

7.0 ADMINISTRATION

7.1 Board of Appeals

7.1.1 A Board of Appeals consisting of five members and three associate members shall be appointed as provided in M.G.L., Ch. 40A, § 12. The Board of Appeals shall act on all matters within its jurisdiction in the manner prescribed in said section. The members and associate members of the Board of Appeals shall be inhabitants of the Town, and shall serve for five-year terms.

7.1.2 The Board of Appeals shall have jurisdiction to hear and decide the following matters:

- (a) appeals under M.G.L., Ch. 40A, § 8;
- (b) petitions for variances under M.G.L., Ch. 40A, § 10;
- (c) applications for those uses for which approval of the Board of Appeals is required by this Bylaw; and
- (d) applications for an expansion of a non-conforming use, or a change of a non-conforming use to another non-conforming use, under section 5.2 of the Bylaw and M.G.L., Ch. 40A, § 6.

7.1.3 In exercising its powers under section 7.1.2, the Board of Appeals shall act in accordance with M.G.L., Ch. 40A, § § 9, 11, 15, and 16, as applicable.

7.2 Board of Health Approval

7.2.1 No construction of a structure for dwelling purposes shall be started, and no building or structure shall be converted to a multi-unit dwelling without the approval of the Board of Health having first been obtained.

7.3 Enforcement

7.3.1 This Bylaw shall be enforced by the Building Inspector.

7.4 Deleted

7.5 Amendment

7.5.1 This Bylaw may from time to time be changed by amendment, addition or repeal in the manner provided in Section 5 of Chapter 40A of the General Laws.

7.6 Site Plan Review

7.6.1 Application

7.6.1.1 A site plan shall be submitted to the Planning Board, the Board of Appeals, or the Board of Selectmen, as applicable, for all uses, or changes of uses, for which the approval of such Board is required by this Bylaw.

7.6.1.2 No building permit may be issued for any structure for which site plan approval is required unless such approval has been obtained under this section.

7.6.2 Form and Content of Site Plans

7.6.2.1 The Site Plan shall be prepared by a registered professional architect, landscape architect, or civil engineer, and shall be drawn as follows: on a scale of one (1) inch equals forty (40) feet, or one (1) inch equals twenty (20) feet; on a sheet or several sequentially numbered sheets not exceeding twenty-four (24) by thirty-six (36) inches in size; and, in compliance with the current rules of the Registry of Deeds.

7.6.2.2 Whether or not development is to be phased, the site plan shall show or include the following for the entire site, unless an item or items are waived by the applicable Board.

(a) All property boundaries and dimensions, and the name of the owner of each property shown.

(b) The use and ownership of adjacent land, and the location and use of any buildings within two hundred (200) feet of the boundary of the subject property.

(c) All existing and proposed buildings and structures, covered areas, parking spaces, driveways, driveway openings, loading areas, and service areas on the subject property.

(d) Provisions for external lighting and signage. For the purpose of determining compliance with section 8.6.4 (“Standards Pertaining to Luminaires”), the Applicant shall include a photometric plot of the site delineating external illumination levels in foot-candles with a schedule listing of luminaires (cut-sheets).

(e) A separate landscaping plan, prepared by a registered landscape architect, at the same size and scale as the site plan, providing the following information: existing and proposed location of trees, shrubs, planting areas, fences, walls, open spaces, walkways, and any unusual natural features or vegetation.

(f) Provisions for water disposal, drainage, erosion control, and utilities, including proposed connections and exterior appurtenances (e.g., poles and fire alarm boxes).

- (g) Existing and proposed topography of the lot and adjacent lots, and boundaries of all primary conservation areas.
- (h) Architectural drawings showing facades, cross-sections, and floor plans of proposed buildings, additions, or reconstructions.
- (i) Easements, right-of-ways, and zoning district lines.
- (j) Walls, fences, ditches, ponds, streams, outdoor storage areas, and known surveyors' monuments of bounds.

7.6.3 Criteria for Evaluation

7.6.3.1 The applicable Board shall evaluate the site plan on the basis of the following criteria:

- (a) Protection of adjoining premises and the neighborhood from detrimental impact resulting from the use of the subject property, including the creation of a nuisance by virtue of noise, odor, unsightliness, vibration, or light trespass.
- (b) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets.
- (c) Adequacy of methods for water supply, sewage disposal, and surface drainage.
- (d) Adequacy of off-street parking and loading areas.
- (e) Signage and exterior lighting, and visual impact of parking, storage, or other outdoor service areas.
- (f) Consistency of the proposed development with the character, scale, and design of surrounding buildings.
- (g) Adequacy of landscaping plans, including the use of natural land features, plantings, and screening materials.
- (h) Compliance with the provisions of this Bylaw.
- (i) Adequacy of all required documents, such as easement and condominium documents, to assure the maintenance of buildings and structures and public and common lands.
- (j) Adequacy of the measures proposed by the Applicant to buffer or screen any commercial activities or structures shown on the site plan from nearby residential neighborhoods or residentially-zoned areas.

7.6.4 Procedures and Fees

7.6.4.1 An application for site plan approval and six (6) copies of the site plan shall be submitted to the appropriate Board. The Applicant shall also submit the minimum filing fee, as determined by the Board, to cover processing costs.

7.6.4.2 The appropriate Board shall, within ten (10) days of receiving the application, submit one (1) copy of the site plan to the Planning Board (if the Planning Board is not the appropriate Board), the Board of Health, the Building

Inspector, and the Conservation Commission, The appropriate Board shall hold a public hearing on the plan within 65 days of its filing, and shall, within 90 days of the hearing, render its decision, except that these time limits may be extended by agreement of the Board and the Applicant. In its decision, the Board may reject the plan or approve the plan with or without conditions. The Board may, as a condition of approval, require that the site plan be registered by the Registry of Deeds.

7.6.4.3 The appropriate Board may engage the services of a registered civil engineer, architect, landscape architect, traffic engineer, planner, or other professional consultant to obtain an independent review of the site plan. The costs of such reviews shall be borne by the Applicant.

7.6.5 Compliance With Approved Site Plan

7.6.5.1 Except as provided in section 7.6.5.2, no occupancy permit may be issued for any building subject to the approval of the Planning Board under this section until: (a) a registered architect or engineer certifies to the Planning Board that all construction and improvements have been completed in accordance with the approved site plan and any approved field changes; and (b) the Board, through its technical consultant, verifies that all conditions of the approved site plan and any approved field changes have been met.

7.6.5.2 An occupancy permit may be issued for a building prior to the completion of all construction and improvements in accordance with the approved site plan and any approved field changes, if the only incomplete work is landscaping or roadway top course, and surety in an amount determined by the Planning Board is posted to ensure that such work is completed within a reasonable time. The Board may allow surety to be posted for work in addition to landscaping or roadway top course, if an unexpected event prevents the Applicant from completing the work.

7.7 Penalty

7.7.1 Any person who shall violate any of the provisions of the Bylaw shall be fined a sum not exceeding one hundred dollars (\$100.00) which may be recovered by indictment or on complaint to a district court and shall enure to the benefit of the Town or to such uses as it may direct. Each 24 hour of continued violation shall be considered a separate offense.

7.8 Special Permits

7.8.1 General

7.8.1.1 Certain classes of special permits may be issued by the special permit granting authority (the “SPGA”), which will be the Planning Board, the Board of Appeals, or the Board of Selectmen, as designated by this Bylaw.

7.8.1.2 The SPGA shall review the special permit application in conjunction with a site plan filed under section 7.6.

7.8.2 Special Permit Criteria and Conditions

7.8.2.1 Except as provided by section 7.8.2.2, the SPGA may issue a special permit only upon its written determination that the benefits of the proposed use outweigh any adverse effects or impacts of such use. In making this determination, the SPGA shall consider, to the extent applicable, the following criteria:

- (a) the social, economic, or community needs that would be served by the proposed use;
- (b) the impact of the proposed use on public health and safety;
- (c) the impact of the proposed use on town services and the tax base;
- (d) the adequacy of utilities and water supplies, and the impact of the proposed use on stormwater drainage systems;
- (e) the impact of the proposed use on traffic flow and safety, on the site and throughout the Town, and the adequacy of parking and loading facilities;
- (f) the impact of the proposed use on the character and natural environment of the Town;
- (g) the compatibility of all proposed buildings and structures with the character, scale, and design of existing buildings and structures in the neighborhood;
- (h) the impact of the proposed use on adjacent properties and the neighborhood; and
- (i) any other criteria specified by other sections of this Bylaw, applicable to the proposed use.

7.8.2.2 The provisions of section 7.8.2.1 shall not apply to special permits issued under sections 4.11.4.3, 6.1.1.2(b), 6.6, 8.6.5, and 8.8.3.

7.8.2.3 The SPGA may impose such conditions on the special permit as it deems necessary to protect the Town, the public, or other properties in the area from detrimental impact. The conditions that may be imposed include, but are

not limited to, conditions relating to noise, traffic control, dust control, sanitation, number of occupants, hours of operation, deliveries, water quality testing and monitoring, police details, and performance bonds.

7.8.3 Miscellaneous Provisions

7.8.3.1 The SPGA shall issue special permits in accordance with M.G.L., Ch. 40A, § 9. In deciding whether to issue a special permit, the SPGA shall consider any comments or recommendations submitted by other town departments, boards, or commissions.

7.8.3.2 The SPGA may, after notice and hearing, adopt rules and regulations specifying the content and number of required plans, application procedures, filing and review fees, design and development standards, and other general requirements to be applied with respect to the proposed use.

7.8.3.3 The Board of Selectmen may appoint a resident of the Town to serve as an associate member of the Planning Board for a two-year term. The Chairperson of the Planning Board may appoint the associate member to act on special permit applications, in the case of absence, inability to act, or conflict of interest, on the part of a regular member of the Planning Board, or in the event of a vacancy on the Board.

7.8.3.4 Any special permit granted under the provisions of this Bylaw shall lapse within a period of two years from the grant hereof, if a substantial use thereof has not sooner commenced or, in the case of a permit for construction, if construction has not begun by such date, except for good cause shown, and provided further that such two-year period shall not include the time required to pursue or await the determination of an appeal under M.G.L., Ch. 40A, § 17.

7.9 Adult Entertainment & Establishments

7.9.1 Purpose and Intent

This subsection is enacted pursuant to Massachusetts General Laws Chapter 40A, Section 9 and the Home Rule Amendment to the Massachusetts Constitution with the purpose and intent of Regulating and limiting the location of Adult Entertainment Establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Rowley. The provisions of this subsection have neither the purpose nor effect of imposing a limitation on or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials, similarly, it is not the intent or effect of this subsection to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or Commonwealth of Massachusetts nor restrict

nor deny rights that distributors or exhibitors or such matter or materials may have to sell, distribute or exhibit such matter or materials. Neither is it the intent or effect of this subsection to legalize the distribution of obscene matter or materials.

7.9.2. Applicability

This subsection applies to all Adult Entertainment Establishments as defined in Massachusetts General Law Chapter 40A, Section 9A.

7.9.3 Regulations and Standards

No special permit may be granted by the Planning Board for any Adult Entertainment Establishment unless the following conditions are satisfied:

(a) Adult Entertainment Establishments shall not be located within (50) fifty feet of a public or private way from the nearest property line of:

- (1)** Residentially zoned property
- (2)** Another Adult Entertainment Establishment
- (3)** Public or Private Nursery School, Day Care Center or Kindergarten
- (4)** Public or Private Elementary or Secondary Schools
- (5)** Playgrounds
- (6)** Churches or other religious facilities
- (7)** Library
- (8)** Any establishment licensed under the provisions of Massachusetts General Law Chapter 138, Section 12.

(b) 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 establishment.

(c) All parking areas for Adult Entertainment Establishments shall be in the side or front yards and shall conform to the requirements outlined in the Rowley Planning Board Rules and Regulations.

(d) The proposed use and all associated advertising signs shall not be located with fifty (50) feet of a public or private way and must be set back a minimum of fifty (50) linear feet from all property lines.

(e) The application of a Special Permit for an Adult Entertainment Establishment under this subsection must include the following information:

- (1)** Name and address of the legal owner of the establishment
- (2)** The number of employees
- (3)** Proposed security precautions
- (4)** The physical layout of the premises
- (5)** Nature of the business

(f) No Special Permit shall be issued to any person convicted of violating the provisions of Massachusetts General Laws Chapter 119, Section 63 or Chapter 272, Section 27.

8.0 SPECIAL REQUIREMENTS

8.1 Soil Suitability

8.1.1 In no district shall a building, structure or paved parking area be constructed or placed on land shown as Medisaprists, Scarboro, Ipswich or Westbrook Soils or on soils listed in Table 16 as having frequent flooding and/or depth to water table of less than six (6) feet, as shown on map or maps contained in the "Soil Survey of Essex County, Northern Part", U.S. Department of Agriculture, Soil Conservation Service, February 1981, each on file with the Planning Board, and the Town Clerk, without a special permit, with or without conditions from the Board of Selectmen issued in the same manner and under the same conditions as provided in Section 4.10.2, and without a permit from the Conservation Commission when one is required under Chapter 131 of the General Laws of Massachusetts.

8.2 Hazardous Materials

8.2.1 All hazardous materials used, created, stored, processed, disposed of by processing, diluting, burying, or containment, leaching or any other manner, or transported, including piping in the Town of Rowley, shall be used, stored or transported in accord with all applicable federal and state regulations.

8.2.2 A notice for use, creation, storage, processing and transport shall be filed with the Board of Selectmen on such form as it shall require. Notification shall include, as a minimum, identification of material, the amount involved, the process, if any, and the routes of transport, carrier and conveyance, if any. The Board may require a bond be posted to cover any and all possible damage to person, property and environment.

8.2.3 All radioactive materials, including but not limited to low level radioactive materials, used, stored, disposed of or transported in the Town of Rowley shall in addition to the requirements of paragraphs 8.2.1 and 8.2.2 require a Special Permit to be granted by the Board of Selectmen after a public hearing subject to such conditions and limitations as it shall establish, which relate to but not be limited to an emergency plan, approved by the Board of Selectmen; methods of incineration and provision for perpetual care and monitoring of disposal sites.

8.3 Earth Removal

8.3.1 Extraction is prohibited from all Districts, except as permitted by the Earth Removal Bylaw of the Town of Rowley. The removal of rocks, minerals, clay and sod shall be subject to the same restrictions as for the removal of “earth” as defined and governed by that Bylaw.

8.4 Signs

8.4.1 General Requirements All Districts

8.4.1.1 No sign or other advertising device with visible moving or movable parts or with flashing animated or intermittent illumination shall be erected, with the exception of such during the holiday season.

8.4.1.2 No sign shall be permitted which is visible from any portion of a public way so as to create a traffic hazard.

8.4.1.3 No sign or other advertising device attached to a building shall project above the roof or parapet line.

8.4.1.4 No sign or other advertising device attached to a building shall project more than five (5) feet from a building or one-third (1/3) width of the sidewalk, whichever is less.

8.4.1.5 No more than one (1) free standing sign shall be placed on the property unless such property fronts upon more than one street, in which event one (1) such sign may be erected on each frontage.

8.4.1.6 Petitions for variances to the requirements of this Section 8.4. shall be in accordance with “Section 7.0 Administration” of the Protective Zoning Bylaws of the Town of Rowley.

8.4.2 Outlying District Sign Regulations

8.4.2.1 Total area of a sign shall not be larger than twelve (12) square feet in area, and no one (1) side shall be larger than six (6) square feet in area.

8.4.2.2 No free standing sign, or other advertising device, shall be more than eight (8) feet above the ground.

8.4.3 Residential District Sign Regulations

8.4.3.1 Total area of a sign shall not be larger than sixteen (16) square feet in area, and no one (1) side shall be larger than eight (8) square feet in area.

8.4.3.2 No free standing sign, or other advertising device, shall be more than ten (10) feet above the ground.

8.4.4 Central District Sign Regulations

8.4.4.1 Each business within a building will be allowed to have ten (10) square feet of sign area attached to the building. Total area of a free standing sign shall not exceed forty (40) square feet in area.

8.4.4.2 No free standing sign, or other advertising device, shall be more than ten (10) feet above the ground.

8.4.5 Retail District or the Business/Light Industry District Sign Regulations

8.4.5.1 Each business within a building will be allowed to have ten (10) square feet of sign area attached to the building. Total area of a free standing sign shall not exceed eighty (80) square feet in area; The maximum area shall not exceed five (5) percent of the projected vertical area of the side of the building facing the street, (Maximum Area equals $.05 H/L$ where H and L are the height and length of the building expressed in feet), whichever is greater.

8.4.5.2 In no event shall the length or width of a free standing sign or a sign attached to the building be greater than fifteen (15) feet.

8.4.5.3 No sign, or other advertising device, shall be more than twenty (20) feet above ground level.

8.4.6 Temporary Signs

8.4.6.1 Temporary signs which comply with this Bylaw shall be permitted. Temporary signs for political or charitable purposes or public organizations and temporary window signs are exempt from the provisions of Section 8.4.

8.5 New Single Family Dwelling Limitation

8.5.1 Except as provided by section 8.5.2, the issuance of building permits for new single family dwellings is subject to the following limitations:

(a) Building permits shall not be issued authorizing the construction of more than twenty-four (24) new single family dwellings in the Town in any twelve (12) month period. The number of permits allowed for new single family dwellings in any month shall equal twenty-four (24) minus the number of such dwellings that have been authorized (exclusive of unused authorizations that have expired or been withdrawn) in the preceding eleven (11) months. Subject to the provisions of section 8.5.1(b), applications for building permits for new single family dwellings shall be held and acted upon in chronological order based on the date of the filing of a complete application with the Building Inspector.

(b) Building permits shall not be issued authorizing the construction of more than four (4) new single family dwellings in any twelve (12) month period on any set of lots created from land that was contiguous and held in common ownership at any time on or after the effective date of this section.

8.5.2 The limitations of section 8.5.1 are subject to the following exceptions:

(a) For new single family dwellings established as part of an Open Space Residential Development approved under section 6.4 of the Bylaw, the limitation of section 8.5.1(b) shall be ten (10) dwellings per twelve (12) month period, rather than four (4) dwellings per twelve (12) month period.

(b) The limitations of section 8.5.1 do not apply to affordable dwelling units, or to dwelling units authorized under a comprehensive permit issued under M.G.L., Ch. 40B, § 21, and permits issued for such units shall not be included in the count required by section 8.5.1(a).

8.5.3 Any time-limited protection against zoning change afforded by M.G.L., Ch 40A, § 6, shall be extended (if such protection has not already expired by the date on which a complete application for a building permit is filed with the Building Inspector) until such date as a building permit is issued under this section.

8.5.4 Section 8.5.1 shall not be construed as limiting the issuance of building permits for the enlargement or improvement of existing dwellings, or the restoration of previously existing dwellings.

8.5.5 This section 8.5 shall expire on May 6, 2009.

8.6 Outdoor Illumination Standards, Including Standards for Illuminated Signs

8.6.1 Purpose

The purpose of this section is to establish standards pertaining to the outdoor illumination of commercial and industrial uses, and multi-family dwellings, so as to promote traffic and pedestrian safety, protect property values, and foster the aesthetic appearance of the town.

8.6.2 Definitions

“Lumen”: The basic unit of measurement for light at its source. For the purposes of this bylaw, the lumen output shall be the initial lumen rating listed by the bulb manufacturer’s specification data sheet at the rated voltage and power (watts).

“Footcandle (fc)”: A measurement of the amount of light reaching an object. A footcandle is the measurement of the intensity of one lumen of light falling on one square foot of surface area one foot away from the source.

“Luminaire”: A complete lighting unit or fixture, consisting of a lamp or lamps, ballast (when applicable), and any part designed to distribute the light, position the unit, protect the lamps (housing), and connect lamps to the power supply.

“Full cut-off fixture design (fully shielded)”: A luminaire which is designed, constructed, and installed so that no light is emitted at an angle above the

horizontal plane through the lowest light emitting part (including refractors, reflectors, or other devices) of the luminaire.

“Light Trespass”: Illumination from a luminaire that goes beyond the lot lines of the lot on which the luminaire is located at a footcandle level greater than the original (natural) illumination level as measured at the lot line in a horizontal and vertical plane.

8.6.3 Application

8.6.3.1 Except as provided in section 8.6.3.2, the illumination standards established by this section apply to any outdoor luminaire, or to any outdoor illuminated sign, that is maintained by or in connection with, or for the purpose of illuminating or promoting, any commercial or industrial use, or any multi-family residential dwelling, in the Town of Rowley.

8.6.3.2 Any outdoor luminaire or outdoor illuminated sign that was in existence prior to February 13, 2001 shall be exempt from the standards established by this section, until such time as the luminaire or sign is replaced or redesigned. A luminaire or sign shall be considered to have been replaced if any part of the luminaire or sign (e.g., starter, mounting arm, reflector, hardware, wiring, sign structure) is replaced, except that a replacement of any bulb used in a luminaire or sign will not by itself be considered a replacement of such luminaire or sign.

8.6.4 Standards Pertaining to Luminaires

8.6.4.1 Any luminaire with a lamp or lamps rated at a total of 2000 or more initial lumens shall utilize full cut-off fixture design, and shall be installed in a horizontal orientation.

8.6.4.2 Any wall-mounted (wall-pack) luminaire with a lamp or lamps rated at a total of 2000 or more initial lumens shall utilize full cut-off fixture design.

8.6.4.3 Free-standing and wall-mounted luminaires shall not exceed thirty (30) feet in height.

8.6.4.4 Light trespass onto residential property is prohibited.

8.6.4.5. Luminaires shall be designed and maintained so that the average illumination levels for general parking and pedestrian areas and vehicle use areas, during hours of the day when a commercial or industrial use is open for business, will not exceed the following:

General Parking and Pedestrian Areas

<u>Level of Activity</u>	<u>Footcandles on Pavement - Average</u>
High	3.6
Medium	2.4
Low	0.8

Vehicle Use Areas

High	2.0
Medium	1.0
Low	0.5

High: major regional shopping center, malls, athletic events

Medium: community shopping centers, transportation parking lots, office parks

Low: neighborhood shopping, industrial employee parking¹

When a commercial or industrial use is closed for business, illumination levels for general parking or pedestrian areas shall be reduced from the above specified levels to a partial level required for security. For any activity not addressed by this section, luminaries shall be designed and maintained so that the average illumination level does not exceed the average illumination level published for such activity by the IESNA Handbook.

8.6.4.6 No luminaire shall be installed or maintained so that its light output is aimed, directed, or focused at motor vehicle or pedestrian traffic.

8.6.4.7 External illumination of displays, buildings, and architectural features shall be performed with a luminaire or luminaires rated at a total of less than 2000 initial lumens. Lighting shall be specifically targeted at particular architectural or landscape features, and shall not project beyond such features.

8.6.4.8 Search light or laser light skyward display is prohibited.

8.6.5 Standards Pertaining to Illuminated Signs

8.6.5.1 Sign illumination may be permitted subject to a design review and the issuance of a special permit by the Board of Selectmen, and subject to compliance with the illumination standards established by section 8.6.5.

8.6.5.2 All sign illumination shall be turned off after closing time.

8.6.5.3 No off-premises illuminated signs are allowed.

8.6.5.4 Except as provided in section 8.6.5.4.1, externally-illuminated signs shall be illuminated from the top pointing downward (luminaires mounted from below the sign are not permitted).

8.6.5.4.1 Building-mounted facade signs may be illuminated from the bottom of the sign under the following conditions: (a) the sign must be mounted on the building at least eight (8) feet above ground level (as measured from the bottom of the sign), but below the roof line; (b) only fluorescent tube lighting with concentric metallic opaque shielding is allowed; and (c) the luminaire or

¹ These illumination standards are derived from the industry-recognized technical authority of the Illuminating Engineering Society of North America Handbook ("the IESNA Handbook"), sections 7.6.4.5.1 and 7.6.4.5.2.

luminaires must be shielded to direct the light onto the sign only with no projection beyond the building face.

8.6.5.5 The fixtures used to illuminate externally-illuminated signs must be fully shielded to prevent glare to pedestrian and vehicular traffic - i.e., such fixtures must be designed to insure that motorists and pedestrians in the area do not have a direct view of the light source.

8.6.5.6 The average illumination level on the surface of an externally-illuminated sign shall not exceed 20 footcandles for white or light-colored backgrounds, and 50 footcandles for black or dark-colored backgrounds.²

8.6.5.7 Box signs (luminous element signs) shall utilize a dark (density) translucent or opaque background color (not white) with lighter (color and density, not clear) translucent or opaque lettering, and/or graphics.

8.6.5.8 Internally lighted signs shall not exceed the following average levels of illuminance.

<u>Areas of Application</u>	<u>Luminance-candelas/ft</u>
Lighted facades & fascia signs	20
Bright fascia signs as in shopping centers	35
Low brightness areas/dark surroundings	55
Average commercial environment	80

8.6.5.9 Animated or motion signs are prohibited.

8.6.6 Verification of Compliance

The owner of any lot or property on which a luminaire or sign subject to this bylaw is located or proposed to be located shall have the burden of demonstrating that the existing or proposed luminaire or sign complies with the standards established by this section. The manufacturer's specification data (cut) sheet may be used to establish the lumen level of a luminaire and, if required, to verify the use of full cut-off fixture design. Illumination levels may be verified through the use of a manufacturer's photometric data sheet and/or photometric site drawing, or through on site calibrated light level meter readings.

8.7 Personal Wireless Service Facilities

8.7.1 Purpose: The purpose of this Bylaw is to minimize the impacts of personal wireless service facilities (PWSFs). The Bylaw establishes standards for the review and approval of PWSFs by the Planning Board (PB), and is intended to be used in conjunction with site-plan and special-permit requirements, and other Bylaws designed to encourage appropriate land use, adequate infrastructure, and environmental protection.

² Source: the IESNA Handbook.

8.7.2 Definitions

Above Ground Level (AGL): A measurement of height from the highest point of the natural grade of a site to the highest point of a structure.

Antenna: The surface from which wireless radio signals are sent and received by a PWSF.

Camouflaged: A PWSF that is disguised by, part of, or placed within a structure is considered “camouflaged”.

Carrier: A company that provides wireless services.

Co-location: The use of a single mount on the ground by more than one carrier or several mounts on an existing building or structure by more than one carrier.

Elevation: The measurement of height above mean sea level.

Equipment Shelter: An enclosed structure at the base of the mount within which are housed batteries and electrical equipment.

Fall Zone: The area on the ground within a prescribed radius of a PWSF within which there is a hazard from falling debris or collapsing material.

Monopole: The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Mount: The structure or surface upon which antennas are mounted, including mounts located on the ground, the roof or side of a building, or on a structure other than a building.

PWSF: A facility for the provision of personal wireless services, as defined by the Telecommunications Act.

Radio Frequency Radiation (RFR): The emissions from PWSFs.

Security Barrier: A locked, impenetrable wall, fence or berm that seals an area from unauthorized entry.

8.7.3 District Regulations

8.7.3.1 Use Regulations.

8.7.3.1.1 A PWSF may locate on any existing guyed or lattice tower, monopole, or electric utility transmission tower, provided the PWSF does not increase the height of the tower. Such installation shall not require a Special Permit but shall require site plan approval by the PB.

8.7.3.1.2 A PWSF involving construction of a ground or building (roof or side) mount shall require a Special Permit. Subject to the provisions of this section, and all other sections of this Bylaw, PWSFs may locate by special permit in all zoning districts. The Special Permit Granting Authority for PWSFs shall be the Planning Board.

8.7.3.2 Height Limitations.

8.7.3.2.1 Ground-mount PWSFs shall not project more than ten feet above the average height of buildings within 300 feet of the proposed PWSF or, if there is no building within 300 feet, ten feet above the average tree canopy height.

8.7.3.2.2 Side-and roof-mounted PWSFs shall not project more than ten feet above the height of the existing building.

8.7.3.2.3 New antennas located on any towers, monopoles, or utility structures existing on January 18, 2000 shall be exempt from the height restrictions of this Bylaw, provided there is no increase in height of the tower as a result of the installation of a PWSF.

8.7.3.3 Setbacks and Fall Zones. A PWSF shall comply with the setback provisions of the zoning district in which it is located. In addition, the minimum distance from the base of any ground-mounted PWSF to any property line, side-line of a road, habitable dwelling, business use, institutional use, or public recreational area shall be equal to 120% of the vertical height of the facility (including any antennas or other appurtenances), as measured from the mean finished grade at the base of the facility. Notwithstanding the foregoing, no principal part of a PWSF may be located within 300 feet of a residential dwelling or within 200 feet of a residential lot line.

8.7.3.4 Location and Co-location.

8.7.3.4.1 If technologically feasible, PWSFs shall be located in the Retail District or the Business/Light Industry District. In addition, PWSFs shall, to the maximum extent practicable and technologically feasible, be co-located with existing PWSFs or located on existing towers, buildings or other structures whose height, location, and characteristics meet the needs of the proposed PWSF.

8.7.3.4.2 An applicant must demonstrate that it made a good faith effort to co-locate. Such effort includes: a survey of all existing structures that may be feasible sites for co-location; contact with all other carriers in the County; and sharing information to determine if co-location is feasible under the design configuration most accommodating to co-location.

8.7.3.4.3 If the applicant determines that co-location or the location of its proposed PWSF within the Retail District or the Business/Light Industry District is not technologically feasible, it shall file a statement of the reasons for such determination. The Town may, at the applicant's expense, retain a radio frequency (RF) engineer to determine whether co-location or location within the Retail District or the Business/Light Industry District is feasible.

8.7.3.4.4 If the applicant intends to co-locate, it shall submit drawings which show the ultimate appearance and operation of the PWSF at full build-out. If the PB approves co-location, the Special Permit shall specify the number and types of facilities that will be permitted on the site.

8.7.3.4.5 New PWSFs or support structures for PWSFs shall be designed, to the maximum extent practicable and technologically feasible, for the co-location of antennas and other necessary facilities, and shall offer space to all carriers at

market rates. Any Special Permit granted under this Bylaw may be conditioned on the applicant's written agreement to allow the co-location of other PWSFs on commercially reasonable terms.

8.7.3.5 Design, Environmental, and Safety Standards.

8.7.3.5.1 Towers. After January 18, 2000, only monopoles may be constructed for use as PWSFs. New lattice towers or towers requiring three or more legs and/or guy wires for support are not allowed.

8.7.3.5.2 Visual Impact, Camouflage, and Screening

8.7.3.5.2.1 An Applicant shall demonstrate to the Planning Board's satisfaction that the proposed PWSF will have minimal visual impact.

8.7.3.5.2.2 PWSFs shall be camouflaged or screened as follows:

- (a) PWSFs in the Historic Districts shall be completely hidden within a steeple, cupola, or similar structure;
- (b) Building-mounted PWSFs shall be designed so as to appear as an integral part of the architecture of the building, and shall be painted to match the color of the building;
- (c) Roof-mounted PWSFs shall be stepped back from the facade to limit the impact on the building's silhouette;
- (d) To the extent a ground-mounted PWSF is not camouflaged by existing structures, the PWSF shall be surrounded by buffers of dense tree growth and understory vegetation (the Planning Board shall determine the types of plants and the depth of the buffer required); and
- (e) To the extent a PWSF extends above the surrounding vegetation, it shall be painted in a light grey or blue hue.

8.7.3.5.3 Equipment Shelters. Equipment shelters shall be: (a) located in underground vaults, (b) designed consistently with traditional New England architectural styles and materials (with a pitched roof and wooden clapboards or shingles), or (c) screened behind a landscape buffer and/or wooden fence. The PB shall determine the style of building materials, buffer, or fencing that is compatible with the neighborhood.

8.7.3.5.4 Lighting, Signs, and Security Barriers. PWSFs may be lighted only if required by the FAA, and any lighting shall be shielded from abutting properties. Signs shall be limited to those needed to identify the property/owner and to warn of dangers. Ground-mounted PWSFs shall be surrounded by security barriers.

8.7.3.5.5 Scenic Vistas and Open Areas. PWSFs shall not be located in open areas (e.g., marshes, fields) that are visible from public roads, recreational areas, or residential development. Any PWSF located within 300 feet of a scenic vista or scenic road designated by the Town shall not exceed the average height of vegetation at the proposed location.

8.7.3.5.6 Environmental Standards. No hazardous waste shall be discharged on the site of any PWSF. There shall be provisions for full containment of any hazardous materials used on site. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on site. Stormwater run-off shall be contained on-site. Ground-mounted PWSFs shall not generate noise in excess of 50 dB at the property line, and roof- or side-mounted equipment shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

8.7.3.5.7 RFR Standards. All equipment proposed for a PWSF shall be authorized by the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.

8.7.4 Application Procedures. In addition to the requirements generally applicable to site plan approval and special permits issued by the PB, the following applies to PWSF applications:

8.7.4.1 General. The application shall include the name, address and telephone number of the applicant and any co-applicants. A licensed carrier shall either be an applicant or a co-applicant. An applicant proposing to erect a PWSF on Town-owned land shall provide evidence of contractual authorization from the Board of Selectmen to operate the PWSF. The PB may require the applicant to pay reasonable fees for review of the proposal by a RF engineer or other qualified professional.

8.7.4.2 Location. The applicant shall identify the location, tax map/parcel number, and zoning district designation of the subject property. The applicant shall submit (1) a line map to scale showing the lot lines of the property and all properties within 300 feet, and the location of all structures on such properties, and (2) a Town-wide map showing existing PWSFs in the Town and outside the Town within one mile of its corporate limits.

8.7.4.3 Vicinity Plan. The applicant shall file a one inch equals 40 feet vicinity plan showing the following: (1) property lines, tree cover (by dominant species and height), buildings, roads, and driveways for the subject property, and all adjacent properties within 300 feet; (2) proposed location of antenna, mounts, shelters, and security barriers (showing type and extent, as well as point of controlled entry); (3) distances, at grade, from the proposed PWSF to each building on the vicinity plan; (4) contours at each two feet AMSL for the subject property and adjacent properties within 300 feet; (5) proposed changes to the property, including grading, driveways, and vegetation removal; (6) representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas, and all construction attendant to the PWSF; and (7) lines representing sight lines showing viewpoint (point from which view is taken) and visible point (point being viewed).

8.7.4.4 Sight Lines and Photographs. The applicant shall provide sight lines and photographs as follows: (1) a sight line representation shall be drawn from any public road within 300 feet, and from the closest facade of each residential

building within 300 feet, to the highest point of the PWSF; each sight line shall be depicted in profile, drawn at one inch equals 40 feet; the profiles shall show intervening trees and buildings; (2) each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from the viewpoint; each of these existing condition photographs shall have the proposed PWSF superimposed on it to show what would be seen if the PWSF is built; (3) siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed PWSF, plus from all existing public and private roads that serve the subject property; elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and shall show the following: antennas, mounts, and shelters, with total elevation dimensions and AGL of the highest point, security barrier, and any structures; existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of planting, with approximate elevations dimensioned; and grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

8.7.4.5 Design. The applicant shall provide or specify: (1) equipment brochures (e.g., manufacturer's specifications or trade journal reprints) for antennas, mounts, shelters, cables, cable runs, and security barrier; (2) materials of the proposed PWSF by generic type and specific treatment (e.g., anodized aluminum, stained wood); (3) colors of the PWSF represented by a color board showing actual colors proposed; (4) dimensions of the PWSF for all three directions (height, width and breadth); (5) appearance of the PWSF by two photographic superimpositions of the PWSF within the subject property; (6) a landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at planting and species; and (7), if lighting is proposed, a manufacturer's computer-generated point-to-point printout, showing the locations and types of luminaires proposed, and indicating the horizontal footcandle levels at grade, within the subject property and 25 feet beyond the property lines.

8.7.4.6 Balloon or Crane Test. Within 21 days of filing the application, the applicant shall arrange for a balloon or crane test to illustrate the height of the proposed PWSF. The date, time, and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14, but no more than 21, days prior to the test.

8.7.4.7 Noise. The applicant shall provide a statement listing the existing and future maximum projected measurements of noise from the proposed PWSF (including noise measurements of all emergency, auxiliary, and ancillary equipment), measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following: existing or ambient: the measurements of existing noise; existing plus proposed PWSFs (maximum estimate of noise from the proposed PWSF plus the existing noise environment). An acoustical engineer shall certify that the statement is accurate and meets the standards of this section.

8.7.4.8 RFR. The applicant shall provide a statement listing the existing and future maximum projected measurements of RFR from the proposed PWSF for the following situations: existing, or ambient: the measurements of existing RFR; existing plus proposed PWSFs (maximum estimate of RFR from the proposed PWSF plus the existing RFR environment). An RF engineer shall certify that the RFR measurements are accurate and meet FCC Guidelines and the standards specified in this section.

8.7.4.9 Removal Bond. The Applicant shall provide evidence of written authority from the record owner(s) of the subject property to bind successors and assigns to allow the Town to enter the property to remove the PWSF if the carrier fails to remove the facility in accordance with the requirements of this Bylaw. The PB may require the applicant to post a bond at the time of construction to cover the costs of removing the PWSF.

8.7.5 Monitoring and Maintenance

8.7.5.1 The applicant shall submit, within 90 days of beginning operations, and annually thereafter, (1) existing measurements of RFR (an RF engineer shall certify that the measurements are accurate and meet FCC Guidelines and the requirements of this Bylaw), and (2) existing measurements of noise from the PWSF (an acoustical engineer shall certify that the noise measurements are accurate and meet the noise standards of this Bylaw).

8.7.5.2 The applicant and co-applicant shall maintain the PWSF in good condition. Such maintenance shall include painting, structural integrity of mounts, support structures, and security barriers, and maintenance of the buffer areas and landscaping.

8.7.6 Abandonment or Discontinuation. If a carrier decides to abandon or discontinue a PWSF, it shall notify the Town, by certified mail, of the proposed date of abandonment or discontinuation. If the carrier fails to give such notice, the PWSF shall be considered abandoned upon discontinuation of operations. Within 90 days of abandonment or discontinuation, the carrier shall remove the PWSF and restore the site to its natural state, except that landscaping and grading shall remain in place. If a carrier fails to remove a PWSF within this period, the Town shall have the authority to remove the facility; and to charge the carrier and/or record owner for the costs of removal.

8.7.7 Reconstruction or Replacement of Existing Towers. Towers in existence as of January 18, 2000, may be reconstructed, altered, or replaced by Special Permit, if the PB finds that such reconstruction, alteration, or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such determination, the PB shall consider whether the proposed reconstruction, alteration, or replacement will create public benefits, such as reductions in visual and environmental impacts.

8.7.8 Modifications/Waivers. The PB, by a vote of at least four members, may modify/waive one or more of the requirements of this Bylaw if (1) the applicant demonstrates that it is technologically infeasible to meet such

requirements, that the requirements are unduly burdensome, or that a modification/waiver would promote the purposes of this Bylaw, and (2) the PB finds that the proposed modification/waiver would be consistent with the visual, safety, and environmental concerns reflected in this Bylaw. The Town, at the applicant's expense, may retain an RF engineer or other qualified professional to determine whether modification/waiver is warranted.

8.7.9 Permit Term A Special Permit issued for a PWSF shall be valid for up to a maximum of fifteen years. At the end of that time, the PWSF shall be removed by the carrier or a new permit shall be required. Any substantial modification to a PWSF shall be considered a new PWSF and will require a new special permit.

8.8 Driveways and Common Driveways

8.8.1 Any driveway that provides vehicular access to a single lot, and that is not an extension of a common driveway, shall connect with the street entirely over the frontage of the lot.

8.8.2 Except as provided by section 8.8.3, common driveways are prohibited.

8.8.3 The Planning Board may issue a special permit authorizing the construction of a common driveway that serves up to three lots on which single family dwellings will be located, or up to two lots on which buildings for non-residential uses will be located, if the Board determines that the following requirements have been met:

(a) each lot served by the common driveway must satisfy the applicable requirements of section 6.0;

(b) the common driveway, in the opinion of the Planning Board, shall provide for adequate sight distances and a safe approach to the street, and for safe and convenient access for fire, police, ambulance, and other vehicles, and shall be constructed in accordance with the provisions pertaining to common driveways in the Subdivision Rules;

(c) the common driveway shall connect with the street over the frontage of one or two of the lots served by the driveway;

(d) the owner of each lot served by the common driveway shall have the benefit of, and shall be subject to, recorded covenants and agreements governing the use and maintenance of the common driveway; such covenants and agreements shall provide for the following: the right of each owner to use the common driveway for all purposes for which private driveways are customarily used; the obligation of each owner to repair and maintain the common driveway, and to keep it reasonably free of snow and ice; and the right of each owner to enforce

such rights and obligations, including the right of equitable contribution for the expenses of such repair, maintenance, and snow removal;

(e) the deed for each lot served by the common driveway shall specify that vehicular access to the lot shall be provided exclusively by the common driveway, and any extension of such common driveway;

(f) the common driveway may not be located within fifteen (15) feet of the property line of any lot that is not served by the common driveway; and

(g) the use of a common driveway will promote the character of the neighborhood and enhance the natural environment by reducing impervious surface coverage, eliminating unnecessary curb cuts on streets, and/or minimizing the impact of development on primary or secondary conservation areas.