnight parking of heavy-duty commercial vehicles (See subsection 3.2.1.5)	
<b>NOTE:</b> (Refer to Subsection 3.2.2 for other requirements for non-residential accessory uses.)	
<b>NOTE:</b> (Refer to Subsections 4.2.4, 4.2.5, 4.3.2, 4.2.10, 5.1.8, 6.4.8 and 7.1.5.6 related to fences.)	

### Prohibited Uses

Amusement park, go-kart track, commercial motorcross track, or race track	N
Commercial parking lot or parking garage	N
Commercial processing of earth, sand, rock, and gravel	N
Fuel storage plant, truck terminal, used car lot	N
Manufacturing, large scale	N
Mobile homes (See Subsection 6.2 for conditions when mobile home may be allowed)	N
Salvage yard for the dismantling, storage and sale of parts for motor vehicles	N
Slaughterhouse	N
Pig farm, mink farm and fur bearing animal farm on less than 5 acres (see definition of Agricultural use, non exempt)	N
<b>NOTE:</b> Refer to Article 17 of the Town of Becket By-Laws for non-zoning requirements for specified uses.	

## 3.2 ACCESSORY USES OR STRUCTURES

**3.2.1 Permitted Accessory Uses.** The following accessory uses are specifically permitted as indicated by right or by Special Permit on Table A, Table of Use Regulations (Refer to Subsection 3.1.3):

1. Accessory scientific uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit by the Planning Board, provided that the Board finds that the proposed use is not substantially more detrimental to the neighborhood.
2. Adult day care.
3. Commercial auto repair or service. Commercial auto repair or service is allowed as an accessory use on lots of 2 acres or greater upon the issuance of a Special Permit from the Planning Board.
4. Commercial kennels. Commercial kennels are allowed as an accessory use on lots of 2 acres or greater with Special Permit from the Planning Board.
5. Subject to applicable federal and state laws, overnight parking of heavy-duty commercial vehicles:
  - a. The overnight parking of one heavy-duty commercial vehicle either owned or operated by a resident of the premises shall be allowed by right provided the vehicle is not loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment.
  - b. The overnight parking of more than one heavy-duty commercial vehicle, none of which are loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment, shall require site plan approval.
  - c. The overnight parking of one or more vehicles including any loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment, shall require a Special Permit from the Planning Board. The police and fire departments shall be notified by the applicant. Proof of notification to the police and fire department shall be included as part of the Special Permit application.
6. Contractor's yard. Contractor's yard owned or operated by a resident of the premises may be permitted as an accessory use upon the issuance of a Special Permit by the Planning Board. In addition to the requirements of subsection 9.3, the Planning Board shall include consideration of each of the following in making its determination about a special permit:
  - a. Storage of equipment or material. Equipment or material shall be parked within the property lines of the [lot](#) and shall not be parked within the minimum front, side or rear setback; shall not be parked, stored, or placed within 25 feet of any [drainage](#) channel; shall be subject to the Wetlands Protection Act, G.L. c. 131 § 40; shall not be stored under overhead or over buried facilities; shall be located a minimum distance of one hundred feet from any residence, except for an owner's residence; and shall be screened from public view.

- b. Areas used for repairs and maintenance to equipment. Repairs and maintenance to equipment used in conjunction with a contractor's yard shall be conducted in areas where no spills or leakage of fuels or other fluids could pose a pollution hazard.
- c. Normal hours of operation. 6:00 a.m. to 9:00 p.m.
- d. Storage of flammable, noxious or dangerous cargo. Equipment shall not be loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment.

This Special Permit requirement shall only apply to new or expanded contractor's yards after the date of adoption of this requirement, as set forth in Massachusetts General Law Chapter 40A Section 6.

**3.2.2 Nonresidential Accessory Uses.** Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Except as otherwise set forth herein, any use authorized as a principal use by Special Permit may also be authorized as an accessory use by Special Permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where Site Plan Approval is required for a principal use, the addition of any new accessory use to the principal use shall also require Site Plan Approval.

**3.2.3 Residential Accessory Uses.** The following accessory uses are specifically permitted as of right or by Special Permit.

- 1. Boarders in One-Family Dwelling. The renting of rooms and/or furnishing of board to not more than five persons in a one-family dwelling by the owner or occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to six or more persons shall be deemed a boarding house subject to the provisions of the Table of Use Regulations (Refer to Subsection 3.1.3).
- 2. Bed and breakfast.
- 3. Artisan shop.
- 4. Airstrip or helipad for private use.
- 5. Family Day Care Homes. Large and small family day care homes are allowed as an accessory use as specified in the Table of Use Regulations (Refer to Subsection 3.1.3).
- 6. Accessory Apartments. An Accessory Apartment is a self-contained dwelling unit incorporated within a one-family dwelling, but not within any accessory structure(s), and which is a subordinate part of the one-family dwelling and complies with the criteria below.
  - a. Purposes: The purposes for permitting accessory apartments are to:
    - i. Provide older homeowners with a means of obtaining rental income, companionship, security and services, and to thereby enable them to stay in their homes and neighborhoods.

- ii. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make dwelling units available to moderate income households who might otherwise have difficulty finding housing.
  - iii. Develop housing units in single-family neighborhoods that are appropriate for households at various stages in their life cycles.
  - iv. Protect stability, property values, and the single-family residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied primary residence.
- b. Definitions: The following definitions shall apply:

***Accessory Apartment:*** A Dwelling unit (as defined in §10.0), which is created by partition of a Dwelling, one-family (as defined in §10.0). The Accessory Apartment shall have a Net Floor Area as defined in 780 CMR 1002.1 (6<sup>th</sup> ed.), of no less than 300 square feet, and no more than one third of the Net Floor Area of the one family Dwelling in which it is contained up to a maximum of 800 square feet.

Any proposed partition of the interior space of a one family Dwelling which creates a new Dwelling unit of greater size shall be considered the creation of a Dwelling, two-family (as defined in §10.0) and shall be subject to the requirements for two-family Dwellings as set forth in the Table of Use Regulations, §3.1.3; in the Dimensional Requirements, §4.2.9; and all other pertinent sections of the Becket Zoning By-Laws.

- c. Conditions: The Owner(s) of the house in which an Accessory Apartment is proposed shall meet all the following conditions.
- i. The Accessory Apartment shall be a complete, separate housekeeping unit containing cooking, living, sleeping and sanitary facilities and must have two means of egress.
  - ii. An Accessory Apartment shall be built within the existing footprint of the house to which it is being added, with the exception of any exterior entrance porch, stairs or landing. Whenever feasible, such exterior entrance porch, stairs or landing shall be placed on the side or rear of the house, provided that such porch, stairs or landings shall not intrude into required front, side or rear setbacks by more than five feet.
  - iii. Only one Accessory Apartment may be created within a single-family house.
  - iv. The owner(s) of the house in which the Accessory Apartment is created shall continue to occupy at least one of the Dwelling units in that house as their primary or secondary residence.
  - v. An Accessory Apartment shall not be made available for seasonal (summer or ski season) rental, but shall be rented as a full time rental.
  - vi. A minimum of one parking space shall be provided for the Accessory Apartment. This parking space shall be in addition to all existing spaces utilized by the owner(s)

of the house in which the Accessory Apartment is located. If there is any existing unutilized parking space, it shall be allocated to the Accessory Apartment, and shall count towards the parking requirement for the Accessory Apartment.

- vii. The room sizes and overall design of the Accessory Apartment shall conform to all applicable standards of the Massachusetts State Building Code and any other state or local Building, Health, Sanitary or other codes.
- viii. Prior to issuance of a Building Permit for construction of an Accessory Apartment, a floor plan at a scale of ¼ inch equals one foot shall be provided showing both square footage of the building as a whole and the relationship and size of the dominant apartment and the Accessory Apartment to the building as a whole, and elevations in the same scale of any exterior facade of the building which will be changed by the addition of the Accessory Apartment.
- ix. In all cases, whether new construction is required or not, the owner shall obtain a Certificate of Occupancy from the Building Inspector prior to the use of the Accessory Apartment.
- x. Except as otherwise provided for herein, the Accessory Apartment shall comply with all requirements of §9.0, Administration and Enforcement, and all other applicable sections of the Becket Zoning By-Laws.

**3.2.4 Prohibited Accessory Uses.** The following accessory uses are prohibited:

- 1. Unregistered Motor Vehicles. See Article 17, Section 8 of the Becket General By-Laws.
- 2. Adult Entertainment Uses

**3.3 HOME OCCUPATIONS**

**3.3.1 Home Occupation - As of Right.** A home occupation may be allowed as of right, provided that it:

- 1. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
- 2. is clearly incidental and secondary to the use of the premises for residential purposes;
- 3. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
- 4. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
- 5. does not exhibit any exterior indication of its presence or any variation from residential appearance, except for a sign in compliance with Subsection 5.1;

6. does not produce more than incidental customer, pupil, client, or delivery trips to the occupation site and has no nonresident employees;

**3.3.2 Home Occupation - By Special Permit.** A home occupation may be allowed by Special Permit issued by the Planning Board, provided that:

1. it fully complies with Subsections 3.3.1.2, 3.3.1.3 and 3.3.1.4 above;
2. it is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two additional employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees;
3. it does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Subsection 5.1;
4. not more than three home occupations are conducted out of dwelling; in no event shall the number of nonresident employees exceed two in the aggregate;
5. a Special Permit for such use is granted by the Planning Board, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer or other vehicle trips. Such Special Permit shall be limited to five years, or the transfer of the property, whichever first occurs.

### **3.4 NONCONFORMING USES AND STRUCTURES**

**3.4.1 Applicability.** This Zoning By-Law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or Special Permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, §5 after which this Zoning By-Law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

**3.4.2 Nonconforming Uses.** The Planning Board may issue a Special Permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Planning Board:

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.

**3.4.3 Nonconforming Structures.** Except as contained in Subsection 3.4.4, the Planning Board may award a Special Permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Planning Board:

- a. Reconstructed, extended or structurally changed;

- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

**3.4.4 Nonconforming Single and Two Family Residential Structures.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- a. reconstruction, extension, alteration or change to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,
- b. reconstruction, extension, alteration or change to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
- c. reconstruction, extension, alteration or change to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.
- d. reconstruction, extension, alteration or change to an existing nonconforming structure which occurs entirely within the footprint of the existing structure.

In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Planning Board may, by Special Permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The extension of an exterior wall at or along the same nonconforming distance within a required yard shall only require the issuance of a Special Permit from the Planning Board, but if other existing non-conformities are to be increased or new nonconformities created at the same time, the Zoning Board of Appeals may grant or deny the requested relief, instead of the Planning Board.

**3.4.5 Nonconforming Structure-Dimensional Special Permit:** Where a proposed construction, reconstruction, extension or structural change of a nonconforming structure would increase an existing nonconformity or create a new nonconformity, including a further incursion into a setback area (including those changes affecting a single or two-family residential structure), the Zoning Board of Appeals may issue a dimensional Special Permit to allow the increase in an existing nonconformity, new nonconformity, or further incursion wherever it shall find that adjoining areas have been previously developed by the construction of buildings or structures on lots generally smaller than the 2 acres that is prescribed by the current bylaw and the standard of the neighborhood so established is not diminished by allowing such increase, new nonconformity or further incursion into the setback area. The Zoning Board of Appeals may also at the same hearing issue a Special Permit to reconstruct, extend, alter or change the nonconforming structure only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

In all other cases where a Special Permit is required in 3.4.3 and 3.4.4, the Planning Board shall be the issuing authority.

**3.4.6 Abandonment or Non-Use.** A nonconforming use or structure which has been abandoned or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning By-Law; provided, however, that such nonconforming use or structure may be reestablished upon the grant of a Special Permit by the Planning Board.

**3.4.7 Reconstruction after Catastrophe or Demolition.**

1. A nonconforming structure may be reconstructed after a catastrophe provided that such reconstruction shall take place within two years after such catastrophe.
2. A nonconforming structure may be reconstructed after voluntary demolition provided that the reconstruction of said premises shall commence within two years after such demolition. The reconstruction after demolition of any structure other than a one-family dwelling shall require a Special Permit from the Planning Board prior to such demolition.
3. The reconstruction of a one-family dwelling shall be located on the same footprint as the original nonconforming structure and shall be only as great in volume or area as the original nonconforming structure. In the event that the proposed reconstruction would (a) cause the one-family dwelling to exceed the volume or area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a Special Permit shall be required from the Planning Board prior to such demolition.

**3.4.8 Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

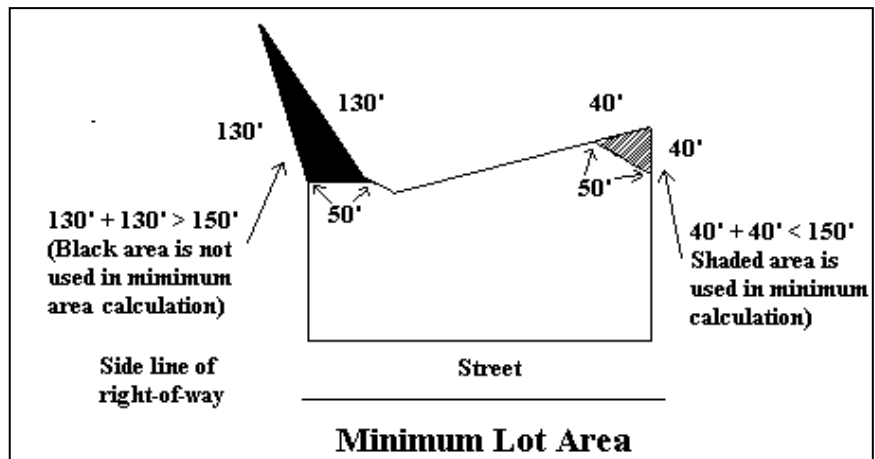
## SECTION 4.0 DIMENSIONAL REQUIREMENTS

**4.1 GENERAL.** A buildable lot may not be so reduced as to fail to satisfy any minimum dimension, area, frontage or setback required for a permitted principal use except as specified in Subsection 7.1. Any building or structure used for dwelling purposes or housing as a permitted principal use shall be so located on a lot as to meet the requirements in Subsection 4.2. Not more than one principal use shall be located on a lot unless otherwise provided herein.

**4.2 DIMENSIONAL REQUIREMENTS.** Table B: Table of Dimensional Requirements describes the minimum lot area, minimum frontage, minimum lot width, minimum front setback, minimum side and rear setback and maximum building height requirements.

Table B: Table of Dimensional Requirements		
Minimum Lot Area	2 acres	See Subsection 4.2.1
Minimum Lot Frontage	200 feet	See Subsection 4.2.2
Minimum Lot Width	160 feet	See Subsection 4.2.3
Minimum Front Setback	40 feet	See Subsection 4.2.5
Minimum Side Setback	20 feet	See Subsection 4.2.6
Minimum Rear Setback	20 feet	See Subsection 4.2.7
Maximum Building Height	40 feet	See Subsection 4.2.8
Additional Dwelling Units		See Subsection 4.2.9
Corner Lot Clearances		See Subsection 4.2.10

**4.2.1 Minimum Lot Area.** No dwelling or other principal building shall be constructed on less than a two (2) acre lot, except where otherwise allowed. When the distance between any two points on lot lines is less than fifty (50) feet measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall not be used to compute lot area unless the distance along such lot lines between the two points is less than one hundred fifty feet (150). See Diagram.

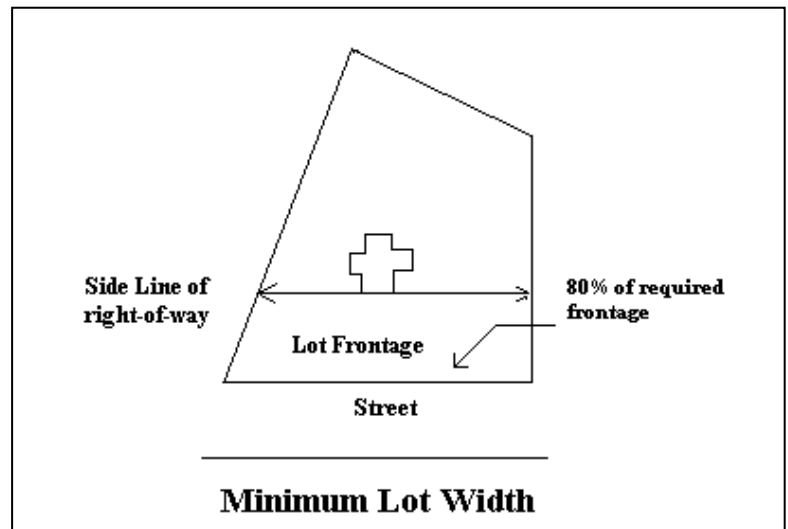


**4.2.2 Minimum Lot Frontage.** No dwelling or other principal building shall be placed on a lot having less than two hundred (200) feet of road frontage.

**4.2.3 Minimum Lot Width.** Each lot shall have a width of not less than one hundred sixty (160) feet at all points between the sidelines and the front line of the principal building on the lot. See Diagram.

**4.2.4 Obstructions.** No private fences, signs, or other obstructions are allowed within a road right of way except mail and newspaper boxes.

**4.2.5 Minimum Front Setback** The minimum setback shall be forty (40) feet from the front lot line (which is the road line), determined by a line extending from one side lot line to the other, parallel to the lot front line. No part of any building, and no accessory structure (other than a permitted sign, mailbox or newspaper box) having a height of more than four (4) feet shall be placed within or protrude into the area between the setback line and the lot front line. In the case of corner lots, the setback line shall be observed for all bordering roads.



**4.2.6 Minimum Side Setback.** The minimum side setback shall be twenty (20) feet, determined by a line parallel to the side lot line and extending from the road lot line to the rear lot line.

**4.2.7 Minimum Rear Setback.** The minimum rear setback shall be twenty (20) feet, determined by a line parallel to the rear lot line and extending from one side lot line to the other side lot line.

**4.2.8 Maximum Building Height.** The maximum height of a building shall be forty (40) feet.

**4.2.9 Additional Lot Area Per Dwelling Unit.** No dwelling for two, three or four dwelling units shall be constructed, converted, or newly occupied unless the lot contains at least the minimum area for one dwelling unit plus one acre and fifty (50) additional feet of lot frontage per dwelling unit for each dwelling unit in excess of one.

**4.2.10 Corner Clearance.** On corner lots, no fence, wall or landscape/plantings shall be located within the clear sight triangle so as to obstruct visibility at the intersection in a manner that will jeopardize the safety of vehicles and pedestrians. The clear sight triangle is that area formed by the intersecting road lines and a straight line joining said road lines at a point twenty-five (25) feet distant from the point of intersection of road lines.

### 4.3 ACCESSORY STRUCTURES

**4.3.1 Dimensional Requirements and Location.** Except as otherwise provided herein, the following dimensional rules shall apply to accessory structures:

1. No accessory building or structure, except a roadside stand with a footprint of less than one hundred twenty five (125) square feet, or a permitted sign shall be located within a required front yard setback.

2. Accessory structures or buildings with a footprint of one hundred twenty (120) square feet or less may be located within twenty (20) feet of a rear or side property line with a Special Permit from the Planning Board.
3. Accessory structures or buildings with a footprint larger than one hundred twenty (120) square feet shall be set back from side or rear property lines in accordance with the provisions of the Table of Dimensional Requirements. (Refer to Subsection 4.2.)
4. An accessory building attached to its principal building or within ten (10) feet of it shall be considered an integral part thereof and as such shall be subject to the front, side, and rear yard and height requirements applicable to the principal building.
5. Accessory structures and buildings shall be located on the same lot as the principal structure on the premises.

**4.3.2 Permitted Accessory Structures.** The following accessory structures are permitted:

1. Accessory buildings not more than twenty (20) feet in height above the average grade level around the structure, except where otherwise regulated under Subsection 4.3.1.4; provided, however, that a barn may have a maximum height of above the average grade level of up to forty (40) feet.
2. Boundary fences, walls, or hedges shall be permitted provided that they do not exceed six (6) feet in height. Boundary fences, wall, or hedges greater than six (6) feet may be allowed by Special Permit from the Planning Board. No fence which obstructs vision shall exceed four (4) feet in height within twenty five (25) feet of the street line or within twelve (12) horizontal feet of a habitable room in an abutting dwelling.
3. Flag poles of a height not to exceed twenty (20) feet are permitted and shall be exempt from the setback requirements of this Section.
4. Swimming pools, game courts, and the like are accessory structures and shall comply with the State Building Code and all applicable setback requirements of these Zoning By-Laws.

**4.3.3 Prohibited Accessory Structures.** The following accessory structures are prohibited, unless, in the case of a lawful business use, a Special Permit is granted from the Planning Board:

1. Connex box;
2. Steel storage unit.

## **SECTION 5.0                    GENERAL REGULATIONS**

### **5.1    SIGN REGULATIONS**

**5.1.1 Purpose and Applicability.** All signs are subject to sign restrictions. Some signs are subject to permits from the property owner, Planning Board, and/or Building Inspector. Enforcement of this Section shall not infringe upon protected noncommercial speech and a property owner's right to freedom of speech. It is the intent of this Zoning By-Law to achieve consistency to address public convenience and safety and not to extend nonconforming uses.

**5.1.2 Sign Standards.** The following standards shall apply:

1. Exterior sign illumination shall be shielded and directed solely at the sign.
2. No sign shall use moving parts or noise making devices. No sign shall be internally lit or use blinking, rotating or flashing devices, or red lights or lights changing in intensity.
3. No sign shall be a roof sign.
4. No sign or light shall be placed within road limits or so as to constitute a hazard to pedestrian or vehicle traffic. On corner lots, no sign may be located within the clear sight triangle so as to obstruct visibility at the intersection in a manner that will jeopardize the safety of vehicles and pedestrians.
5. A freestanding temporary or permanent sign may not be placed more than sixteen (16) feet above grade or be closer to the front or side property line than twenty (20) feet, except with a Special Permit from the Planning Board where the Board finds that the requirements of the particular location dictate greater height or smaller setback.
6. Wall signs must have a permit from the Building Inspector.
7. Pursuant to the provisions of G. L. c. 266, § 126 signs shall not be posted on utility poles.
8. A subdivision sign not exceeding six (6) square feet may be placed at each curb cut to the entrance to the subdivision and must identify premises; if freestanding, it must comply with Subsection 5.1.4. Signs advertising subdivision real estate for sale must comply with Subsection 5.1.4 and be placed so as not to obstruct subdivision identification signs.
9. No sign shall be placed so as to obstruct other signs.
10. No sign shall be located off the premises to which it applies, except that directional, informational, or identification signs may be allowed by Special Permit by the Planning Board where such signs will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design. Individual off-premise signs shall be unlit and shall not be over four (4) square feet in area.
11. Where appropriate and subject to design review, off-premise signs shall be grouped together at strategic locations and may be externally lit. Grouped off premise signs shall not exceed sixteen (16) square feet.

12. Every sign shall be maintained in good condition. Any sign that suffers damage or deterioration or which has been abandoned and which creates a risk of harm to persons or property shall be repaired or removed.

13. No sign shall be a billboard.

14. Window signs shall not cover more than 50% of each transparent surface.

**5.1.3 Accessory Signs.** The following permitted accessory signs are allowed by right.

1. Signs, not exceeding two (2) square feet in total area and bearing only names of residents or other identification of premises not having commercial connotations.

2. One sign, not exceeding six (6) square feet in total area, for a permitted accessory use on the premises. If free standing, both sides of the signboard may be used.

3. Signs, not exceeding sixteen (16) square feet in total area, for commercial or nonresidential uses. If free standing, both sides of the signboard may be used.

4. Street and traffic signs on public or private roadways shall conform to applicable Massachusetts General Law.

5. Handicapped parking space signs, as required by G. L. c. 40 § 21(23)b.

**5.1.4 Temporary Signs.** The following temporary signs are permitted on public or private property with written permission of the property owner:

1. Temporary signs covering a holiday, entertainment and fundraising events must be firmly attached to a supporting device and must present no undue hazard to the public. Such signs may be displayed for a period not to exceed three (3) months with a permit from the Building Inspector and a new application filed annually.

2. One sign not exceeding four (4) square feet advertising real estate for sale or rent, located on the property advertised. A real estate sign may be closer to the front property line than twenty (20) feet, provided that it does not constitute a traffic hazard. If pertaining to a subdivision, while under development, such signs may be located at only one entrance to the subdivision on property which is part of the subdivision.

3. Signs pertaining to yard sales. Such signs may be displayed three (3) days prior to the event and must be removed the day following the event.

4. Sign not exceeding four (4) square feet, each indicating parties involved in construction or remodeling of the premises. Each sign shall be removed promptly after completion.

**5.1.5 Sign Permits.** All applications for temporary sign permits must be submitted to the Building Inspector annually. Any other signs requiring a permit shall be submitted to the Planning Board and/or Building Inspector as required.

1. The application for any sign permit shall be in writing and include: (1) the size, location, materials, length of time to be displayed, wording and method of display; and (2) plot plan and sketch indicating location of proposed and any existing signs.
2. An applicant other than the Owner of Record must have written permission for placement of sign from said owner.

**5.1.6 Fees.** Fees for sign permits shall be established by the Building Inspector.

**5.1.7 Preexisting Signs.** Signs legally existing at the time this Zoning By-Law is adopted may continue to exist and shall be maintained in good condition provided that no such sign shall be changed in size, shape, construction, location, coloring, symbols, lettering, except as provided in Subsection 3.4.

**5.1.8 Definitions.** The following definitions shall apply to signs:

***Clear Sight Triangle:*** That area formed by the intersecting road lines and a straight line joining said road lines at a point twenty five (25) feet distant from the point of intersection of road lines.

***Owner of Record:*** The owner recorded at the Registry of Deeds.

***Sign:*** Any permanent or temporary structure, object, device, letter, word, model, banner, awning, pennant, insignia or trade flag, situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, products, service, event or location.

***Sign, Accessory:*** Any sign that advertises, or indicates the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or advertises the property itself or any part thereof for sale or rent, and which contains no other matter.

***Sign, Area of:*** The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any “cutouts” or extensions, but shall not include any supporting structure or bracing.

***Sign, Awning:*** Permanent roof-like structure or canopy supported by and extending from the façade of the building when it contains lettering or graphics. An awning sign is an on-premise accessory sign.

***Sign, Billboard:*** A panel or structure designed to carry outdoor advertising for display in public places or along public or private roadways.

***Sign, Freestanding:*** A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer signs.

***Signs, Off-Premises:*** Permanent or temporary, including but not limited to directional signs.

***Sign, Roof:*** A sign which is located above, or projected above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof.

***Sign, Temporary:*** Any sign, including its support structure to be maintained for a continuous period of not more than three (3) months and which is not permanently mounted. This includes any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to: trailer signs; signs converted to A- or T- frames; and menu and sandwich board signs.

***Sign, Traffic:*** Signs directing traffic flow such as Stop, One-Way, Yield and Merge, consistent with the Federal Department of Transportation Regulations and also recommended by the Chief of Police.

***Sign, Wall:*** Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six inches from the surface of that building.

***Sign, Window:*** Signs on or in windows or transparent doors.

## **SECTION 6.0                    SPECIAL REGULATIONS**

### **6.1 REMOVAL OF EARTH PRODUCTS**

**6.1.1 Applicability.** Except when incidental to and in connection with the construction of a structure or incidental to the grading and developing of contiguous property, the removal of sod, loam, clay, sand, gravel, stone or other earth materials shall be permitted only after issuance of a Special Permit by the Planning Board after a public hearing in accordance with Subsection 9.3 of the Zoning By-Law. The Board shall impose such conditions as will protect the neighborhood and Town against temporary and permanent hazards because of conditions which may be left after operations are completed or because of the methods of handling such materials at the site or of transporting such materials throughout the Town.

**6.1.2 Application Procedure.** The application to the Planning Board for a Special Permit for the removal of earth products shall include the following information:

1. The location of the proposed excavation(s).
2. The legal name(s) and address(es) of the property owner(s).
3. The legal name(s) and address(es) of the petitioner(s).
4. Names and addresses, including mailing addresses, of all abutting property owners located within three hundred (300) feet of the applicant's property line including those on the opposite side of any public or private way.
5. A plan of the land involved plus a strip one hundred (100) feet wide surrounding said land, prepared by a Registered Land Surveyor or Professional Engineer, showing all man-made features, property lines, vegetation cover, water courses, water bodies, drainage swales, and soil characteristics. Existing topography shall be shown at ten-foot contours, plus proposed contours at ten-foot intervals showing the finish grade of the site after completion of the proposed excavation project.
6. The estimated quantity of material to be removed or added and topsoil to be stripped, stockpiled and replaced.
7. Depth of excavation.
8. Steepness of slopes to be excavated.
9. Temporary or permanent drainage.
10. An erosion and sediment control plan.

**6.1.3 Performance Bond.** An irrevocable performance bond, or other form of surety satisfactory to the Planning Board, in the amount determined by the Planning Board, shall be posted to ensure the satisfactory compliance with this Section. The bond shall not be released until the applicant has certified in writing and the Planning Board has determined that the restoration has been completed in compliance with the permit and plan.

**6.1.4 Standards for Extractive Operations.** The following standards shall apply to removal of earth products.

1. A minimum lot size of fifty (50) acres is required. Any lakes, ponds, streams, wetlands plus a minimum buffer strip of one hundred (100) feet is excluded from the computation to meet the minimum lot size requirements.
2. Topsoil and subsoil stripped from the operating area shall be stockpiled at the site, seeded with an erosion-control seed mixture and used in restoring the area.
3. No removal or extraction shall take place within three hundred (300) feet of any existing public or private way.
4. No removal or extraction shall take place within three hundred (300) feet of an adjacent property line or within one hundred (100) feet of any wetlands or within two hundred (200) feet of any river as defined in G. L. c. 131 § 40 as amended (Wetlands/Rivers Act).
5. No area shall be excavated or filled so as to cause the accumulation of standing water unless the Planning Board shall permit the creation of a pond by Special Permit in accordance with Subsection 9.3 of the Zoning By-Laws and upon the approval by the Conservation Commission.
6. Excavation for removal of earth, sand, gravel, and other soils shall not extend closer than eight (8) feet above the annual high groundwater table. Monitoring wells shall be installed by the property owner or applicant to verify groundwater elevations.
7. The actively disturbed area shall not exceed a total twelve (12) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction.
8. Operating hours, including the transportation of materials, shall be between 7:00 a.m. and 4:00 p.m., Monday thru Friday, Saturday 7:00 a.m. thru noon. No operation shall be allowed on Sundays and Federal and State Holidays.
9. The operator shall be responsible for cleaning spillage on public or private ways or properties.
10. Security and fencing: The plan shall provide for security to avoid any hazards such as erosion, falling rock, or unauthorized trespass.
11. The noise level at the property line shall not exceed these maximum permitted sound pressure levels. Measurements to determine compliance with these standards shall be provided by the applicant upon request of the Building Inspector. Such measurements, taken at property lines of subject property and at adjoining properties as directed, may be made by any public or private agency, or person licensed or certified to perform such measurements and using competency standards, procedures and equipment approved by the Town of Becket. Acoustical terminology is that most recently approved by the American National Standards Institute (ANSI):

a. Noise level at the property line shall not exceed 57.5 dB(A). The term dB(A) shall mean A-weighted sound pressure level in decibels as measured on a general purpose sound level meter complying with the provisions of American Standard for General Purpose Sound Level Meters (sl.4-1971, ANSI, or OSI (1999), properly calibrated and operated on the A weighting network..

b. Reference pressure shall be 0.0002 microbars (background noise/level).

12. Impact on town ways. The use of town ways to transport loads shall be in conformance with Massachusetts General Laws and Town Betterment By-Laws. For Town ways which are used exclusively for the transport of the applicant's products or equipment, the Planning Board shall/may require that the applicant post financial security in an amount sufficient to assure proper maintenance and restoration. The Planning Board may require that a qualified consultant, to be paid for by the applicant, give an estimate of the dollar amount of the bond or surety to be posted.

**6.1.5 Decision.** The Planning Board may impose conditions, not specifically provided for herein, on any Special Permit relating to earth removal. Any and all conditions imposed by this or other Boards shall be attached to and made part of the Special Permit. The Special Permit shall be issued for no more than a maximum of five years and may be renewed. Renewal, extension or modification of a Special Permit for removal of earth materials shall be treated as a new application.

**6.1.6 Reclamation Standards for Extractive Operations.** Reclamation, for the purpose of this Section, shall mean that all land and/or affected areas are to be rehabilitated to a condition at least fully capable of supporting all practical uses which the area was capable of supporting prior to such operations. The Planning Board shall regulate the conversion of an ongoing or abandoned excavation site and its continuing use or reuse according to, but not limited to, the following conditions:

1. Reclamation shall be carried on simultaneously with excavation so that, for excavation only, when a five (5) acre operation area has been excavated, at least two (2) of those acres must be restored before work commences on the next two (2) contiguous acres. Final reclamation work shall be completed at least ninety (90) days prior to the expiration of the Performance Bond.

2. Unless the permit conditions expressly require alteration of drainage patterns, the land shall be left so that natural storm drainage shall leave the property at the original natural drainage points, and so that the total discharge at peak flow as well as the area of drainage to any point is not increased (per Mass. Department of Environmental Protection storm management criteria).

3. All soil slopes created shall be finished at a grade of two (2) horizontal feet per one (1) vertical foot or less. Rock faces generated are to be finished without projections or overhangs.

4. Should the operation become inactive for a period of two (2) years, the site is to be reconstructed to resemble its original appearance and shall have not less than six (6) inches of soil restored over the area removed and be seeded with an erosion-control seed mixture. All machinery and temporary structures are to be removed. A bond or some form of surety shall be posted to ensure the reconstruction within one year of the expiration of the two year inactivity period.

5. In the case of continuing operations in one general locus, recovering the finished cut banks with a minimum of four (4) inches of soil and seeding with an erosion control seed mixture is required.

**6.1.7 Special Provisions.** The removal of topsoil and/or loamy subsoil from the Town of Becket is prohibited. No Special Permit shall be required for the following:

1. Removal of earth products on an operating farm, plant nursery or cemetery to the extent that such removal is necessary to the operation.
2. The occasional moving and removal of earth products for the maintenance, repair, or improvements of any existing roads.
3. Any operation that will remove less than twenty-five (25) cubic yards in a twelve month period.
4. Activities under Title V shall be exempt.

## **6.2 MOBILE HOME REGULATIONS**

**6.2.1 General.** No mobile home shall be located in the Town except under the following conditions.

**6.2.2 Catastrophe.** A mobile home may be occupied as a temporary dwelling for a period not to exceed twelve (12) months by the owner and occupier of a residence which has been destroyed by fire or other natural disaster while the residence is being rebuilt on the same lot, subject to the approval by the Board of Health prior to its occupancy.

**6.2.3 Special Permit Required.** No mobile home shall hereafter be parked or relocated within the limits of the Town except by Special Permit from the Zoning Board of Appeals for an extended period not to exceed twelve (12) months. Any mobile home being parked or relocated in accord with the foregoing cannot be occupied as a habitation without approval by the Board of Health prior to its occupancy.

**6.2.4 Replacement.** In the case of a mobile home located within the limits of the Town on or before February 28, 1970, on a lot owned by the owner of said mobile home, said mobile home may be replaced by another, of similar size but no greater than the length of the existing mobile home in the same location on the lot with a certificate of occupancy from the Building Inspector, provided such replacement takes place within one year of the removal or demolition of the original mobile home.

**6.2.5 Recreational Trailers.** Travel or camping trailers or self-contained motor homes, not being used for living purposes, may be parked on the owner's premises and be exempt from the provisions of this Section, provided that mobility is maintained and certified by valid attached registration plates as issued by the state of origin.

**6.2.6 Use of Recreational Trailers.** Travel or camping trailers and self-contained motor homes may be located and occupied for a period not to exceed thirty (30) days, in a trailer camping area located, licensed and operating in the Town of Becket prior to December 6, 1976. In addition, travel or camping trailers and self-contained motor homes may be parked or stored in said camping area, provided mobility is maintained and certified by valid attached registration plates as issued by the state

of origin and further provided that such parking or storage area be suitably screened from view from either public road or abutters' property.

### **6.3 INDUSTRIAL USES**

All operations shall be such as to confine disturbing smoke, fumes, dust, and noise to the premises and further, no operations shall be hazardous by reasons of potential fire, explosion, radiation or other contamination.

### **6.4 WIRELESS COMMUNICATIONS**

**6.4.1 Purpose.** The purpose is to outline the special permitting process to site a wireless communication facility within the Town of Becket, while minimizing potential damage and adverse visual impacts of wireless communication facilities on adjacent properties, residential neighborhoods, and areas of historic or high scenic value; to allow the provision of necessary wireless communication services in an orderly way; and to promote shared use of existing facilities which reduce the need for new facilities.

#### **6.4.2 Definitions.**

DISTANCE shall be measured on a horizontal plane.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

HEIGHT shall be the distance measured from ground level to the highest point on the structure.

NON-RESIDENTIAL STRUCTURE shall mean such structures as but not limited to buildings, grain silos, and water towers, but does not include houses or apartments.

WIRELESS COMMUNICATION BUILDING shall mean any building or shelter used to house equipment primarily for generating and detecting electromagnetic radiation and is an accessory to a wireless communication structure.

WIRELESS COMMUNICATION DEVICE shall mean any antenna, appurtenance, wiring or equipment used in connection with the reception or transmission of electromagnetic radiation which is attached to a structure.

WIRELESS COMMUNICATION FACILITY shall be used as a general term to include wireless communication building, wireless communication device, and wireless communication structure.

WIRELESS COMMUNICATION STRUCTURE shall mean any structure or tower intended to support equipment used for the transmission and reception of electromagnetic radiation, including the antennas, wiring or other devices attached to or mounted on a structure.

**6.4.3 Exemptions.** The following shall be exempt from this by-law:

1. Wireless communication facilities used for Town or State emergency services.

2. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the Federal Communications Commission and used solely for that purpose.
3. Wireless communication structures and devices used expressly for home television and radio reception.

#### **6.4.4 General Guidelines.**

1. No wireless communication facility shall be erected, constructed, or installed without a Special Permit from the Planning Board.
2. Wherever feasible, wireless communication devices shall be located on existing towers or other non-residential structures, minimizing proliferation of new towers.
3. Wireless communication structures shall be built so that the structural integrity of the facility is able to accommodate devices operated by another carrier with little or no modification.
4. Wireless communication buildings shall be no larger than five hundred (500) square feet and twelve (12) feet high, shall be designed to match other accessory buildings on site, and shall be used only for the housing of equipment related to this particular site.
5. Any change in use of the structure must be pre-approved by the Planning Board.

#### **6.4.5 Setbacks.**

1. The minimum distance from the base of the wireless communication structure to any property line or road right-of-way shall be at least 1.25 times the height of the structure.
2. The minimum distance from any guy wire, anchor or brace to any property line or road right-of-way shall be equal to the length of the guy wire.
3. The setbacks for the wireless communication building shall comply with the setback requirements for the zoning district.
4. The wireless communication structure shall be a minimum distance of three (3) times the height from school buildings, including playgrounds and athletic fields, and abutting residences to prevent the structure from appearing to “tower” over, adversely affecting property values.

#### **6.4.6 Siting and Height Requirements.**

1. The height shall be the minimum height necessary to accommodate anticipated and future use.
2. Wireless communication structures are encouraged on State lands, provided that said lands are not subject to the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts. If facilities predating this by-law exist on such lands, the shared use of such facilities is encouraged.

3. The wireless communication structure shall, when possible, be sited off ridge lines and where their visible impact is the least detrimental to valuable historic and scenic areas. “Valuable” should be determined by any appropriate Town Board(s) and can include views that the Town has identified as scenic or views listed in the Massachusetts Landscape Inventory. G.L. c. 131, §39A, conducted by Massachusetts Dept. of Environmental Management, 1982.

**6.4.7 New Structures.** No new wireless communication structure shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing wireless communication structure can accommodate the applicant’s proposed wireless communication device. Evidence submitted to demonstrate that an existing structure can not accommodate the applicant’s proposed device may consist of any of the following:

1. No existing wireless communication structures or non-residential structures are located within the geographic area required to meet the Town of Becket’s and applicant’s engineering requirements.
2. Existing wireless communication structures or non-residential structures are not sufficient height to meet the applicant’s requirements.
3. Existing wireless communication structures or non-residential structures do not have sufficient structural strength or cannot be brought up to appropriate strength to support the proposed wireless communication device.
4. The proposed wireless communication device would cause electromagnetic interference with the existing devices on the site, or the existing devices would cause interference with the proposed wireless communication device.
5. The fee, costs, or contractual provisions required by the owner in order to share an existing wireless communication structure or to adapt an existing structure for use are unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing structures unreasonable.

**6.4.8 Design Requirements.**

1. Wireless communication structures shall be designed to accommodate the maximum number of users as technologically possible.
2. There shall be no signs or advertisements, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.
3. All wireless communication devices shall be colored, molded, and/or installed to blend into structure and/or the landscape.
4. The facility shall be fenced to control access.
5. Night lighting of the facility shall be prohibited unless required by the FAA. If required by the FAA, a copy of the FAA permit requiring lighting should be submitted with the application.

6. There shall be a maximum of one parking space at each facility to be used in connection with maintenance of the site and shall not be used for the storage of vehicles or other equipment.
7. Existing on-site vegetation shall be preserved to the maximum extent possible.
8. Vegetative screening shall be used to screen abutting residential properties and roadways. Plants that fit in with the surrounding natural vegetation shall be used.

**6.4.9 Application Process; New Structure.** Applications for a Special Permit for siting wireless communication facilities shall be filed in accordance with rules and regulations already established in the Zoning By-Law. To site a new wireless communication structure, the Applicant shall submit 12 copies of the information set forth below along with the application form to the Planning Board.

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40' or 1" = 200', where appropriate, on as many sheets as necessary to show the following:
  - a. north arrow, date, scale, seal(s) of the licensed professional(s) who prepared plans and space for the reviewing licensed engineer's seal;
  - b. name and address of landowner and names and addresses of abutters;
  - c. property lines and location of permanent structures or buildings within a five hundred (500) foot radius of proposed wireless communication structure;
  - d. existing (from a topographical survey completed within 2 years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contours at a maximum of two (2) foot intervals and spot elevations at the base of all the proposed and existing structures;
  - e. vegetation to be removed or altered;
  - f. plans for drainage of surface water and plans to control erosion and sedimentation, both during construction and as a permanent measure;
  - g. delineation of wetlands, if any;
  - h. location of wireless communication structure, including supports or guy wires, if any;
  - i. plans for anchoring and supporting the structure, including specifications of hardware and all other building material;
  - j. plans for accessory buildings;
  - k. layout and details of surfacing for access road(s) and parking;

- l. amenities such as lighting, fencing and landscaping;
    - m. four (4) view lines in a one to three-mile radius of the site, beginning at True North and continuing clockwise at ninety-degree intervals and additional view lines from any historic, scenic, or other prominent areas of Town determined by the Planning Board;
    - n. plans for a well or other water source, if any;
    - o. plans for any septic system, if any;
    - p. plans for maintenance of roads necessary to access and maintain the property.
  2. A map showing areas covered/served by the proposed wireless communication structure and device of different signal strengths, and the interface with adjacent service areas.
  3. A locus map at a scale 1"=1000' which shall show streets, buildings, and landscape features.
  4. A description of the soil and surficial geology at the proposed site.
  5. A narrative report written by the carrier and licensed professional engineer which shall:
    - a. Describe the justification of proposed site.
    - b. Describe the structure and the technical, economic, and other reasons for the facility design.
    - c. Describe the capacity of the structure, including the number and the type of additional facilities it can accommodate.
    - d. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
    - e. Describe the projected future needs of the carrier, and how the proposed wireless communications facilities fit with the future projections to serve the Town and adjacent towns.
    - f. Describe leasing agreement should another carrier desire to co-locate.
    - g. Describe special design features to minimize the visual impact of the proposed facility.
    - h. Describe in detail the steps which the carrier will follow in the event of an emergency, such as fire or collapse of the tower. In particular, what are the responsibilities of the carrier and how are the town officials to be notified for the safety of personnel, town and personal properties?
  6. Proof of approval of all other necessary permits needed for construction and operation.
  7. If the proposed facility is taller than zone height restrictions, after the application is

submitted, and not more than fourteen (14) days before the public hearing, the applicant shall arrange to fly a two-foot-diameter balloon at the site of the proposed wireless communication structure at the maximum height of the proposed installation. The date and location of the flight shall be advertised at least fourteen (14) days, but not more than twenty one (21) days before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the town.

**6.4.10 Application Process; Existing Nonresidential Structure.** Applications for a Special Permit for siting wireless communication facilities shall be filed in accordance with rules and regulations already established in the Zoning By-Law. To site on an existing nonresidential structure, such as buildings, grain silos, steeples, water towers or other non-residential structures, the Applicant shall submit 12 copies of the information set forth below along with the application form to the Planning Board.

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1"=40' or 1" = 200', where appropriate, on as many sheets as necessary to show the following:
  - a. north arrow, date, scale, the seal(s) of the licensed professional(s) who prepared the plans and a space for the reviewing licensed engineer's seal.
  - b. plans for supporting and attaching the device, including specifications of hardware and all other building material.
  - c. building plans for accessory buildings, if any.
  - d. layout and details of surfacing for access road and parking, if it is to be altered from existing condition.
2. A map showing the areas covered by proposed device(s) of different signal strengths and the interface with adjacent service areas.
3. A narrative report written by the carrier and licensed professional engineer which shall:
  - a. include a draft of the contract between the structure/building owner (whichever appropriate) and the Applicant.
  - b. demonstrate that the wireless communication structure or non-residential structure to which the device will be mounted has the structural integrity to support such a device.
  - c. describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC.
  - d. describe the projected future needs of the carrier and how the proposed facility fits with future projections.
  - e. describe in detail the steps which the carrier will follow in the event of an emergency, such as fire or collapse of the tower. In particular, what are the responsibilities of the carrier and how are the town officials to be notified for the safety

of personnel, town and personal properties?

4. Proof of approval of all other permits needed for construction and operation.
5. If the proposed facility adds more than five (5) feet to the height of the structure at the effective date of this by-law and will exceed zone height restrictions, the Planning Board may require a balloon test as described herein.

#### **6.4.11 Approval.**

1. In granting a Special Permit for wireless communication facilities, in addition to the findings required by the Town's Zoning By-Law for Special Permits, the Town of Becket Planning Board shall find:
  - a. That the Applicant has demonstrated to the satisfaction of the Planning Board that the requirements of this by-law have been met.
  - b. That the size and height of the structure is the minimum necessary.
  - c. That the proposed wireless communication facilities will not adversely impact historic structures or scenic views.
  - d. That there are no feasible alternatives to the location of the proposed wireless communication facilities, including co-location that would minimize their impact, and the applicant has exercised good faith in permitting future co-location of facilities at the site.
2. When considering an application for wireless communication facility, the Planning Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences, and the Board will encourage the use of existing structures.
3. Any extension or construction of new or replacement towers or transmitters shall be subject to the Special Permit, following the same procedure as siting a new wireless communication device.

#### **6.4.12 Conditions of Use.**

1. An initial bond shall be posted by the applicant to cover construction costs and removal cost of a facility in the event of non use and an annual maintenance bond for the access road, site, and structure(s) in an amount approved by the Planning Board. An access road may include existing town roads not designed for heavy traffic and which are not paved.
2. Regulatory Compliance.
  - a. Annual certification demonstrating structural integrity and continuing compliance with current standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector by the Special Permit Holder, and shall be reviewed by a licensed professional engineer hired by the town and paid for by the Special Permit Holder.

b. If the FCC or the FAA regulations are changed, the owner or operator shall bring the facilities into compliance within six months or earlier if a more stringent compliance schedule is included in the regulation.

c. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings, and devices at the owner's expense.

### 3. Removal and Repair.

a. An applicant must either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of removal with the Town of Becket Planning Board agreeing to remove, within 180 days of notice from the town, the wireless communication facility not in operation for a period of twelve months, unless the reason for non-operation is the result of major damage. The Board may hire professional consultants to determine the amount of bond or security required. Such bond or security, if filed and deposited, shall be approved as to form and manner of execution by Town Counsel, and shall be contingent on the completion of repairs or removal.

b. If the facility is not removed within 180 days, the Town will remove said facility at the owner's expense.

c. In the event of major damage, repair must begin immediately or as soon as possible. Major damage shall mean damage to the facility caused by no fault of the owner or operator.

### 4. Accommodation of Emergency Communications.

a. An applicant who seeks to site a wireless communications facility on a new structure must first provide the chiefs of the Town of Becket's emergency services (police, fire, ambulance, highway, emergency coordinator and emergency dispatch) with a copy of the plans for the proposed new structure. Providing six additional sets of the information required under § 6.4.9 (1) of the Bylaw to the chairperson of the Planning Board will be sufficient to meet this requirement.

b. The new wireless communications structure must reserve adequate space to allow for the mounting and connection of one or more antennas for the use of these emergency services to the structure and adequate space in the wireless communication building to allow for the necessary equipment to serve the(se) antenna(s).

c. It shall be the sole responsibility of the chiefs of the emergency services to determine and communicate to the applicant what, if any, emergency communications needs exist now and in the future. The applicant and its licensed professional engineer shall assist the chiefs in determining how antennas mounted on the proposed new structure can serve those needs.

## 6.5 SMALL WIND ENERGY SYSTEMS

**6.5.1 Purpose.** The purpose of this subsection is to provide a permitting process for small wind energy systems (SWES) so that they may be utilized in a cost-effective, efficient, and timely manner to increase the use of distributed generation; to integrate these systems into the community in a manner that minimizes their impacts on the character of neighborhoods, on property values, and on the scenic, historic, and environmental resources of the Town; and to protect health and safety, while allowing wind energy technologies to be utilized.

**6.5.2 Applicability.** One or two SWES on a lot, which meet all the criteria of this subsection, are permitted as of right with Site Plan approval on lots of less than two acres. Site Plan approval requirements are specified in subsection 9.4. One or two SWES on a lot, which meet all the criteria of this subsection, are permitted as of right on lots of 2 acres or greater. More than two SWES on a lot or combination of lots of any size, which meet all the criteria of this subsection, may be allowed by Special Permit from the Planning Board. The Planning Board may grant a Special Permit only if it finds that the application complies with the provision of this subsection and is consistent with the applicable criteria for granting Special Permits as specified in subsection 9.3. The maximum permitted tower height on any given lot is subject to the design requirements specified in subsection 6.5.4.

### 6.5.3 Definitions

The following definitions shall apply:

**Fall Zone:** The area on the ground from the base of a tower that forms a circle with a radius equal to the tower height, including other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**Small Wind Energy System:** All equipment and structures utilized in connection with the conversion of wind to electricity that is intended primarily to, but not limited to, reduce on-site consumption of utility power. This includes, but is not limited to, a wind turbine, a tower and associated control or conversion electronics.

**Tower Height:** The height from the existing grade of the fixed portion of the tower to the blade tip of the turbine at the highest point of its rotation or the highest point of the SWES.

**6.5.4 Design Requirements:** The following design requirements shall apply to SWES:

1. Tower Height: The maximum permitted tower height on any given lot is subject to the design requirements specified in subsection 6.5.4 but in no instance shall any tower height be 200 ft. or greater.
2. Setbacks:
  - a. The minimum horizontal distance from the base of any tower structure to any property line or road right-of-way shall be 125% of the tower height. The minimum horizontal distance to any existing residence not occupied by the SWES applicant shall be the greater of 300 feet or 300% of the tower height.
  - b. No part of the SWES, including guy wire and anchors, may extend closer to the property boundaries than the set back for the zoning district in the dimensional table in Subsection 4.2.
  - c. The setback distances specified in 6.5.4.2.a. and 6.5.4.2.b for any SWES may be reduced by Special Permit from the Zoning Board of Appeals for SWES proposed on lots of less than 2 acres and by Special Permit from the Planning Board for SWES proposed on lots of 2 acres or greater consistent with the requirements of public health, safety, and welfare and the purposes of this Subsection. If the setback distances are reduced so that the “fall zone” of the tower includes land on abutting and adjacent property, such reduction shall only be permitted if the affected property owner(s) executes a recorded easement allowing the fall zone onto such property(s).
  - d. Setbacks need not be cleared of trees or other vegetation.
3. Access: All SWES shall be designed and maintained, to prevent unauthorized access.
4. Color and finish: A non-reflective exterior color designed to blend with the surrounding environment shall be used. No decorations shall be allowed.

5. Visual Impact: The applicant shall demonstrate through project site planning and proposed mitigation that the SWES minimizes impacts on the visual character of surrounding neighborhoods and the community to the extent practical. This may include, but not be limited to:
  - a. information regarding site selection, turbine design or appearance, buffering, screening, or lighting.
  - b. To the extent practical electrical conduits shall be underground.
  - c. No logos, designs, or other signage shall exceed two square feet in total area.
6. Noise: Small Wind Energy System shall comply with the Massachusetts noise regulation (310 CMR 7.10) and most current related DEP Policies or Guidelines. Noise analysis may be required to be performed by a professional engineer.
7. Compliance with Federal Aviation Administration (FAA) requirements: All SWES shall comply with applicable FAA regulations.
8. Tower Location: Any SWES shall be subject to the Wetlands Protection Act G.L. c. 131 §40.

**6.5.5 General Requirements:** The following general requirements shall apply to SWES.

1. An application for a SWES must be prepared by a qualified person or firm, such as a licensed engineer. This provision may be waived by the appropriate permitting body if in the opinion of the permitting body the material submitted is deemed sufficient to make a decision.
2. Construction: The construction, operation, maintenance and removal of SWES shall be consistent with all applicable town, State, and Federal requirements, including all applicable health, safety, construction, environmental, electrical, communications and aviation requirements.
3. Operation and Maintenance: An application for a permit for a SWES shall include a plan for the general procedures for safe and effective operation and maintenance of the system, including guy wires, anchors, support structures and lubricants.
4. Approved Wind Turbines: Proposed small wind turbine makes and models must appear on the approved list of the California Energy Commission Lists of Eligible Small Wind Turbines or New York State Energy Research and Development Qualified Wind Generators, or a similar list approved by the Commonwealth of Massachusetts if one becomes available.
5. Compliance with State Building Code: Building permit applications for small wind energy systems shall comply with the state building code and all applicable local, state and national electrical codes.
6. Utility Notification: All grid connected installations must comply with the Uniform Standards for Interconnecting Distributed Generation. Off- grid systems shall be exempt from this requirement.

7. An application for a permit for a SWES shall include a plan for its removal.

### **6.5.6 Abandonment and Removal**

1. Abandonment: A SWES shall be considered to be abandoned if it is not operated for a period of two years or if it is designated a safety hazard by the Building Inspector. If the Building Inspector determines that a SWES is abandoned, the owner shall be required to physically remove the SWES within 180 days of written notice from the Building Inspector.

The owner shall have the right to respond to the written notice of abandonment within 30 days of such notice. If the owner can provide information to demonstrate that the SWES has not been abandoned, the Building Inspector may withdraw the notice of abandonment.

If the property owner fails to remove the small wind energy system in accordance with the requirements of this section after 180 days of such notice and the Building Inspector has not withdrawn said notice, the Town shall have the authority to enter the property and physically remove the facility at the owner's expense. The term physically remove shall include, but not be limited to: 1. Removal of SWES, any equipment shelters, and security barriers from the subject property; and 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

## **6.6 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS**

**6.6.1 Purpose.** The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations (LSGMSPI) 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.

**6.6.2 Applicability.** The provisions set forth in this section shall apply to the construction, operation, and/or repair of LSGMSPI. This section applies to LSGMSPI proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that alter the type, configuration, or size of these installations or related equipment.

**6.6.3 Definitions.** The following definitions shall apply:

***As-of-Right Siting:*** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Becket Building Inspector and the Site Plan Approval Board.

***Building Permit:*** A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

***Customer-Owned Generator:*** An LSGMSPI owned by an entity other than the electric utility company.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation (LSGMSPI):** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Site Plan Review:** Review by the Site Plan Approval Board to determine conformance with local zoning bylaws. See Becket Zoning Bylaws §9.4 for details.

**Solar Photovoltaic Array:** An arrangement of solar photovoltaic panels.

**6.6.4 General Requirements for all Large Scale Solar Power Generation Installations.** The following requirements are common to all LSGMSPIs to be sited on any parcel in Becket with a lot size of four (4) acres or more. Any such parcel may be used as a site for an LSGMSPI, as long as all Site Plan Review criteria have been met to the satisfaction of the Site Plan Approval Board.

1. Compliance with Laws, Ordinances and Regulations. The construction and operation of all LSGMSPI shall be consistent with all applicable local, state and federal requirements, including the Wetlands Protection Act , M.G.L. c. 141, §40 et seq., and any other regulations or laws under the purview of the Becket Conservation Commission, and including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of an LSGMSPI shall be constructed in accordance with the State Building Code. All necessary permits from the Conservation Commission shall be obtained by the applicant prior to Site Plan Review.
2. Building Permit and Building Inspection. No LSGMSPI shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
3. Fees. The application for a building permit for an LSGMSPI must be accompanied by the fee required for a building permit and the required Site Plan Approval review fee.

**6.6.5 Site Plan Review.** LSGMSPIs with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Approval Board prior to construction, installation or modification as provided in this section. Failure by the Site Plan Approval Board to render a decision on the submitted plan in accordance with Section 9.4.6 of the Becket Zoning By-Laws within 365 days of Completeness Notification (as set forth below) shall be deemed to be a constructive approval of those plans. An applicant claiming constructive approval of a LSGMSPI shall follow the process set forth in M.G.L. c. 40A, §9 to obtain a certificate of such approval from the Town Clerk.

1. General. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.
2. Required Documents. Pursuant to the site plan review process, the project proponent shall provide the following documents in addition to those required under §9.4 of the Zoning By-Law

a. A site plan showing:

- i. Property lines and physical features, including roads, for the project site;
  - ii. The proposed site for the installation shown on a map of the Town of Becket.
  - iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - iv. Blueprints or drawings of the LSGMSPI signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures or vegetation;
  - v. One or three line electrical diagram detailing the LSGMSPI, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - vi. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - vii. Name, address, and contact information for proposed system installer;
  - viii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - ix. The name, contact information and signature of any agents representing the project proponent; and
- b. Documentation of actual or prospective access and control of the project site (see also Section 6.6.6);
  - c. An operation and maintenance plan (see also Section 6.6.7);
  - d. Description of financial surety that satisfies Section 6.6.14; and
  - e. Proof of liability insurance that satisfies Section 6.6.15.
3. Application Submission. The application packet must contain all the appropriate application fees, application forms, and the appropriate number of copies of all plans and supporting documentation as set forth in §9.4.3 of the Zoning By-Laws. The application packet shall be submitted to the Town Clerk. The Town Clerk shall stamp the application with the date received and shall immediately notify the Chair of the Site Plan Approval Board of a submitted application packet.
  4. Completeness Review. The Site Plan Approval Board shall, within thirty (30) calendar days of the receipt of the application by the Town Clerk, determine whether the application is complete or incomplete (“Completeness Review”) and notify the applicant in writing by certified mail.

- a. **Incomplete Applications.** If the Site Plan Approval Board determines the application to be incomplete, the Board will provide the applicant with a written explanation as to why the application is incomplete and request the information necessary to complete the application. Any additional information submitted by the applicant starts a new thirty (30) calendar day Completeness Review.
- b. **Complete Applications.** When the Site Plan Approval Board determines the application to be complete, the Board will notify the applicant in writing (“Completeness Notification”) and transmit copies of the completed application to the appropriate local boards, commissions and departments for their independent review.

**6.6.6 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.

**6.6.7 Operation & Maintenance Plan.** The project proponent shall submit a plan for the operation and maintenance of the LSGMSPI, 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.

**6.6.8 Utility Notification.** No LSGMSPI shall be constructed until evidence has been given to the Site Plan Approval Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the LSGMSPI’s owner or operator’s intent to install an interconnected Customer-Owned Generator; as well as documentation from said utility that they can and will connect the proposed Customer-Owned Generator into their power grid. Off-grid systems shall be exempt from this requirement.

**6.6.9 Dimension and Density Requirements.** The following dimensional and density requirements shall apply to all LSGMSPIs.

1. **Setbacks.** For LSGMSPIs, front, side and rear setbacks shall be as follows:
  - a. **Front yard:** The front yard depth shall be at least 50 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.
2. **Appurtenant Structures.** All appurtenant structures to LSGMSPIs shall be subject to reasonable regulations concerning the dimensions and height of structures. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, such structures should comply with the setback requirements in §6.6.9 (1), be screened from view and/or joined or clustered to avoid adverse visual impacts.

**6.6.10 Design Standards.** The following design standards shall apply to all LSGMSPIs.

1. **Lighting.** Lighting of LSGMSPIs shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

2. Signage. Signs on large- scale ground-mounted solar photovoltaic installations shall comply with §5 of the Becket Zoning By-Laws. A sign shall be required to identify the owner and operator of the LSGMSPI 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.
3. Utility Connections. Reasonable efforts, as determined by the Site Plan Approval 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.
4. Fencing and Screening. All fencing and screening shall be in compliance with §4.3.2 (2) of the Becket Zoning By-Laws.

**6.6.11 Safety and Environmental Standards.** The following safety and environmental standards shall apply to all LSGMSPIs.

1. Emergency Services. The LSGMSPI's owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. 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.
2. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LSGMSPI or otherwise prescribed by applicable laws, regulations, and bylaws.

**6.6.12 Monitoring and Maintenance.**

1. Solar Photovoltaic Installation Conditions. The LSGMSPI's owner or operator shall maintain the facility and access road 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.
2. Modifications. All modifications to an LSGMSPI made after issuance of the required building permit shall require approval by the Site Plan Approval Board.

**6.6.13 Abandonment or Decommissioning.**

1. Removal Requirements. Any LSGMSPI which has reached the end of its useful life or has been abandoned consistent with Section 3.12.2 of this bylaw shall be removed by the owner or operator no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Approval Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all LSGMSPIs, 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 and re-vegetation of the site as necessary to minimize erosion. The Site Plan Approval Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
2. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSGMSPI shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Approval Board. If the owner or operator of the LSGMSPI fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

**6.6.14 Financial Surety.** Proponents of LSGMSPI projects shall provide 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 installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Approval Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. 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.

**6.6.15 Liability Insurance.** The owner or operator of an LSGMSPI shall provide the Town Clerk with a certificate of insurance showing that the property has a minimum of one million dollars in liability coverage, and that the Town of Becket is an additional named insured thereon. Such a certificate shall be supplied on an annual basis upon the renewal of said insurance policy.

## **SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS**

### **7.1 FLEXIBLE RESIDENTIAL DEVELOPMENT**

**7.1.1 Purpose.** The purposes of this section, Flexible Residential Development, are:

1. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry and recreational use;
2. to respect and preserve historical and archaeological resources; to protect the features of the natural environment, including the Town's varied landscapes, water resources, stone walls and sites of significant species of plants and wildlife;
3. to protect the value of real property;
4. to promote more sensitive siting of buildings and better overall site planning;
5. to perpetuate the appearance of the Town's traditional New England landscape which is exemplified by large contiguous areas of forested wildlife habitat;
6. to facilitate the construction and maintenance of roads, utilities, and public services in a more economical and efficient manner;
7. to offer an alternative to standard subdivision development;
8. to promote the development of affordable housing; and
9. to promote the development of housing for persons over the age of fifty five.

**7.1.2 Definitions.** The following terms shall have the following definitions for the purposes of this section:

1. "Affordable to persons or families qualifying as low income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.
2. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.
3. "Affordable Dwelling Unit" shall mean a dwelling unit affordable to persons or families qualifying as low or moderate income.
4. "Dedicated open space" shall mean open space suitable, in the opinion of the Planning Board, for the purposes set forth in sections 7.1.1 Purpose, 7.1.14 Dedicated Open Space and 7.1.15 Ownership of the Dedicated Open Space herein. Such open space may be separated by the road(s) constructed within the Residential Development. Dedicated open space shall not include required yards.

**7.1.3 Applicability.** In accordance with the following provisions, a Flexible Residential Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town.

**7.1.4 Procedures.** Flexible Residential Development may be authorized upon the issuance of a special permit by the Planning Board. Applicants for Flexible Residential Development shall file with the Planning Board seven (7) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
2. Where wetland delineation is in doubt or dispute, the Planning Board shall require appropriate documentation according to requirements of the Conservation Commission.
3. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.
4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.
5. The Planning Board has adopted regulations pursuant to G.L. c. 44 § 53G and may engage consultants, including but not limited to lawyers, engineers, planners, landscape architects at the expense of the applicant in the review of Flexible Residential Development Plans.

**7.1.5 Design Process.** Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed roads, houselots and dedicated open space.

1. **Understanding the Site.** The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features.
2. **Evaluating Site Context.** The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands, woodlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
3. **Designating the Dedicated Open Space.** The third step is to identify the dedicated open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend other open space networks.
4. **Location of Development Areas.** The fourth step is to locate building sites, roads, parking areas, paths and other built features of the development. The design should include a delineation of private yards, roads and other areas, and shared amenities, to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.
5. **Lot Lines.** The final step is simply to draw in the lot lines (if applicable).

**7.1.6 Design Guidelines.** The layout shall, to the greatest extent feasible, achieve the following objectives:

1. Preserve and maintain existing fields, pastures, and woodlands.
2. Maintain or create a buffer of natural vegetation of at least one hundred (100) feet in width adjacent to banks associated with surface waters or waterbodies and bordering vegetated wetlands as defined in 310 CMR 10.00.
3. Leave unblocked or uninterrupted scenic views and vistas particularly as seen from public roads, special places or scenic ways.

4. Protect the habitat areas of species listed as endangered, threatened or of special concern.
5. Preserve stone walls, historic and prehistoric sites and their environs in so far as needed to protect the character of the site.
6. Maintain the visual integrity of hilltops and ridge lines by sighting development so that building silhouettes will be below the ridge line or hilltop or if the area is heavily wooded, the building silhouette will be at least sixty (60) feet lower than the average canopy height of trees on the ridge or hilltop.
7. Minimize road construction by utilizing common driveways wherever feasible.

**7.1.7 Modification of Lot Dimensional Requirements.** The Planning Board encourages applicants for Flexible Residential Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Residential Development, subject to the following limitations:

1. Lots having reduced area, width or frontage shall not have frontage on a road other than a road created by the Flexible Residential Development.
2. At least 50% of the required side and rear yards shall be maintained in the Flexible Residential Development. Buffer Areas required in section 7.1.16 shall not be allowed to be used for required front, side or rear setbacks.

**7.1.8 Basic Maximum Number of Dwelling Units.** The Basic Maximum Number of Dwelling Units allowed in a Flexible Residential Development shall not exceed the number of lots that could reasonably be expected to be developed upon the site under a conventional subdivision plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

**7.1.9 Density Bonus.** The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number of Dwelling Units determined under the requirements of subsection 7.1.8. This density bonus may only be awarded in the following circumstances and may be awarded for additional open space only, over 55 age-restricted housing only, or a combination of additional open space and age-restricted housing:

1. Any dwelling units awarded as a density bonus shall be deed-restricted to no more than three bedroom units.
2. Computations shall be rounded to the lowest number.
3. Open Space Density Bonus: Subject to the density bonus cap, (7.1.9.5) for each ten percent (10%) of the entire site, over and above the required forty percent (40%) set aside as dedicated open space, the density bonus may be up to five (5%) percent of the Basic Maximum Number of Dwelling Units.
4. Age-Restricted Housing Density Bonus: Subject to the density bonus cap, (7.1.9.5) for every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus.

5. Density Bonus Cap: The density bonus for the Flexible Residential Development shall not, in the aggregate, exceed twenty (20%) percent of the Basic Maximum Number of Dwelling Units determined under the requirements of subsection 7.1.8.

**7.1.10 Affordable Component.** As a condition of the grant of a special permit for a Flexible Residential Development project of 10 dwelling units or greater, dwelling units shall be deed-restricted for a period not less than thirty (30) years in the following manner:

1. 10% of the units shall be Affordable Dwelling Units.

The Affordable Dwelling Units shall be in addition to those otherwise available as part of the Basic Maximum Number and shall not be computed as part of any density bonus. The thirty year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to a local qualified entity for a period not less than 120 days after notice thereof.

**7.1.11 Types of Buildings.** The Flexible Residential Development may consist of a combination of single-family, two-family and multifamily residential structures.

1. Multifamily structures:

- a. Multifamily structures shall not contain more than four (4) dwelling units.
- b. The Planning Board may limit the number of multi-family structures.
- c. The architecture of all multifamily buildings shall be residential in character, such as gabled roofs, predominantly wood siding, an articulated footprint and varied facades.

2. Accessory structures that serve community needs such as maintenance facility , recreation and health facility, meeting place and pool building.

**7.1.12 Roads.** The principal roadway(s) serving the site shall be designed to conform to the subdivision standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town.

1. Private Ways: The principal roadway serving the site may be a private way. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant. At a minimum, the following conditions shall apply to private ways:

- a. The private way shall remain permanently a private way, shall not be proposed for acceptance by the town and shall not be extended;
- b. The private way shall not be connected to any other way except where it originates on a public way;
- c. All lots created by the Flexible Residential Development shall obtain access exclusively from the private way and not the public way serving the locus;

d. A staging area shall be provided to promote ease of access from the private way to the abutting public way, and to minimize the discharge of water and sediment from the private way onto the abutting public way. The staging area shall be at least 40 feet in length from the edge of the public way, with a minimum width of 20 feet in accordance with the Subdivision Regulations, and sloped not more than 6% grade for the 40 feet it extends from the public way. Where the public way is paved the staging area shall be paved. Where the public way is unpaved, the staging area may be allowed to be unpaved;

e. The private way shall have a centerline intersection with the road centerline of not less than 60 degrees;

f. The private way shall have a roadway surface, on that portion of the private way extending beyond the staging area, of a minimum of 6 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown, where appropriate; provided, however, that the applicant may seek a waiver of this provision upon a demonstration that alternative construction standards meet the access and safety standards of this provision;

g. The private way shall have proper drainage appurtenances, where required, to prevent washout and excessive erosion, with particular attention to the staging area, so that water draining onto the road surface from the staging area is eliminated to the maximum extent feasible;

h. The private way shall have a traveled way surface, on that portion of the private way extending beyond the staging area, with a minimum width of 16 feet for its entire length, and a minimum maintained right-of-way width of 30 feet for its entire length;

i. The turnaround for a private way shall not exceed 30 feet in depth and 40 feet in width provided at the end of the private way;

j. The private way shall have a buffer zone of not less than 30 feet in width of indigenous vegetation separating the private way right-of-way from any pre-existing lot line;

k. In accordance with the provisions of G. L. c. 40 § 6N the town may make temporary repairs on private ways even though said private way shall not be accepted by the Town;

l. For private ways conveyed to a homeowners association, the following shall apply:

Ownership of any lot shown on the Flexible Residential Development shall constitute membership in a homeowners association responsible for all liability, maintenance and snow removal from the private way. This condition shall be placed in the deed to each lot. The documents establishing the homeowners association and all deeds shall be approved as to form by the Planning Board's legal counsel prior to execution.

The homeowners association shall indemnify, hold harmless and release the Town from liability for any damages resulting from an action brought by a third party or the association in any court due to the repair, use, or maintenance of the private way.

**7.1.13 Parking.** Each dwelling unit shall be served by a minimum of two (2) parking spaces which shall not be on any traveled way or common driveway. Parking spaces in front of garage entryways may count in this computation.

**7.1.14 Dedicated Open Space.** A minimum of forty percent (40%) of the parcel shown on the development plan shall be dedicated open space. Any proposed dedicated open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or passive recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

1. The percentage of the dedicated open space which is wetlands shall not exceed the percentage of the tract which is wetlands. In no case, however, shall the percentage of dedicated open space which is wetlands exceed fifty (50%) of the tract.
2. The dedicated open space shall be used for conservation, historic preservation and education, outdoor education, passive recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes. The dedicated open space shall remain unbuilt upon. However, the Planning Board may permit up to ten (10%) percent of such dedicated open space to be developed for facilities accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.
3. Underground utilities to serve the Flexible Residential Development site may be located within the dedicated open space.
4. The dedicated open space may include the Buffer Area required in section 7.1.16.

**7.1.15 Ownership of the Dedicated Open Space.** The dedicated open space shall, at the discretion of the Planning Board be conveyed to:

1. the Town or its Conservation Commission; or
2. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or
3. a corporation or trust owned jointly or in common by the owners of lots within the Flexible Residential Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14)

days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

**7.1.16 Buffer Areas.** A buffer area of fifty (50) feet shall be provided at the perimeter of the property, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance.

1. Buffer Area Waiver. The Planning Board may waive the buffer requirement under the following conditions:

- a. where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least twenty five (25) feet in depth; or
- b. where the land abutting the site is held by the Town for conservation or recreation purposes.

**7.1.17 Drainage.** Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board and the Massachusetts Department of Environmental Protection's Stormwater Management Standards.

**7.1.18 Decision.** The Planning Board may approve, approve with conditions, or deny an application for a Flexible Residential Development after determining whether the Flexible Residential Development better promotes the purposes of Section 7.1.1 of this Flexible Residential Development By-Law than would a conventional subdivision development of the same locus.

Any changes to the terms of the Special Permit shall require a new Special Permit application.

**7.1.19 Relation to Other Requirements.** The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

## **7.2 COMMON DRIVEWAYS**

**7.2.1 Common Driveways.** Common driveways serving not more than two (2) residential lots may be allowed by Special Permit issued by the Planning Board provided all of the following conditions are met, except that the Planning Board may require greater site distances, greater road line angles and lesser grade at the road where safety so requires:

1. Frontage requirements: Common driveways can never be used to satisfy frontage requirements. Each lot served by a common driveway shall have frontage on a road which serves to satisfy frontage requirements under these By-Laws.
2. Access:
  - a. Common driveways shall provide access to the lots from the road on which the lots served have their frontage.
  - b. All Common driveways and accompanying driveway to each residence served by the common driveway shall be constructed in a manner ensuring reasonable and safe access

from the road serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles.

3. State highways: Entrances on state highways shall conform to Massachusetts Highway Department Standards and Regulations.
4. Location:
  - a. Common driveways should be located to the best advantage to alignment with the road, profile and site conditions.
  - b. No common driveway shall be located within 100 feet of an intersection.
  - c. The common driveway shall be located entirely within the boundaries of the lots being served by the driveway.
  - d. The common driveway shall not be located within ten (10) feet of any side or rear lot line of any lot not served by the common driveway.
5. Sight distance: A clear sight distance of at least 65 feet should be maintained on either side of the common driveway at its point of intersection with the road.
6. Road line angle: The intersection with the road line shall not be less than 45 degrees.
7. Grade at road: The grade of each common driveway where it intersects with the road shall not exceed six percent (6%) for a distance of 20 feet from the travel surface of the road. The Planning Board may grant a Special Permit for a driveway in excess of this requirement after determination that said driveway will provide safe and reasonable access, including access for fire, police and emergency vehicles.
8. Distance: Common driveways exceeding a distance of five hundred feet shall include provisions for safe and reasonable access for fire, police and emergency vehicles. Pull-offs of adequate width to allow vehicles, including emergency response vehicles, to pass freely shall be provided a maximum of every 500 feet. Pull-offs may be required at shorter distances than 500 feet to provide for safe and reasonable access depending on conditions.
9. Minimum width: A minimum cleared width of 12 feet shall be maintained over the entire length.
10. Driveway surface: A surface application of a minimum of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed.
11. Drainage:
  - a. Common driveways shall be so constructed that water from the driveway shall not drain onto the road or abutting properties not served by the common driveway.
  - b. In no instance shall the edges of the common driveway entering into the road hinder the flow of the road surface water runoff
  - c. Culverts, taking the place of roadside ditches, shall have a diameter per Highway Department requirements.
12. Environmental stabilization: Any adjacent disturbed areas during construction of a common driveway shall be stabilized. It shall then be planted with ground cover.

13. Long-term responsibility: Proposed documents shall be submitted to the Planning Board demonstrating that, through deeded easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

14. Address number: The address number of the residences served by the common driveway shall be clearly displayed at the intersection of the common driveway with the road.

15. Applicable permits: Common driveways must comply with all applicable driveway permits.

**7.2.2 Special Permit Application.** A Special Permit application for a common driveway shall include the following information:

1. A plan showing the location of the residences, the location of the common driveway and location of driveways serving the premises. Said plan shall be at a scale of 1" = 100 feet and include proposed topography at 10 foot or 3 meter contour intervals.
2. A description of the proposed construction as far as it encroaches upon or affects the road and its shoulders, banks, ditches, drainage and other features.
3. Proposed measures to reduce, disperse and delay the runoff or otherwise protect the road.
4. Proposed measures to reduce, disperse, delay and infiltrate the runoff from the common driveway.

### **7.3 REAR LOTS**

**7.3.1 Rear Lots.** Rear lots for single family residential dwellings may be authorized upon the issuance of a special permit by the Planning Board. Individual rear lots need not have the required minimum lot frontage specified in section 4.2.2, provided that all of the following conditions are met for each individual lot lacking such frontage:

1. The minimum lot area of said lot is at least 1.5 times the minimum lot area as specified in section 4.2.1;
2. The minimum lot frontage is not less than 50 feet;
3. The minimum lot width is at no point less than 50 feet;
4. The front line of the principal building on the lot is designated on the plan, and the minimum lot width at that line equals or exceeds the number of feet required in section 4.2.3.
5. The driveway serving the rear lot is at no point less than 20 feet from an abutting property line. This does not include the front lot side property line;
6. Access shall be by Common Driveway, as specified in Section 7.2;
7. At the time of the creation of the rear lot, it shall be held in common and contiguous

ownership with the front lot;

8. Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of October 18, 2008;

9. No further division of said property or properties shall be permitted after the creation of a rear lot. Documentation to this effect shall be submitted to the Building Inspector. The Building Inspector shall not issue a building permit for any rear lot without first establishing that compliance with this provision has been determined by the Planning Board and a written statement provided to the Building Inspector from the Planning Board.

10. The front lot shall comply with all dimensional requirements specified in section 4.2. unless modified herein;

11. The front, rear and side setbacks of the rear lot shall equal or exceed those required in section 4.2.

**7.3.2 Special Permit Application.** A Special Permit application for a rear lot shall include the following information:

1. A plan stamped by a Registered Surveyor showing the location of the residences, utilities and driveways serving the front lot and rear lot. The plan shall show the location of the Common Driveway. Said plan shall be at a scale of 1" = 100 feet and include proposed topography at 10 foot or 3 meter contour intervals.

2. The application shall contain the information required in section 7.2.2.

3. Applications for a Rear Lot served by a Common Driveway shall comply with the requirements of 7.2.1. Provided the application meets the requirements specified in sections 7.2.1 and 7.3.1, the Planning Board may issue a combined special permit for a Rear Lot and Common Driveway.

## **SECTION 8.0 SPECIAL DISTRICTS**

### **8.1 FLOOD PLAIN OVERLAY DISTRICT (FPOD)**

**8.1.1 Purpose.** The purpose of the Flood Plain Overlay District (FPOD) is to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

**8.1.2 Existing Regulations.** All development on the district including structural and non-structural activities whether permitted by right or by Special Permit must be in compliance with the following:

1. 780 CMR, of the Massachusetts State Building Code which addresses flood plain and coastal high hazard areas;
2. 310 CMR 10.00, Wetlands Protection Regulations, Department of Environmental Protection (DEP);
3. 302 CMR 6.00, Inland Wetlands Restriction, (DEP);
4. 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, (DEP);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

### **8.1.3 Definitions.**

**Area of special flood hazard** is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, AL-30, AE, or A99.

**Base flood** means the flood having a one percent chance of being equaled or exceeded on any given year.

**Development** means any man made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**District** means Flood Plain Overlay District.

**Federal Emergency Management Agency (FEMA)** administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

**Flood hazard boundary map (FHBM)** means an official map of a community issued by FEMA where the boundaries of the flood have been designed as Zone A.

**Flood insurance rate map (FIRM)** means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood insurance study** means an examination, evaluation and determination of flood hazards, and, if appropriate, corresponding water surface elevations.

**Flood way** means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles.

**Manufactured home park** or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New construction** means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

**One-hundred-year-flood** - see Base Flood.

**Regulatory flood way** - see Flood way.

**Special flood hazard area** means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AL-30, AE, A99, AH.

**Structure** means, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial improvement** means any repair, reconstruction, or improvement of a structure, the cost of

which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**Zone A** means the 100-year flood plain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

**Zone A1-A30** and **Zone AE** means the 100-year flood plain where the base flood elevation has been determined.

**Zone AH** and **AO** means the 100-year flood plain with flood plain depth of 1 to 3 feet.

**Zone A99** means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

**8.1.4 FPOD Boundaries and Base Flood Elevation Data.** The FPOD is herein established as an overlay district. The FPOD includes all special flood hazard areas designated on the Becket Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) (select whichever map FEMA has issued for the community) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated August 27, 1990 as Zone A, AE, AH, AO, AL-30, A99, which indicate the 100-year regulatory flood plain. The exact boundaries of the district may be defined by the 100-year base flood elevations shown on the FIRM or FHBM and further defined by the Flood Insurance Study booklet dated August 27, 1990. The FIRM and FHBM and Flood Insurance Study booklet are incorporated and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

1. In Zone A, the best available Federal, State, Local or other flood way data shall be used to prohibit encroachment in flood ways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge in Zone AL-30 and AE, along water courses, no new construction, substantial improvement, or other development shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood.

**8.1.5 Use Regulations.** All development, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with G. L. c. 131 § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in flood plains. The following uses of low flood damage potential and causing no obstructions to flood flows are permitted if allowed 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 connecting with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
7. Buildings lawfully existing prior to the adoption of these provisions.

## 8.2 ADULT ENTERTAINMENT

**8.2.1 Purpose.** The purpose of the Adult Entertainment Bylaw is to address and mitigate the secondary effects, including crimes against property, prostitution, disorderly conduct and the like of the Adult Entertainment uses and businesses referenced herein. The provisions of this section are not intended to impose a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. The provisions of this subsection are not intended to restrict or deny access by adults to Adult Entertainment uses or to sexually oriented matter or material protected by the Constitution of the United States of America or by 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. Neither is it the purpose of this subsection to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

### 8.2.2 Definitions.

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G. L. c. 272 §31 (statute defining items related to sexual conduct, excitement or obscenity).

**Adult Live Entertainment Establishment:** Any establishment, including but not limited to a nightclub, bar, restaurant, tavern, dance hall, stage or other performance venue, which displays live entertainment, including but not limited to persons or entertainers appearing in a state of nudity or other live performance distinguished by an emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in G. L. c. 272, §31.

**Adult Live Nudity Establishment:** Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in G. L. c. 272 §31.

**Adult Motion Picture Theater:** An enclosure or building, or any portion thereof, used for presenting visual media material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in G. L. c. 272, § 31.

**Adult Paraphernalia Store:** An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G. L. c. 272 § 31.

**Adult Video Store:** An establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G. L. c. 272 §31.

**Adult Store:** an establishment having as a substantial or significant portion of its stock in trade, books, magazines, videos, movies, devices, objects, tools, toys or other materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G. L. c. 272, §31.

**Adult Entertainment Use:** For the purposes of this by-law, Adult Entertainment Use shall be defined as any of the following: Adult Bookstore, Adult Live Entertainment Establishment, Adult Live Nudity Establishment, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, and or

any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement as defined in G. L. c. 272 §31.

### **8.2.3 Applicability**

All Adult Entertainment Uses as defined in subsection 8.2.2 are allowed upon the issuance of a Special Permit from the Planning Board. All Adult Entertainment Uses shall comply with the following requirements:

1. No Adult Entertainment Use establishment shall be located within 1,000 feet of the following designated areas:
  - a. the nearest property line of any residence; or
  - b. any establishment licensed under the provisions of G. L. c. 138 §12 (statute relating to licensing the sale of alcoholic beverages).

The distances specified above in 8.2.3.1 shall be measured by a straight line from the location of the proposed Adult Entertainment Use structure to the nearest property line of the designated uses specified in 8.2.3.1.a and 8.2.3.1.b.

2. No Adult Entertainment Use establishment shall be located on parcels where the nearest property line is within 1,000 feet of the following designated areas:
  - a. the nearest property line of any public or private school or municipally owned property;
  - b. the nearest property line of any land used for religious purposes;
  - c. the nearest property line of any public park, playground or other public recreation facility and any principal or accessory private recreational facility use, including but not limited to camps;
  - d. the nearest property line of any child care facility, adult day care facility, family day care facility (large or small), hospital, sanitarium, nursing home, rest home, convalescent home, orphanage or continuing care facility; or
  - e. the nearest property line of any other Adult Entertainment Use establishment except that multiple Adult Entertainment Uses may be allowed in the same structure provided they are owned by the same owner;

The distances specified in 8.2.3.2 shall be measured by a straight line from the nearest property line of the premises on which the proposed Adult Entertainment Use is to be located to the nearest property line of the designated uses set forth in 8.2.3.2.a. through 8.2.3.2.e.

3. No Adult Entertainment Use establishment shall be located within parcels where the nearest property line is within 1000 feet of State Route 8 or US Route 20.

The distances specified above in 8.2.3.3 shall be measured by a straight line from the nearest property line of the premises on which the proposed Adult Entertainment Use is to be located to the road line of the roads designated in 8.2.3.3.

## **8.2.4 Special Permit Submittal Requirements**

In addition to the submittal requirements for a Special Permit as detailed in subsection 9.3, Special Permit applications for approval under this subsection shall contain the following additional information:

- a. Name and address of the legal owners of the establishment and the property, as well as the manager of the proposed establishment;
- b. Name and address of all persons having a lawful ownership, equity or security interest in the proposed establishment;
- c. A sworn statement that neither the applicant, owner, nor any person having a lawful ownership, equity or security interest in the proposed establishment has been convicted of violating the provisions of G. L. c.119 §63 (inducing or abetting delinquency of a child) or G. L. c. 272 §28 (matter harmful to minors, etc.) or any felony conviction;
- d. Proposed security precautions;
- e. The external and internal physical layout of the premises; and
- f. Full description of the intended nature of the business;

## **8.2.5 Special Permit Standards for Adult Entertainment Uses**

1. No Special Permit may be granted by the Planning Board for an Adult Entertainment Use unless the following conditions are satisfied:
  - a. Display Conditions: Signs shall comply with Section 5 except that no signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in G. L. c. 272, § 31 shall be displayed in the windows of, or on the building of, any Adult Entertainment Use establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.
  - b. Screening: All building openings, entries and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the Adult Entertainment Use establishment.
  - c. A five (5) foot high solid fence or a landscaped buffer of evergreen trees or shrubs five (5) foot high at the time of planting shall be provided and maintained along the side and rear property lines. The Special Permit Granting Authority may require additional screening.
  - d. All Adult Entertainment Uses shall have a maximum gross floor area of 3,000 square feet.
  - e. Not more than one structure to be used for an Adult Entertainment Use establishment shall be located on any one lot.
  - f. No Adult Entertainment Use establishment shall be allowed to disseminate adult matter to minors, cause Adult Entertainment Use displays to be viewed by minors, or allow minors to linger on the premises.
  - g. No Adult Entertainment Use shall be allowed within a building containing other retail, consumer services or residential uses or be used as an accessory use or accessory structure as defined in these By-laws.

- h. Parking for proposed Adult Entertainment Uses must be located in the front or side of the building. All parking areas shall be illuminated and such illumination shall be contained within the subject property lines.
- i. No Adult Entertainment Use shall have any flashing lights visible from outside the establishment. In addition, the maximum permitted sound level shall not exceed 50 decibels (dB(A)) as measured at any point beyond the boundary line of the lot where the use is located.
- j. Applicant Conditions: No Special Permit shall be issued to any person convicted of violating the provisions of G. L. c. 119, § 63 or G. L. c. 272, § 28 or any felony conviction.

### **8.2.6 Condition of Approval**

1. Special Permits shall be granted for Adult Entertainment Uses only upon determination by the Special Permit Granting Authority that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.
2. In approving a Special Permit, the Special Permit Granting Authority may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. No Special Permit shall take effect until such decision has been recorded in the Registry of Deeds. Conditions of approval may include but are not limited to the following:
  - a. Street, side or rear setbacks greater than the minimum required by this bylaw;
  - b. Modification of the exterior features or appearances of the structure;
  - c. Limitation of size, number of occupants or hours of operation;
  - d. Regulation of number, design and location of access drives or other traffic features;
  - e. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances; or
  - f. Proposed security precautions shall be adequate to protect the safety and well-being of users of the establishment.
3. A manager responsible for the operation of the establishment shall be designated by the owner, if the owner is not the manager. The manager shall register with the Board of Selectmen. No manager shall be designated who has been convicted of violating G.L. c. 119, §63 or G.L. c. 272, §28 or similar laws in other states or other felony conviction.
4. Expiration. A Special Permit to conduct an Adult Entertainment Use shall expire after a period a two calendar years on the date of Special Permit issuance and shall be renewable for successive two-year periods. A written request for such renewal must be received by the Planning Board prior to said expiration date. Public notice of that request must be published in a newspaper at the applicants expense and no written objection to said renewal has made received by the Planning

Board. The Planning Board as Special Permit Granting Authority shall make its decision about the renewal at a public meeting.

**8.2.7 Termination:** A Special Permit issued under this subsection shall terminate upon any one of the following occurrences:

1. There is a change in the location of the Adult Entertainment Use;
2. There is a sale, transfer or assignment of the business or the license;
3. There is any change in ownership of the applicant; or
4. There is a failure to begin a permitted Adult Entertainment Use Establishment within two years of the granting of such permit, except for "good cause", including the time necessary to await a court appeal to establish an Adult Entertainment Use Establishment.

## **SECTION 9.0 ADMINISTRATION AND ENFORCEMENT**

### **9.1 PERMITS AND ENFORCEMENT**

**9.1.1 Permits.** This Zoning By-Law shall be administered by the Building Inspector as Zoning Enforcement Officer. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning and after all necessary permits have been received under federal, state, or local law.

**9.1.2 Enforcement.** The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Zoning By-Law and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to Town Counsel. No permit or license shall be granted for a new use of a building, structure, or land which would be in violation of this Zoning By-Law.

1. The Zoning Enforcement Officer shall act on requests for enforcement of this Zoning By-Law as provided in G.L. c. 40A, §7. Such requests shall be submitted in writing.

**9.1.3 Penalties.** The penalty for violation of any provision of this Zoning By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Zoning Board of Appeals shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

**9.1.4 Noncriminal Disposition.** In addition to the procedures for enforcement as described above, the provisions of the Zoning By-Law, the conditions of a permit granted under this Zoning By-Law or decisions rendered by the Zoning Board of Appeals or Planning Board under this Zoning By-Law may be enforced by the Zoning Enforcement Officer by a non-criminal complaint pursuant to the provisions of G.L. c. 40, §21D. The fine for any violation disposed of through this procedure shall be one hundred (\$100.00) dollars for each offense. Each day such violation continues shall be deemed a separate offense.

### **9.2 ZONING BOARD OF APPEALS**

**9.2.1 Establishment.** There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) associate members to be appointed by the Board of Selectmen as provided in G. L. 40A §12.

**9.2.2. Powers.** The Zoning Board of Appeals shall have and exercise all the powers granted to it by G.L. cc. 40A, 40B, and 41 and by this Zoning By-Law. The Zoning Board of Appeals powers are as follows:

1. To hear and decide applications for Special Permits. Where specified herein, the Zoning Board of Appeals shall serve as the Special Permit Granting Authority.
2. To hear and decide appeals or petitions for variances from the terms of this Zoning By-Law with respect to particular land or structures, as set forth in G.L. c. 40A, §10. The Zoning Board

of Appeals shall not grant use variances.

3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, §§8 and 15.
4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, §§20-23.
5. To conduct Site Plan Approval where indicated herein.

**9.2.3 Regulations.** The Zoning Board of Appeals shall adopt rules and regulations for the administration of its powers and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for the submission and approval of such permits.

**9.2.4 Fees.** The Zoning Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

**9.2.5 Lapse.** If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, they shall lapse and may be reestablished only after notice and a new hearing as provided in G.L. c. 40A, §10.

### **9.3 SPECIAL PERMITS**

**9.3.1 Special Permit Granting Authority.** Any Board designated as Special Permit Granting Authority in this Zoning By-Law may hear and decide applications for Special Permits for specific types of uses upon which such board is specifically authorized to act under this Zoning By-Law in accordance with the provisions of G. L. c.40A §9. No action will be taken on a Special Permit application unless the applicant files the appropriate application form and fees and other material as required by the Special Permit Granting Authority. Unless otherwise designated by this Zoning By-Law, the Planning Board shall be the Special Permit Granting Authority.

**9.3.2 Criteria.** Special Permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Zoning By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;

5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

In addition, in making its determination, the Special Permit Granting Authority generally should consider the criteria and guidelines specified in Subsection 9.4.5.

**9.3.3 Procedures.** An application for a Special Permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

**9.3.4 Review by Other Boards and Agencies.** The Special Permit Granting Authority shall within ten (10) days after receipt of an application for Special Permit transmit a copy thereof for review to the Board of Health, the Board of Selectmen, the Conservation Commission, the Historical Commission, the Tax Collector, the Zoning Board as Appeals, the Highway Superintendent, the Fire Chief, the Police Chief, the Zoning Enforcement Officer and others as necessary. Any board or agency to which such applications are referred for review shall make such recommendations they deem appropriate in writing, provided however, the failure to make recommendations within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

**9.3.5 Conditions.** Special Permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees as the Special Permit Granting Authority may deem necessary to serve the purposes of this Zoning By-Law.

**9.3.6 Plans.** Unless otherwise provided by the rule or regulation of the Special Permit Granting Authority, an applicant for a Special Permit shall submit a plan in substantial conformance with the requirements of Subsection 9.4.3.1 herein and as required by the rules and regulations of the Site Plan Approval Board.

**9.3.7 Regulations.** The Special Permit Granting Authority shall adopt, and from time to time amend, rules relative to the issuance of such permits and shall file a copy of said rules in the office of the town clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for a submission and approval of such permits.

**9.3.8 Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for Special Permits.

**9.3.9 Lapse.** Special Permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the Special Permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, §17, from the grant thereof) with the Town Clerk.

## **9.4 SITE PLAN APPROVAL**

**9.4.1 Purpose.** The purpose of this Section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for the approval of plans for uses and structures which may have impacts, both within the site and in relation to adjacent properties and streets, on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs.

**9.4.2 Applicability.** Notwithstanding anything contained in this Zoning By-law to the contrary, no building permit for construction, exterior alteration, relocation, or change in use except where noted, shall be granted for any use requiring Site Plan Approval under Section 3 and other Sections of this By-Law until the provisions of this Section have been fulfilled and an application approved by the Site Plan Approval Board, which shall be the Zoning Board of Appeals.

1. Educational and religious uses exempt pursuant to G.L. c. 40A, §3, and child care facilities similarly exempt, shall be subject to Site Plan Approval for the limited purpose of imposing reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, as set forth in the statute.

**9.4.3 Application Procedure.** An applicant for Site Plan Approval shall file an application form, fee, seven copies of the site plan, and any additional information as may be required, with the Site Plan Approval Board. A copy of the application shall be filed with the Town Clerk and the Tax Collector by the applicant. The following information shall be filed at the time of application:

1. a site plan, which shall include landscape, utility and drainage information, building elevations, and a traffic plan. An application shall not be considered complete until all required information and fees are submitted.

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

**9.4.4 Review Procedure.**

1. The Site Plan Approval Board shall transmit copies of the application and site plan to the Fire Chief, Police Chief, Conservation Commission, Historical Commission, Board of Health, Zoning Enforcement Officer, Highway Superintendent, Planning Board, Board of Selectmen and others as necessary. These Boards and departments shall have thirty-five (35) days to report to the Site Plan Approval Board their findings and recommendations. Failure to report in the allotted time shall constitute approval by that Board or Department of the application submitted.

2. Notice, including notice to parties of interest, and public hearing shall be done in accordance with the procedures required for Special Permits, as found in Subsection 9.3. The Site Plan Approval Board shall schedule a viewing of the property for the purpose of making an informed decision.

**9.4.5 Review Criteria/Design Guidelines:** The following criteria and guidelines shall be used by the Board in evaluating the site plan and all information submitted as part of the application.

1. General.
  - a. Conformance with all appropriate provisions of the Zoning By-Law.

b. Protection of Town amenities and abutting properties through minimizing of detrimental or offensive actions.

c. Protection of abutting properties from detrimental site characteristics.

## 2. Environmental.

a. Protection of unique or important natural, historic or scenic features.

b. Adequacy of proposed methods of refuse disposal.

c. Ability of proposed sewage disposal and water supply systems on the site to serve the proposed use.

d. Adequacy of the proposed drainage system within and adjacent to the site to handle the increased runoff resulting from the project.

e. Provision of adequate landscaping, including the screening of adjacent residential uses.

f. Adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction.

g. Protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and building exterior lighting, through the use of cut off luminaries, light shields, lowered height of light poles, screening or similar solutions.

h. Protection of adjacent properties from the intrusion of noise.

i. Protection of wetlands by building in accordance with the provisions of the Wetlands Protection Act, G. L. c. 131, § 40.

## 3. Design.

a. The project shall be reasonably consistent with surrounding buildings and development with respect to setbacks, placement of parking, landscaping and entrances and exits.

b. The project shall avoid, to the extent feasible, any impact on steep slopes, flood plains, scenic views, grade changes and wetlands.

c. If there is more than one building on the site, the buildings shall relate harmoniously to each other in architectural style, site location and building exits and entrances.

d. Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.

#### 4. Traffic/Parking.

- a. The site shall be designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties.
- b. The location and number of curb cuts shall be such to minimize turning movements and hazardous exits and entrances.
- c. The location and design of parking spaces, drive aisles, loading areas and walkways shall be provided in a safe and convenient manner.
- d. Joint access driveways between adjoining properties shall be encouraged.
- e. A traffic impact report shall be required, unless waived by the Site Plan Approval Board. Information required as part of this report shall be as set forth in the Rules and Regulations of the Site Plan Approval Board.
- f. Safety hazards shall not be created or added to as a result of traffic generated by the proposed project.

**9.4.6 Decision.** The concurring vote of a majority of the membership of the Board shall be required for any decision on a site plan application. The Site Plan Approval Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office. The Board's written decision shall consist of either:

1. Approval of the site plan based on a determination that the proposed project meets all of the requirements of this Section; or
2. Approval of the site plan subject to conditions, modifications and reasonable restrictions necessary to ensure compliance with the requirements of this Section; or
3. Denial of the site plan based on a determination that either:
  - a. insufficient information was submitted with the application in order for the Board to adequately review the proposal, or;
  - b. a determination that the project does not meet the requirements of this Section.

**9.4.7 Conditions.** Conditions may include the following:

1. Controls on location and type of access to the site.
2. Requirements to reduce the traffic impact of the proposed project.
3. Requirements to minimize impacts on the capacities of infrastructure serving the site.
4. Requirements to minimize any environmental degradation during construction.

5. Other conditions designed to ensure compliance with the criteria and guidelines of this Section.

6. For the purpose of securing the performance of all proposed work, including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

**9.4.8 Lapse.** Any Site Plan Approval granted under this Section shall expire in two years if substantial construction has not begun by such date.

**9.4.9 Appeal.** Decisions of the Site Plan Approval Board regarding Site Plan Approval shall be appealed as set forth in G.L. c. 40A, §17 to a court of competent jurisdiction.

### **9.5 PLANNING BOARD ASSOCIATE MEMBER**

The Board of Selectmen and the Planning Board by a majority of each Board, acting pursuant to G.L. c. 40A, §9, may appoint an associate member of the Planning Board who shall be available to serve as an associate member when the Planning Board acts as the designated Special Permit Granting Authority under this Zoning By-Law. The Chair of the Planning Board may designate the associate member to sit on the Board for the purpose of acting on a Special Permit application in the 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.

## SECTION 10.0 DEFINITIONS

In this Zoning By-Law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the By-Law. Words used in the present tense include the future. The singular includes the plural, and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied." The words "building," "structure," "lot" or "parcel" shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this By-Law.

**Accessory building or structure:** Any building or structure whose use is subordinate or incidental to the use of another building or structure on the same lot.

**Adult day care facility:** A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

**Agricultural use, exempt:** Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture, on a parcel of more than five acres in area as set forth in G.L. c. 40A, §3, and subject to Board of Health regulations.

**Agricultural use, nonexempt:** Agricultural use of property not exempted by G.L. c. 40A, §3. Such nonexempt use shall include an orchard, market garden, nursery, forestry operation, commercial greenhouse, commercial poultry or livestock farm, or the raising of animals for gainful purposes on less than five acres.

**Artisan shop, retail:** Gift shop, craft shop, antique shop, art gallery or similar retail establishment for the sale of artisan products or of artists' creations.

**Artisan workshop:** Workshop of a potter, ceramist, sculptor, silversmith, jeweler, lapidary, weaver, clock maker, musical instrument maker, wood carver, graphic artist, leather worker (not including tanning or processing), candle maker or similar crafts person. All work and storage shall be conducted within a building and no more than five full time workers, or equivalent thereof, shall be employed on the premises. For the purpose of this Zoning By-Law, artisan workshop does not include gift shop, craft or artisan shop, antique shop, art gallery or similar retail establishment.

**Bed and breakfast** (also commonly referred to as lodging or tourist house): A dwelling unit arranged or used for lodging, with or without meals, by more than three lodgers or boarders, however there shall be no separate cooking facilities.

**Boarder:** People, primarily transient in nature (such as those on vacation, short-term work assignment, or lodgers), who rent one or more rooms for one or more nights.

**Boarding house** - A building arranged or used for lodging for compensation, with or without meals,

and not occupied as a single dwelling unit, serving six or more boarders and as regulated by the State Building Code.

**Building:** A structure with exterior walls and a roof designed for the shelter of persons, animals or property.

**Building height:** The vertical distance from the average post-construction grade to the highest point of the roof. When a building faces more than one street, the height shall be measured from the average of the post-construction grade at the center line of each street front. Not included are spires, cupolas, antennae for other than wireless communications, or similar parts of structures which do not enclose potentially habitable floor space.

**Business or professional office:** A building or part thereof for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

**Child care facility:** A day care center or school age child care program, as those terms are defined in G.L. c. 28A, §9.

**Club or lodge, private:** Buildings, structures and premises used by a nonprofit social or civic organization or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain, provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**Continuing care facility:** Apartments and dwellings with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents.

**Contractor's Yard:** Land that is used for the storage of contractor's construction equipment, equipment parts, materials and supplies, fabrication of subassemblies and parking of wheeled construction equipment. Storage trailers, PODS and the like are not permitted. Storage within an enclosed building shall not be considered a contractor's yard. Contractor is defined as a person or entity that agrees and becomes obligated to furnish materials or professional services for a price. Contractors are those subject to the Home Improvement Contractor's Law, G. L. c. 142A or those that maintain a business certificate filed with the Town Clerk.

**Conventional development plan:** A division of land into lots each of which meets the minimum dimensional requirements as set forth in Section 4, Dimensional Requirements and other applicable requirements of the Becket Zoning By-Law and Subdivision and Board of Health regulations.

**Converted dwelling:** An existing dwelling structure in which one or two dwelling units lawfully exist and for which an increase in the number of units is proposed.

**Dedicated open land:** Land under the terms of a Flexible Development Special Permit, which is restricted from building or further division by conveyance to the Town of Becket for conservation/passive recreational use or to a non-profit land conservation organization, approved by the Planning Board, or permanent conservation restriction which conforms to the standards of the Division of Conservation Services of the Commonwealth of Massachusetts and is enforceable by the Town or a non-profit organization as described above.

**Driveway:** A portion of a lot which is prepared for vehicular traffic and which provides access from a road to a lot or towards a structure on a lot.

**Driveway, common:** A driveway which, in providing access onto a lot, occupies a portion of another lot and is used by not more than two lot owners.

**Dwelling, one-family:** A detached residential building containing one dwelling unit and occupied by one family only, but not including mobile homes whether placed on a foundation or not.

**Dwelling, two-family:** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

**Dwelling, multi-family:** A detached residential building containing not more than four dwelling units designed for occupancy by not more than four families.

**Dwelling unit:** One or more rooms constituting a separate independent housekeeping establishment with cooking, living, sleeping and sanitary facilities for the use of one family.

**Educational use, nonexempt:** Educational facilities not exempted from regulation by G.L. c. 40A, §3.

**Extractive operations:** The removal of sod, loam, clay, sand, gravel, stone or other earth materials, except when incidental to and in connection with the construction of a structure or incidental to the grading and developing of contiguous property.

**Family:** One or more individuals living in a single dwelling unit. Exceptions from the provisions of this Section are homes licensed by the state, including but not limited to disabled veterans and foster children.

**Family day care, large and small.** Any private residence operating a facility as defined in G.L. c. 28A, §9.

**Farm stand, exempt:** Facilities for the sale of produce and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located.

**Farm stand, nonexempt:** Facility for the sale of produce, wine and dairy products on property not exempted by G.L. c. 40A, §3.

**Flexible residential development:** A Major or Minor Residential Development in which buildable lots are permitted by Special Permit from the Planning Board, with reduced dimensions as provided for in Section 7 of this Zoning By-Law.

**Flood Plain:** See Subsection 8.1.3 for additional definitions related to the Flood Plain Overlay District.

**Funeral establishment:** Facility for the conducting of funerals and related activities such as embalming.

**General service establishment:** Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair, printer, blacksmith, builder, carpenter, caterer, electrician, lawn mower service, mason, painter, plumber, roofer or electronic technician.

**Heavy-Duty Commercial Vehicle:** Any motor vehicle, truck tractor, trailer or semi-trailer designed or used to carry freight or merchandise in the furtherance of any commercial enterprise and having a gross vehicle weight of more than 26,000 pounds. Gross vehicle weight (as stated on the vehicle registration form) consists of the net weight of the vehicle plus its load.

**Home occupation:** A business engaged in within a dwelling by a resident thereof as a use accessory thereto, involving no undue traffic or noise, with no external evidence of the business activity except for permitted signs as provided in Subsection 5.1 and employing no more than two (2) persons outside of the household. For the purposes of this Zoning By-Law, home occupation does not include gift shop, antique shop, art gallery or similar retail establishment.

**Hospital:** An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions and including, as an integral part of the institution, related facilities, including laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

**Hotel:** Building arranged for shelter and sleeping accommodations in which the occupants are primarily transient in nature occupying the facilities for a period of less than 30 days.

**Junk yard:** Storage in the open of used items offered for sale. Also any lot with more than three unregistered and ungaraged automotive vehicles or parts thereof, except that open storage for sale of unregistered automotive vehicles by a licensed dealership is not a junk yard.

**Kennel:** The raising or keeping of more than three dogs on a lot for commercial purposes.

**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, buildable:** Any lot meeting the minimum lot area and lot frontage requirements and which meets the requirements of State and Federal Wetland and Health requirements (Title V).

**Lot frontage:** The uninterrupted distance between lot sides along the road line (for corner lots to be measured along one road only), which provides direct access to the lot. A private road approved by the Planning Board under the Subdivision Control Law may provide frontage only for the lots which are contained within the approved subdivision.

**Lot front line:** The portion or portions of a lot line which lie on the road line.

**Lot line:** A line dividing one lot from another, or from a road or public place.

**Lot sideline:** That portion of a lot line or lines which is not a lot front line. Includes lot rear line.

**Lot width:** See Subsection 4.2.3.

**Major residential development:** The creation of 6 or more buildable lots in a subdivision (as defined in the Subdivision Control Laws) within a 3 year period on a property or contiguous set of properties in common ownership as of March 11, 1992.

**Manufacture:** The production for sale of articles by standardized methods or by means of stationary or self activated power driven machinery.

**Manufacture, large scale:** Manufacture in which total production and assembly space is more than six thousand (6,000) square feet.

**Manufacture, small scale:** Manufacture in which total production and assembly space is no more than six thousand (6,000) square feet.

**Medical center or clinic:** A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**Minor residential development:** Subdivision of a parcel or parcels of land into buildable lots at a rate of creation lower than the threshold for a major residential development.

**Mobile home:** A dwelling unit built on a steel chassis and usually framed with steel, having provision for transportability on its wheels or detachable wheels or a flatbed trailer. For the purpose of this Zoning By-Law, the term "mobile home" shall include also trailers, camper conversions, motorized homes and bus or van conversions which are designed to provide human habitation.

**Motel:** Building arranged for shelter and sleeping accommodations and in which the occupants are primarily transient in nature occupying the facilities for a period of less than 30 days.

**Personal service establishment:** A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio and the like.

**Principal structure:** The main or primary structure on a lot.

**Qualifying land area:** The area of a tract of land which is to be used in calculating the basic development density under a flexible development plan. Said area shall be determined by a registered land surveyor and shall equal the total area of the tract of land minus wetlands as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00, minus land otherwise prohibited from development by local or state bylaw regulation or statute, minus land previously prohibited from development under a conservation easement or restriction recorded in the Berkshire Middle District Registry of Deeds, minus the area of any lot designated on the development plan for use other than residential or dedicated open land.

**Residence:** see Dwelling.

**Restaurant:** A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term

"restaurant" shall not include "fast food establishments."

**Restaurant, fast-food:** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

**Retail:** A facility selling goods but not specifically listed in the Table of Use Regulations.

**Road:** A public way or a way which the Town Clerk certifies is maintained and used as a public way, or a way shown on a plan which has been approved and endorsed in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the Town of Becket having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting the way.

**Road line:** The dividing line between a road right of way and a lot, established by boundary survey or deed, or shown on an approved subdivision plan. The road line is generally the same as the front lot line.

**Sign:** See Subsection 5.1

**Site Plan Approval Board:** The members of the Zoning Board of Appeals shall constitute the Site Plan Approval Board.

**Special Permit Granting Authority:** the Zoning Board of Appeals, the Planning Board and the Board of Selectmen are designated as the Special Permit Granting Authorities. See SECTION 3 USE REGULATIONS for specific designations.

**Stable:** Raising or keeping more than three horses on a lot for other than agricultural use or non-commercial use.

**Street:** see Road.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like.

**Upland acreage:** Lot area, not including water courses, water bodies, banks, or vegetated wetland as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00.

**Use, accessory:** A significant use which is subordinate or incidental to another use on the same lot.

**Use, municipal:** Any use of land in accordance with the general laws governing municipal powers and functions including participation in regional use.

**Use, occasional:** A use on a lot which is carried on no more than fourteen consecutive days and no more than thirty days in any one year.

**Use, principal:** A use on a lot which is not accessory and is more than occasional. Where not

otherwise indicated, the term "use" in this Zoning By-Law shall mean "principal use and uses accessory thereto."

**Use, variety:** Two or more business uses combined in an integrated operation, e.g., grocery plus package store plus gasoline service. Includes residential use by owners or proprietors.

**Uses, compatible:** Two or more uses on a lot such that no use interferes with, distracts from or is inappropriate to any other use.

**Uses, complementary:** Two or more uses on a lot which enhance each other or which fit together harmoniously and in such a way as to make it natural and appropriate that they be carried out on the same lot.

**Veterinary establishment:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

**Warehouse:** A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

**Wireless Communications:** See subsection 6.4.2 for additional definitions related to wireless communication.