

Chapter 123

ZONING

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[HISTORY: Adopted by the Special Town Meeting of the Town of Blackstone 6-26-1968 by Art. 10 . Amendments noted where applicable.¹]

1. Editor's Note: At the Annual Town Meeting held April 25, 1988, the renumbering of the Zoning Bylaws as it appears in this chapter

BLACKSTONE CODE

GENERAL REFERENCES

Building construction — See Ch. 57.

Wetlands — See Ch. 119.

Fences — See Ch. 73.

Subdivision of land — See Ch. 191.

Stormwater management and land disturbance — See Ch. 110.

was reconfirmed by unanimous voice vote and reported in the Results of the Annual Town Meeting as follows: "ARTICLE 36. Upon motion duly made and seconded, it was voted that the Town vote to amend the Zoning Bylaws of the Town of Blackstone by changing their original numbering to the numbering or codification, sequence, arrangement and captions, as set forth in the Code of the Town of Blackstone, dated 1987, and published by General Code Publishers Corp., 72 Hinchey Road, Rochester, New York; said codification being done under the direction of the Board of Selectmen, Town Administrator and Town Clerk, and said Code being a compilation of the present Zoning Bylaws of the Town and having no substantive changes in the text thereof."

ARTICLE I

General and Administrative Provisions

[Amended by 6-5-1972 STM, Art. 6 ; 6-26-1973 STM, Art. 14 ; 9-25-1975 STM, Art. 10 ; 1-9-1978 STM, Art. 5]

§ 123-1. Statutory authority; purpose.

This Zoning Chapter is enacted pursuant to, and under the authority of, Chapter 40A of the General Laws, and amendments thereto, and of Article 89 of the Amendments to the Constitution, for the purpose of guiding the sound development of the Town of Blackstone.

§ 123-2. Administration and enforcement; site plan review; violations and penalties.

- A. Responsibility. This chapter shall be enforced by a Zoning Agent appointed annually by the Selectmen. The Zoning Agent shall institute and take any and all action as may be necessary to enforce full compliance with the provisions of this chapter and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to the Town Counsel.
- B. Compliance certification.
 - (1) Buildings, structures or signs may not be erected, substantially altered or moved, nor shall land or structures be changed in use, without certification by the Zoning Agent that such action is in compliance with then-applicable zoning or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. No building permit or certificate of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, shall be issued without such certification.²
 - (2) In addition to any information which may be required under the Massachusetts State Building Code, the Zoning Agent shall require of applicants such information as he deems necessary to determine compliance with this Zoning Chapter. This may include such things as a site plan indicating land and building uses and provisions for vehicular parking and egress, location of floodplain control elevations and evidence of performance compliance under § 123-16.
 - (3) Applicants for permits within the Special Resource Overlay District comprising the area described in Subsection B(3)(a), (b) and (c) below must inform the Zoning Agent of the date at which they provided or will provide notification of that application as required by the following. The Zoning Agent's determination of compliance with this Zoning Bylaw shall be made no earlier than seven days following that notification. **[Added by ATM 5-27-2003, Art. 17 ³]**
 - (a) For proposal on land abutting the route of the Blackstone Canal, notification of intent to the Blackstone River and Canal Commission, as required by Chapter 155 of the Acts of 1988, as amended (see map titled "Black Canal Area: Canal Route: Apparent Abutters," August 1, 2002⁴).
 - (b) For proposals within premises or a district listed in the National Register of Historic Places

2. Editor's Note: See also Ch. 57, Building Construction.

3. Editor's Note: This article also provided for the renumbering of former Subsection B(3) and (4) as (4) and (5), respectively.

4. Editor's Note: Said map(s) are on file in the Town offices.

and proposing change visible from a public way, notification of intent to the Blackstone Historical Commission (see maps titled "Blackstone National Register Places," August 1, 2002⁵).

- (c) For proposals on premises within the Village Overlay District, notification of intent to the Blackstone Revitalization Committee.
- (d) Notification as required under Subsection B(3)(a), (b) or (c) must also be provided to those nonprofit organizations that, following their request, have been determined by the Planning Board to have reasons serving the public interest to be notified of proposals under one or more of those paragraphs. The Planning Board shall document and from time to time update a listing of such determinations to the Zoning Agent and the Town Clerk.
- (4) Responsibility for obtaining permits and certification shall be that of the owner of the premises.
- (5) A copy of all approved permits or certificates shall be forwarded by the Building Inspector to the Conservation Commission forthwith upon their issuance.

C. Site plan review.

(1) Applicability. **[Amended by 4-28-1986 ATM, Art. 38 ; 4-26-1993 ATM, Art. 19]**

- (a) Unless proposed for single-family or two-family use outside the Village Overlay District, all development proposals are subject to site plan review by the Planning Board if proposing any of the following: **[Amended by 5-30-2017 ATM, Art. 20]**

- [1] A new building containing 1,000 or more square feet gross floor area;
- [2] An addition increasing ground coverage of any building by more than 1,000 square feet or, for buildings having ground coverage exceeding 10,000 square feet, an addition increasing that coverage by more than 10%;
- [3] Development located in the Village Overlay District for which determination of being village-compatible is sought; or **[Amended by 4-25-1994 ATM, Art. 22]**
- [4] Removal of existing vegetative ground cover from more than 20,000 square feet of site area, unless done incidental to earth removal authorized by a permit granted under Chapter 109, Soil Removal.⁶

- (b) No building permit for such development shall be granted prior to Planning Board approval, except as provided in Subsection C(2) below.

- (2) Procedure. Prior to filing an application with the Building Inspector, the applicant shall file two prints of the required plans with the Planning Board for its approval, and one print of the plans with each of the following for their review and written advisory reports: Superintendent of Public Works, Fire Chief, Conservation Commission, Board of Health, Zoning Agent and, if in the Village Overlay District, the Main Street Revitalization Commission. No site plan shall be approved by the Planning Board prior to the Board's receipt of advisory reports from each of the above unless 25 days elapse from the date of submittal to the Board. No building permit shall be issued without written site plan approval by the Planning Board, unless 45 days elapse from

5. Editor's Note: Said map(s) are on file in the Town offices.

6. Editor's Note: Former Subsection C(1)(a)[5], Creation of a major residential development, added by 5-28-1996 ATM, Art. 22, and which immediately followed this subsection, was repealed 5-27-2008 ATM, Art. 20.

the date of application without receipt of notice of the Planning Board's action. **[Added by 4-26-1993 ATM, Art. 19 ⁷; amended by 11-8-1999 STM, Art. 15]**

- (3) Drawing requirements. Plans subject to site plan review shall be prepared by a registered architect, landscape architect or professional engineer unless involving no more than 3,000 square feet of building floor area and no more than 10 parking spaces. Plans shall be submitted at a scale designated by the Planning Board and shall show (or note absence of): **[Amended by 4-28-1986 ATM, Art. 38 ; 4-26-1993 ATM, Art. 19 ; 11-8-1999 STM, Art. 15]**
- (a) Location and boundaries of the site (dimensioned) and stress and ways showing existing and/or proposed access to the site.
 - (b) Zoning district boundaries, including overlay districts.
 - (c) Use and ownership of adjacent premises, and approximate location of any existing structures within 50 feet of the site.
 - (d) Existing and proposed land and building uses.
 - (e) Existing topography and proposed grading.
 - (f) Indication of wetlands, wetlands buffer and other areas potentially subject to the Wetlands Protection Act, with notation that boundary determinations have been accepted by the Conservation Commission.
 - (g) Boundaries of any floodplain district or floodway.
 - (h) Location of any proposed structures, streets, ways, walls, water supply and sewage disposal facilities, hydrants, stormwater management provisions, cable utilities, principal drives, pedestrian access (noting handicapped accommodation), fences (noting height and materials), outdoor lighting, open space areas, recreation areas, egresses, loading facilities, facilities for solid waste disposal or storage, and parking with individual spaces identified, typical spaces dimensioned and setback from street dimensioned.
 - (i) Landscaping and screening, indicating distinctions between proposed and retained vegetation, individually identifying trees of eight-inch trunk diameter or greater if proposed to be removed, and identifying size and species of plantings.
 - (j) Erosion control measures, both permanent and construction.
 - (k) True North and scale.
 - (l) Location, size and design of all proposed signs.
 - (m) Architectural floor plans noting floor area and floor grade and architectural elevations.
- (4) Design requirements. The Planning Board shall approve a site plan only upon its determination that:
- (a) The performance requirements of this chapter (e.g., § 123-16) have been met.
 - (b) For the given location and type and extent of land use, the design of building form, building location, egress points, grading and other elements of the development could not

7. Editor's Note: This article also redesignated former Subsection C(2) and (3) as Subsection C(3) and (4), respectively.

reasonably be altered to:

- [1] Improve pedestrian or vehicular safety within the site and egressing from it.
 - [2] Reduce the visual intrusion of parking areas viewed from public ways or abutting premises.
 - [3] Reduce the volume of cut and fill.
 - [4] Reduce the number of removed trees four inches in trunk diameter and larger.
 - [5] Reduce the extent of stormwater flow increase from the site.
 - [6] Reduce soil erosion.
 - [7] Reduce hazard or inconvenience to pedestrians from stormwater flow and ponding.
- (c) Adequate access is provided to each structure for fire and service equipment.
 - (d) Adequate utility and drainage is provided, consistent with the design standards of the Subdivision Regulations of the Blackstone Planning Board, as in effect at the date of adoption of this chapter.⁸
 - (e) No zoning violations are observed.
- (5) Upon request by an applicant seeking an occupancy permit prior to completion of all requirements of the approved site plan, the Planning Board may authorize the Building Inspector to rely upon security received by the Town from the applicant for completion within a specified time of specific incomplete elements, such as landscaping or roadway finish course, whose completion has been determined by the Board not to impair the safety or convenience of users of the site. Such security shall be irrevocable and in an amount found by the Board to exceed the cost of the remaining improvements by no less than 20% cash security. Failure by the applicant to fully complete the specified improvements by the specified time shall result in forfeiture of the full amount of the security to the Town and shall constitute a zoning violation, subject to the penalty provisions of § 123-2D. **[Added by 5-29-2007 ATM, Art. 16]**
- D. Penalty. Anyone violating any provision of this chapter, any of the conditions under which a permit is issued or any decision rendered by the Zoning Board of Appeals may be fined not more than \$100 for each offense. Each day that each violation continues shall constitute a separate offense.

§ 123-3. Board of Appeals.

- A. Establishment. There is hereby established a Board of Appeals which shall consist of five members and two alternate members, who shall be appointed by the Selectmen and shall act in all matters under this chapter in the manner prescribed by Chapters 40A, 40B and 41 of the General Laws.
- B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this chapter. The Board's powers are as follows:
 - (1) Special permits: To hear and decide applications for special permits upon which the Board is empowered to act under this chapter, in accordance with § 123-4.

8. Editor's Note: See Ch. 191, Subdivision of Land.

- (2) Variances: To hear and decide appeals or petitions for variances from the terms of this chapter, including variances for use, with respect to particular land or structures. Such variances shall be granted only in cases where the Board of Appeals finds all of the following:
 - (a) A literal enforcement of the provision of this chapter would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
 - (b) The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
 - (c) Desirable relief may be granted without either:
 - [1] Substantial detriment to the public good; or
 - [2] Nullifying or substantially derogating from the intent or purpose of this chapter.
 - (3) Appeals: Other appeals will also be heard and decided by the Board of Appeals when taken by:
 - (a) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of MGL c. 40A;
 - (b) The Central Massachusetts Regional Planning Council; or
 - (c) Any person, including any officer or Board of the Town of Blackstone or of any abutting Town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of MGL c. 40A or this chapter.
 - (4) Comprehensive permits: Comprehensive permits for construction may be issued by the Board of Appeals for construction of low- or moderate-income housing by a public agency or limited dividend on nonprofit corporation, upon the Board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health or subdivision requirements, as authorized by MGL c. 40B, §§ 20 through 23.
 - (5) Withheld building permits: Building permits withheld by the Building Inspector acting under MGL c. 41, § 81Y, as a means of enforcing the Subdivision Control Law may be issued by the Board of Appeals where the Board finds practical difficulty of unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.
- C. Repetitive petitions. Repetitive petitions for special permits, appeals and petitions for variances and applications to the Board of Appeals shall be limited as provided in MGL c. 40A, § 16.

§ 123-4. Special permits.

- A. Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Public hearing. Special permits shall only be issued following public hearings held within 65 days after filing with the special permit granting authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.
- C. Criteria. Special permits shall be granted in those cases where the special permit granting authority determines that the proposed use will not have adverse effects on either the neighborhood or the

Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following:

- (1) Social, economic or community needs which are served by the proposal.
 - (2) Traffic flow and safety.
 - (3) Adequacy of utilities and other public services.
 - (4) Neighborhood character and social structure.
 - (5) Qualities of the natural environment.
 - (6) Potential fiscal impact.
- D. Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use as the special permit granting authority may deem necessary to serve the purposes of this chapter.
- E. Expiration. Special permits shall lapse if a substantial use thereof or construction has not begun within 24 months of special permit approval or such shorter time as a special permit granting authority may stipulate (excluding such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, for the grant thereof).
- F. Planning Board as special permit granting authority. In certain cases in this chapter, the Planning Board is designated as the special permit granting authority (SPGA). As authorized in MGL c. 40A, § 9, there shall be one associate member of the Planning Board. Such associate shall act on special permit decisions when designated to do so by the Planning Board Chairman in case of absence, inability to act or conflict of interest on the part of any member of the Board or in the event of a vacancy on the Board. The Associate Member shall be appointed for a three-year term by majority vote of the Planning Board. **[Added by 11-8-1999 STM, Art. 17]**

§ 123-5. Greater restrictions to control; conformance required.

- A. Other laws. Where the application of this chapter imposes greater restrictions than those imposed by any other regulations, permits, easements, covenants or agreements, the provisions of this chapter shall control.
- B. Conformance. Construction or operations under a building or special permit shall conform to any subsequent amendment of this chapter unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

§ 123-6. Amendments to provisions.

This chapter may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in MGL c. 40A, § 5, and any amendments therein.

§ 123-7. Court appeals.

Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority, whether or not previously a party to the proceeding, or any municipal officer or board may, as provided in MGL c. 40A, § 17, appeal to the Superior Court or to the Land Court by bringing an action within 20 days

after the decision has been filed in the office of the Town Clerk.

ARTICLE II

Establishment of Districts; Use and Intensity Regulations**§ 123-8. Establishment of districts; interpretation of boundaries.****A. Establishment of districts.**

- (1) For the purposes of this chapter, the Town of Blackstone is hereby divided into the following types of districts:⁹ **[Amended by 6-26-1969 STM, Art. 2 ; 4-28-1986 ATM, Art. 38 ; 5-29-2001 ATM, Art. 25]**

Residence Districts	R1 R2 R3
Industrial District	I
Commercial District	C

- (2) The boundaries of these districts are defined and bounded on the map entitled "Zoning Map, Blackstone, Massachusetts," on file with the Town Clerk. That map and all explanatory matter thereon is hereby made a part of this chapter.¹⁰
- (3) In addition, there are five overlay districts: **[Added by 9-24-1984 STM, Art. 1 ; amended by 11-19-1984 STM, Art. 1 ; 4-25-1988 ATM, Art. 7 ; 4-25-1994 ATM, Art. 22 ; 5-27-2003 ATM, Art. 17]**
- (a) The Multifamily Overlay District as defined and bounded on the Zoning Map.
 - (b) The Flood Hazard District, as defined in § 123-19A.
 - (c) The Groundwater Protection District, as defined on the Groundwater Protection Map.
 - (d) The Village Overlay District, as defined and bounded on the Zoning Map.
 - (e) The Special Resource Overlay District, as defined at Subsection B(3) of § 123-2.
- B. Except when labelled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad or utility easement center or layout lines, boundary or lot lines or the channel of a stream shall be construed to be actually at those lines; when shown approximately parallel, perpendicular or radial to such lines shall be construed to be actually parallel, perpendicular or radial thereto; when appearing to follow shoreline shall coincide with the mean low-water line. When not locatable in any other way, boundaries shall be determined by scale from the map.
- C. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for any district in which the lot has frontage on a street may be extended not more than 30 feet into the other district.
- D. When a lot in one ownership is situated in part in the Town of Blackstone and in part in an adjacent municipality, the provisions of this chapter shall be applied to that portion of the lot lying in the Town

9. Editor's Note: General District G, which originally appeared in the following enumeration of districts, was repealed by 6-26-1969 STM, Art. 2.

10. Editor's Note: The Zoning Map is included in the pocket part at the end of this volume.

of Blackstone in the same manner as if the entire lot were situated therein.

§ 123-9. Use regulations.

- A. No building or structure shall be erected or used and no land shall be used except as set forth in the Use Schedule,¹¹ or as exempted by § 123-5 or by statute. **[Amended by 2-15-1975 STM, Art. 1 ; 1-9-1978 STM, Art. 5]**

- (1) Symbols employed shall mean the following:

Yes - A permitted use

No - An excluded or prohibited use

- (2) Uses authorized under special permit as provided for in §§ 123-4 and 123-11:

BA - Acted on by Board of Appeals

PB - Acted on by Planning Board

BS - Acted on by Board of Selectmen

- B. Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern.

§ 123-10. Nonconforming uses and structures. [Amended by 12-28-1972 STM, Art. 5 ; 1-9-1978 STM, Art. 5]

- A. Change, extension or alteration. As provided in MGL c. 40A, § 6, a nonconforming single- or two-family dwelling may be altered or extended, provided that doing so does not increase the nonconforming nature of said structure, and other preexisting nonconforming structures or uses may be extended, altered or changed in use on special permit from the Board of Appeals if the Board of Appeals finds that such extension, alteration or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure shall be permitted to revert to a nonconforming use.

- B. Restoration. Any legally nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural causes if reconstructed within a period of two years from the date of the catastrophe, or else such reconstruction must comply with this chapter.

- C. Abandonment. A nonconforming use which has been abandoned, or discontinued for a period of two years, shall not be reestablished, and any future use of the premises shall conform to this chapter. **[Amended by 5-31-2011 ATM, Art. 24]**

- (1) A nonresidential use shall be considered abandoned if the building or structure in which the nonconforming use takes place is voluntarily demolished prior to obtaining a special permit to replace it from the Board of Appeals, or if the premises are voluntarily devoted to another use. It shall be considered discontinued when characteristic equipment or furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment or furnishings within two years unless other facts can document intention to resume the activity within two years. Such facts may include, but are not limited to:

11. Editor's Note: See § 123-11, Use schedule.

- (a) Obtaining permits or licenses related to operation of the nonconforming use.
 - (b) Undertaking renovations clearly intended to facilitate continued operation of the nonconforming use.
 - (c) Ordering equipment and/or supplies associated with the nonconforming use.
- (2) A residential use shall be considered abandoned or discontinued if:
- (a) The building or structure is voluntarily demolished prior to obtaining a special permit to replace it from the Board of Appeals; or
 - (b) During a consecutive two-year period, all of the following four conditions have occurred:
 - (a) the property has been uninhabited by any authorized person(s);
 - (b) property taxes are unpaid;
 - (c) utility services are discontinued; and
 - (d) no significant maintenance activity can be documented during the two-year period.

§ 123-11. Use Schedule. [Amended by 6-26-1969 STM, Art. 2 ; 6-5-1972 STM, Art. 8 ; 2-15-1975 STM, Art. 1 ; 9-25-1975 STM, Art. 9 ; 1-9-1978 STM, Art. 4 ; 1-9-1978, STM. Art. 5 ; 4-25-1981 ATM, Art. 2 ; 9-20-1982 STM, Art. 4 ; 9-20-1982 STM, Art. 5 ; 9-24-1984 STM, Art. 1 ; 11-19-1984 STM, Art. 1 ; 4-28-1986 ATM, Arts. 38, 40 ; 4-25-1994 ATM, Arts. 22, 24A ; 5-28-1996 ATM, Art. 22 ; 5-27-1997 ATM, Arts. 8, 9 ; 5-29-2001 ATM, Art. 25 ; 5-31-2005 ATM, Art. 38; 5-27-2008 ATM, Art. 20; 5-31-2011 ATM, Arts. 25, 28; 5-29-2012 ATM, Art. 20; 5-27-2014 ATM, Art. 25; 5-28-2019 ATM by Arts. 27, 28]

Activity or Use	Districts			
	R-1, R-2	R-3	C	I
AGRICULTURAL USES				
Agricultural and related uses exempted from zoning prohibition by MGL c. 40A, § 3 ¹	yes	yes	yes	yes
Livestock raising on parcel under 5 acres ²	no ⁵	yes	no	yes
Other farm	yes	yes	yes	yes
Greenhouse with retail sales ³	yes	yes	yes	yes
wholesale only	yes	yes	yes	yes
Roadside stand	yes	yes	yes	yes
COMMERCIAL USES				
Animal kennel or hospital	no	BA	BA	BA
Business or professional offices	no	no	yes	yes
Funeral home	no	no	yes	yes

Activity or Use	R-1, R-2	R-3	Districts	
			C	I
Marijuana establishment	no	no	no	PB
Marijuana retailer	no ¹⁸	no	PB	PB
Auto, boat or farm equipment sales, rental, service	no	no	yes	yes
Print shop	no	no	yes	yes
Bank, financial office	no	no	yes	yes
Restaurant	no	no ⁶	yes	yes
Retail sales or service	no	no ⁶	yes	yes
Wholesaling without storage	no	no	yes	yes
INDUSTRIAL USES				
Light manufacturing for on-site sales ⁴	no	no	yes	yes
Other light manufacturing, research or development	no	no	BA	yes
Bulk storage	no	no	no	yes
Contractor's yard	no	no	no	yes
Earth removal ⁷	BS ¹⁵	BS ¹⁵	yes	yes
Junkyard, secondhand auto parts	no	BA	no	yes
Transportation terminal	no	no	BA	yes
Warehouses	no	no	BA	yes
Commercial radio transmission	no	no	BA	yes
Personal wireless service facilities in accordance with § 123-23.4	PB	PB	PB	PB
Laundry or dry-cleaning plant	no	no	BA	yes
Wind energy facility in accordance with § 123-23.5	PB	PB	PB	PB
Commercial solar photovoltaic facility in accordance with § 123-23.6	no	no	no	PB

Activity or Use	Districts			
	R-1, R-2	R-3	C	I
Renewable or alternative energy manufacturing facility	no	no	PB	yes ¹⁷
Renewable or alternative energy research and development facility	no	no	PB	yes ¹⁷
INSTITUTIONAL USES				
Municipal use	yes	yes	yes	yes
Religious use	yes	yes	yes	yes
Educational use exempted from zoning prohibition by MGL c. 40A, § 3	yes	yes	yes	yes
Other educational use	BA	BA	BA	BA
Cemetery	yes	yes	yes	yes
Hospital	BA	BA	BA	BA
Nursing, convalescent or rest home	BA	BA	BA	BA
Philanthropic or charitable institutions	BA	BA	yes	yes
Public utility with service area	no	BA	yes	yes
Public utility without service area	BA	BA	yes	BA
Club or lodge	BA ⁸	BA ⁸	yes	yes
Assisted living facility	BA	BA	BA	BA
Medical marijuana facility	no	no	no	PB
RECREATIONAL USES				
Campground	no	BA	yes	no
Camping, supervised	BA	yes	yes	yes
Golf course, standard or par-three	yes	yes	yes	yes
Indoor commercial recreation	no	no	yes	yes
Sportsman's club; game preserve	BA	yes	yes	yes
Public stables	no	BA	BA	BA

Activity or Use	R-1, R-2	R-3	Districts	
			C	I
Bathhouses; commercial beaches	BA	yes	yes	BA
Commercial picnic; outing areas	BA	BA	yes	yes
Extensive resort	no	BA	BA	BA
Major spectator center	no	BS ¹¹	BS ¹¹	BS ¹¹
Other outdoor commercial recreation	no	no	yes	yes
RESIDENTIAL USES				
Dwelling				
Single-family	yes	yes	yes	no ¹³
Two-family	yes	yes	yes	no
Multifamily ⁹	no	no	PB	no
Boarding or rooming	no	no	yes	no
Motel, hotel	no	no ¹²	yes	yes
Mobile home ¹⁰ or mobile home park	no	no	no	no
Public housing	yes	yes	yes	no
Flexible residential development	PB	PB	PB	PB
OTHER PRINCIPAL USES				
Temporary structures	BA	BA	yes	BA
Airport; heliport	no	no	yes	yes
Conversion of a municipal building (See § 123-22)	BA	BA	BA	BA
ACCESSORY USES				
Home occupation ¹⁴	yes	yes	yes	yes
Accessory apartment ¹⁶	PB	PB	PB	no
Parking of:				
Private autos of residents on premises	yes	yes	yes	yes

Activity or Use	Districts				
	R-1, R-2	R-3	C	I	
One light commercial vehicle	yes	yes	yes	yes	
Two or more light commercial vehicles or any number of heavy commercial vehicles	no	BA	yes	yes	
Farm equipment on farms	yes	yes	yes	yes	
Parking in excess of above	no	BA	yes	yes	
Signs (See § 123-17)	yes	yes	yes	yes	
Private stable	yes	yes	yes	yes	
Swimming pool	yes	yes	yes	yes	
Accessory scientific use in accordance with § 123-20	BA	BA	BA	BA	
Flea market	no	no	yes	yes	
Yard sale	yes	yes	yes	yes	
Other customary accessory uses	yes	yes	yes	yes	

NOTES:

¹ Such uses must be located on parcels of five or more acres.

² No building to house livestock shall be within 60 feet of the street line or 40 feet of any other property line.

³ At least 3/4 of the retail sales must be of produce raised on land within the Town of Blackstone in the same ownership as the stand or greenhouse.

⁴ More than half of the volume sold at retail on the premises.

⁵ Except yes on parcels of at least three acres, in a R-1, R-2 District.

⁶ Except BA within an extensive resort.

⁷ Subject to Town bylaw.

NOTES:

⁸ Except those whose chief activity is one customarily carried on as a business.

⁹ Except PB at any location in the Multifamily Overlay District or the Village Overlay District.

¹⁰ See § 123-21.

¹¹ To be approved by the Board of Selectmen only if the criteria of § 123-4C are met and if not more than 10 dwellings exist within 100 feet of any proposed structure or parking area at the time of application.

¹² Except BA within an extensive resort.

¹³ Except single-family dwelling for personnel required to reside on the premises for the safe operation of a permitted use.

¹⁴ See § 123-20.

¹⁵ Except "yes" for continuation of operations on a parcel on which, as of the date of adoption of this provision, removal was authorized under a standard operations permit granted under § 109-5 of the Code of the Town of Blackstone. See § 123-23.3 for special permit procedures and criteria.

¹⁶ See § 123-20E.

¹⁷ The site plan permitting process for these uses shall be completed within 12 months of receipt of a complete application unless an extension is mutually agreed to by the applicant and the Planning Board. The Planning Board shall make a determination of completeness within 45 days of receipt.

¹⁸ Except for sites that abut a Commercial or Industrial District and that have previously been used for commercial purposes, as set forth in § 123-27C.

§ 123-12. Intensity of use regulations.

- A. All buildings hereafter erected in any district shall be located on a lot such that all of the requirements set forth in the following table¹² are conformed to, except where specifically exempted by this chapter or by general law.
- B. No existing lot shall be changed in size or shape except through a public taking so as to result in violation of the requirements set forth below.
- C. Isolated lots. Any increase in lot area, frontage, yard or coverage requirements of this chapter shall not apply to erection, extension, alteration or moving of a structure on a legally created lot not meeting current requirements, provided that the applicant documents that: **[Amended by 1-9-1978 STM, Art. 5]**
 - (1) At the time such increased requirement became applicable to it, the lot: **[Amended 6-9-1986 STM, Art. 2]**
 - (a) Had at least 5,000 square feet of lot area and 50 feet of frontage on a street;
 - (b) Was held in ownership separate from all other lots having frontage within 1,000 feet on that same street or was held in ownership separate from all other except one abutting lot, where the owner of both lots resided on one of them at the time it became nonconforming;

12. Editor's Note: See § 123-13, Intensity of use schedule.

and

- (c) Conformed to then-existing dimensional requirements.
- (2) Yards. **[Added by 4-26-1993 ATM, Art. 46]**
 - (a) Yards shall not be less than the following:

Actual Frontage (feet)	Required Yard (feet)	
	Front	Side or Rear
Less than 100	20	8
100 to 140	20	10
More than 140	30	15

- (b) Such nonconforming lots may be changed in size or shape or their land area recombined without losing this exemption, so long as the change does not increase the actual or potential number of buildable lots.
- (3) The lot is not to be used for multifamily use.
- D. Where no street line has been established or can be readily determined, such line shall be assumed to be 25 feet from the center of the traveled roadway for the purpose of applying these regulations.
- E. Other provisions notwithstanding, no building, parking area or leaching field shall be located within 50 horizontal feet of the normal bank of any stream having a year-round running flow of water or of any pond containing 1,000 square feet or more of water 11 months of the year, except within the Commercial District, to which these provisions do not apply. **[Added by 11-7-1968 STM, Art. 10 ; amended by 6-26-1969 STM, Art. 2]**
- F. Multiple principal uses on the same lot each must meet the dimensional requirements of § 123-13 without counting any area, frontage or yard twice. Not more than one principal building shall be erected on a lot unless each such building is served by access and services determined by the Building Inspector to be functionally equivalent to those required for separate lots by the Planning Board in its Subdivision Regulations.¹³ **[Added by 12-28-1972 STM, Art. 4]**
- G. To ensure compliance with these regulations, stakes shall be set at each lot corner by a registered land surveyor, and the Building Inspector shall then be given two working days' notice prior to pouring of any foundations. **[Added by 9-25-1975 STM, Art. 8]**
- H. Lot shape. No lot shall be created so as to be so irregularly shaped or extended that it has a shape factor in excess of 30 for any lot having area in excess of 80,000 square feet or in excess of 22 for any other lot. The shape factor equals the square of lot perimeter divided by the lot area (before deduction for wetland, etc.). That portion of the lot in excess of the required lot area may be excluded from the computation of shape factor using an imaginary lot line, provided that the entire required frontage is included in the portion used for calculation. **[Added by 4-25-1988 ATM, Art. 34 ¹⁴; amended by 5-28-1996 ATM, Art. 24]**

13. Editor's Note: See Ch. 191, Subdivision of Land.

14. Editor's Note: Pursuant to the addition of this subsection by this article, former Subsection H has been redesignated as Subsection I.

- I. Lots having preexisting dwellings. Any lot on which more than one dwelling legally existed at the time of adoption of the Zoning Bylaw may be divided and sold to separate owners, provided that such division shall be made so as to create the minimum of nonconformance, provided that each resulting lot contains at least one of those prezoning dwellings, and provided that each lot has at least 14 feet frontage on a street or a right-of-way to a street. **[Added by 4-25-1981 ATM, Art. 5]**
- J. Access and lots. **[Added by 4-29-1991 ATM, Art. 11]**
- (1) In all districts, minimum lot area shall be increased to five acres (or more if so required by other regulations) and lot frontage shall be increased to 400 feet where access to that lot is only rural, not suburban, based on these standards:
- (a) Suburban access provides connection between lots and roads substantially used (2,000 vehicle trips per day or more) via ways which are either already substantially used themselves or are paved to at least 18 feet in width, have sight distances of at least 125 feet, have grades not exceeding 12% for more than 100 feet at any location, have center-line radii of not less than 100 feet and have drainage facilities which prevent flooding, icing or erosion without those facilities themselves creating hazards.
- (b) Rural access provides connection to roads substantially used (2,000 vehicle trips per day or more) via ways in which in part or whole do not meet one or more of the standards for suburban access but which do provide minimal access for emergency services or provide the vital access required for the division of land into lots relying upon existing ways.
- (2) The Planning Board may approve a special permit for creation of and building on lots having only rural access and having less than five acres lot area and 400 feet lot frontage, but meeting the basic lot area and frontage requirements of § 123-13, upon the Board's determination that peculiarities of that case, such as limitations on land development potential or developer commitment to road improvements, assure that access during and following full development will adequately provide convenience and avoidance of hazard or congestion.
- K. For requirements in the Village Overlay District, see § 123-23.2. **[Added by 4-25-1994 ATM, Art. 22]**
- L. Back lot division. **[Added by 5-28-1996 ATM, Art. 27]**
- (1) A parcel with no other contiguous land in common ownership may be divided into two or three lots, one of which has less than the normally required frontage, and a single-family dwelling may be built on the reduced frontage lot, provided that such division is authorized on a special permit granted by the Planning Board. Such divisions shall be authorized if meeting each of the following, but not otherwise.
- (a) The lot having reduced frontage must have frontage of at least 35 feet.
- (b) The lot having reduced frontage must contain at least twice as much lot area as otherwise required, without counting any portion of its access strip (the portion of the lot between the street and point where lot width equals 100 feet or more).
- (c) The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage.
- (d) All other requirements specified in §§ 123-12 and 123-13, Intensity of Use Schedule, must be met, except that calculations for the requirements of § 123-12H, Lot shape, shall

exclude the access strip.

- (e) No lot having less frontage than normally required shall be approved by the Planning Board if its access strip abuts another such lot which is or was in the same ownership either at the time of application or at any time within the preceding five years.
 - (f) Egress from the created lots must involve no greater hazard owing to grade and visibility limitations than would be normal for a standard lot in the same vicinity.
 - (g) Reduction of privacy, damage to the natural environment and difficulties of utility provision must be no greater than would be expected for standard land division at that location.
 - (h) The proposal must be determined by the Planning Board to not circumvent the intent of the Subdivision Control Law.¹⁵
- (2) Any reduced frontage lot created under these provisions shall be shown and identified on a plan endorsed by the Planning Board "Lot _____ approved for reduced lot frontage."

§ 123-13. Intensity of Use Schedule. [Amended by 6-26-1969 STM, Art. 2 ; 6-5-1972 STM, Art. 7 ; 9-25-1975 STM, Art. 6 ; 1-9-1978 STM, Art. 5 ; 12-10-1979 STM, Art. 8 ; 4-25-1981 STM, Art. 4 ; 9-24-1984 STM, Art. 1 ; 11-19-1984 STM, Art. 1 ; 4-28-1986 ATM, Arts. 38, 40 ; 4-29-1991 ATM, Art. 11 ; 5-28-1996 ATM, Arts. 24, 25, 26 ; 11-8-1999 STM, Art. 19 ; by 5-29-2001 ATM, Art. 25]

The intensity of use requirements shall be as follows:

	Districts				
	R-1^g	R-2	R-3	I	C
Minimum lot area (square feet) ^{a,e}	35,000	65,000	120,000	30,000	15,000
Minimum lot frontage (feet)	150	185	275	140	100 ^b
Minimum front yard (feet)	25	30	30	30 ^d	25
Minimum side or rear yard (feet)	15	20	30	20 ^d	15
Maximum lot coverage (percent)	30	25	25	40	40
Maximum building height (feet) ^h	35	35	35	45	45

15. Editor's Note: See Ch. 191, Subdivision of Land.

NOTES:

^aAccess limitations may increase requirements. See § 123-12J, Access and lots. For multifamily use, see § 123-23.

^bPlus 15 feet for each dwelling unit in excess of one.

^cNo building need provide a yard greater than the average of adjoining yards. Corner and through lots shall maintain front yard requirements for both frontages.

^dIncrease to 50 feet for yards facing or adjoining a residential district or use.

^eFor two-family dwelling, increase by 50% the basic requirement.

^f(Reserved)

^gExcept 28,000 square feet in the Multifamily Overlay District as existing on May 1, 1996.

^h See § 123-13.3, Height limitations.

§ 123-13.1. Flexible residential development. [Added by 4-25-1994 ATM, Art. 24A ; amended by 5-27-2008 ATM, Art. 20]

A. Purpose. The purpose of flexible residential development provisions is to allow greater flexibility and creativity in residential development in order to gain:

- (1) Location of development on sites best suited for development, and protection of land not suited for development, reflecting such considerations as:
 - (a) Permanent preservation of open space for agriculture, conservation, or recreational use, especially in large contiguous areas within the site or linked to off-site protected areas;
 - (b) Protection of water bodies, streams, wetlands, wildlife habitats, and other conservation resources;
 - (c) Protection of the character of the community through preserving open space within view from public roads, preservation of stone walls and other historic landscape features, preservation of scenic vistas, and through siting of dwellings at low-visibility locations;
 - (d) Except within the Village Overlay District or within Commercial Districts, the protection of street appearance and capacity by avoiding residential development close to or having points of egress directly onto such street.
- (2) Efficient patterns for construction and maintenance of public facilities and services such as streets and utilities;
- (3) Privacy for residents of individual lots; and
- (4) Avoidance of unnecessary development cost.

B. Applicability. Flexible residential development is allowed for any development of three or more lots, but only if granted a special permit by the Planning Board in accordance with the following procedures and requirements. Noncontiguous land either in the same ownership or subject to binding agreements may be incorporated into the same development application, with density and open space determinations made as if all of the land were contained in a single contiguous parcel.

C. Procedures.

- (1) Applicants for flexible residential development are encouraged to meet with the Planning Board for a preapplication conference to allow consideration of general approaches, increasing the likelihood of prompt approval of later plans.
- (2) Applications for a special permit for flexible residential development shall include the following, to have been prepared by an interdisciplinary team including a registered land surveyor, a professional engineer and a registered architect or landscape architect unless that requirement is waived by the Planning Board for special circumstances, such as unusually small developments:
 - (a) A concept plan indicating in a general manner the configuration of access, lots, building siting, reserved open space, landscaping, drainage and utilities, consistent with the drawing requirements for a preliminary subdivision plan under the Subdivision Regulations of the Blackstone Planning Board.¹⁶
 - (b) Narrative, graphic, and tabular materials describing the proposal, including the number and size of dwelling units; proposed project phasing; and any provisions being made to target special occupancies, such as for the elderly or for affordable housing.
 - (c) Any additional information necessary to evaluate the plan relative to the purposes of flexible residential development listed at § 123-13.1A, to make the determinations and assessments cited in § 123-13.1G, Decision, and to demonstrate compliance with the standards of this bylaw.

D. Dimensional requirements. Developments within a flexible residential development shall be subject to the following in lieu of the lot area, frontage and yard requirements of § 123-13, Intensity of Use Schedule:

- (1) Basic number of lots. The basic number of building lots or dwelling units which may be created from any parcel shall be the number of units of the same type (single-family, two-family, or multifamily) which reasonably could be expected to be built upon that parcel under a conventional subdivision plan. That determination shall be made by the Planning Board in consideration of how much of the land is actually buildable in compliance with all applicable development requirements of the Town and state and based upon review of a sketch conventional plan submitted by the applicant showing division in compliance with the dimensional standards of § 123-13, Intensity of Use Schedule.
- (2) Lot area. There is no categorical minimum lot area required. Individual lot area need only be that necessary for meeting building yard requirements (where applicable), off-street parking, and location of any on-site water supply and sewage disposal facilities.
- (3) Frontage. There is no categorical minimum frontage required, except that the development as a whole shall have at least that frontage required for a single-family dwelling under § 123-13. The frontage provided for individual lots being created meet only be that necessary to meet yard requirements and to provide for adequate access to the building site. Where shared driveways or other circumstances render frontage on a street to be of no importance, none is required.
- (4) Existing street protection. Lots having reduced area or frontage shall not have frontage on a

16. Editor's Note: See Ch. 191, Subdivision of Land.

street other than one created by the development involved, unless specifically authorized by the Planning Board where justified by peculiar site circumstances.

- (5) Yard requirements. Yards as required by § 123-13 shall apply at any boundary line at the perimeter of the flexible residential development, including the existing street line, but are not applicable elsewhere within the development.
- E. Phasing. A phasing schedule must be prepared and submitted as part of the special permit application, to be acted on under § 123-14, Phasing of development.
- F. Open space. Any proposed open space within the development shall either be conveyed to the Town and accepted by it for park or open space use, or be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned by or to be owned by the owners of the lots or residential units within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town, or, in any case where such land is conveyed to the Town, enforceable by a nonprofit organization, the principal purpose of which is the conservation of open space, shall be recorded providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway, as provided by MGL c. 40A, § 9, the Zoning Act. **[Amended by 5-27-2014 ATM, Art. 22]**
- G. Decision. The Planning Board shall approve or approve with conditions a special permit for flexible residential development, provided that the Board determines that the flexible plan better serves the following than would development not using these provisions:
 - (1) Section 123-13.1A, purposes of flexible residential development;
 - (2) Section 123-2C(4), (site plan review design requirements);
 - (3) Section 123-4C, special permit criteria;
 - (4) Configuration of development to minimize damage to portions of the site having important habitat, ecosystem, visual, or historic importance.
- H. Endorsement. The plan creating the lots shall be endorsed by the Planning Board as "Approved for Flexible Residential Development." The plan shall also contain the following annotation:

"No further increase in the number of lots shall be allowed through subsequent land division."

§ 123-13.2. Affordable housing. [Added by 5-28-1996 ATM, Art. 22 ; amended by 5-31-2005 ATM, Art. 35; 5-27-2008 ATM, Art. 20]

- A. Applicability. At least 10% of the dwelling units created in any residential development of six or more dwelling units shall be affordable, with all fractions of a required affordable dwelling unit rounded downward for developments of five or fewer units, upward for all others, unless granted a special permit by the Planning Board upon determination that an alternative housing effort proposed by the applicant has been found by the Planning Board to make no less contribution than the above towards meeting the goal of providing affordable housing.
- B. Definition of "affordable." "Affordable unit" shall mean a dwelling unit restricted for sale or rental to

households having incomes not exceeding "low income" (approximately 80% of the area median income) as annually determined by the U.S. Department of Housing and Urban Development for the statistical region which includes Blackstone, adjusted for household size (assuming one more person in the household than the number of bedrooms), while spending not more of that income on housing than the following:

- (1) Paying not more than 30% of income on rent, including utilities and parking.
- (2) Paying not more than 33% of income on mortgage principal and interest private mortgage insurance, property taxes, condominium and/or homeowner's association fees, hazard insurance, and parking.

Determination of unit prices and income eligibility shall be consistent with data and methods used by DHCD in determining unit qualification for inclusion on its Chapter 40B Subsidized Housing Inventory.

- C. Density incentive. For developments that include affordable units, the allowed number of dwelling units shall be increased above the number otherwise allowed by a number equal to the number of affordable units required plus twice the number of affordable units proposed in excess of the number required, to a maximum increase of 50%. For example, if for a parcel otherwise allowed to have 14 dwelling units it is proposed to meet the affordability requirement by having the minimum two affordable units, then the total units allowed would equal 14 plus two or 16 units. If, instead, one affordable unit in addition to those required were proposed, then, in addition to those 16 allowed units, two more units would be allowed, one affordable and one market rate, for a total of 18 units.
- D. Lot area and frontage. The lot area and frontage requirements of § 123-13, Intensity of Use Schedule, shall be reduced for the entire development by the same percentage as that by which the allowable number of dwelling units is being increased. For example, allowing a bonus of two units in addition to the 14 units otherwise allowed would be an increase of 14%, allowing frontage and lot area requirements to be reduced by 14% of those shown in § 123-13, Intensity of Use Schedule.
- E. Continuing affordability. Using deed restrictions or other means, continuing affordability shall be assured for the life of the development or until this bylaw provision is amended to require only a shorter period.
- F. Marketing and local preference. The developer shall provide to the Planning Board for its approval a marketing and local preference plan for the affordable units, consistent with state and federal fair housing requirements. Local preference shall be assured for half of the affordable units, giving first preference to current and previous residents of the Town, and to full- or part-time employees working within the Town.
- G. Appearance and location of affordable units. Location of the affordable units shall be integrated with that of the others, rather than segregated. The exterior appearance of the affordable units shall be compatible with and, except for unit size, essentially indistinguishable from the others.

§ 123-13.3. Height limitations. [Added by 11-8-1999 STM, Art. 19]

No building or portion thereof or other structure of any kind shall exceed the heights permitted for buildings under § 123-13, Intensity of Use Schedule, except the following:

- A. Chimneys, towers, spires, cupolas, antennas or other projections of or attachments to a building but not potentially used for human habitation, provided that they do not exceed the height of the building by more than 10 feet or 20% of building height, whichever is the greater; or
- B. A structure or projection not used for human habitation and not permitted by the above, provided that it is authorized for that height by special permit from the Board of Appeals, upon determination by the Board the proposed height is functionally important for the use, and that the structure or projection and its use will not result in threats to health, safety or visual compatibility with the surroundings and, in the case of an antenna for use by a federally licensed amateur radio operator, that any restriction so imposed complies with the provisions of MGL c. 40A, § 3, dealing with such antennas.

§ 123-14. Phasing of development. [Added by 12-10-1979 STM, Art. 10 ; amended by 4-7-1980 ATM, Art. 18 ; 5-28-1996 ATM, Art. 23 ; 10-21-1996 STM, Art. 2; 5-31-2005 ATM, Art. 36; 5-27-2008 ATM, Art. 19]

- A. Applicability and intent. Flexible residential developments seeking special permits under § 123-13.1 and multifamily developments seeking special permits under § 123-23 must submit development phasing schedules for approval under this section unless exempted from phasing requirements by § 123-13.2. The intent of requiring phasing schedules is to coordinate the pace of private development and changes in the public infrastructure that services it, while giving consideration to the development's contribution to meeting both housing and service facility needs of all population groups.
- B. Basic requirements. A proposed development schedule shall be approved as part of the special permit authorizing the development if it schedules development per twelve-month period to be no higher than the larger of 10 housing units or 10% of the total number of housing units in the development, with fractions of 1/2 required dwelling unit or less rounded downward, and other fractions rounded upward to a whole figure. A larger number of units for one or more periods may be approved by the Planning Board if in acting on the special permit application it determines that doing so is consistent with the intent of this section, giving consideration to the following:
 - (1) Whether the level of initial development costs being incurred by the developer, such as infrastructure improvements, justifies a more rapid initial rate of development.
 - (2) The salience of the development in meeting identified housing needs of the Town or the region, making early availability of the units a special benefit.
 - (3) The time needed for the capacity of public infrastructure to adequately service the development, taking into consideration any contribution the development may be making towards meeting those needs, and facility improvements scheduled in the most recently approved Town Capital Improvements Plan.
 - (4) Relationship between the rate of housing development proposed by the phasing and the Blackstone housing market's absorption rate, as reflected in ten-year trends in the number of housing units authorized in the Town through building permits.
- C. Expiration. Section 123-14 shall expire December 31, 2013, unless it is earlier extended through amendment of this provision. Upon its expiration, any timing limitations previously placed on building permit availability and any housing cost or income eligibility stipulations upon which permits were earlier qualified shall remain in full force and effect.
- D. Protection against zoning change. Any protections against zoning change provided by this bylaw

(e.g., § 123-10) or by statute (e.g., MGL c. 40A, § 6 unless extending beyond the term of the phasing schedule shall be extended to the end of that schedule.

ARTICLE III
Miscellaneous Regulations

§ 123-15. Off-street parking.

- A. Number of spaces. Adequate off-street parking must be provided to service all increases in parking demand created by new structures or additions or created by change of use. The number of parking spaces provided must be as required in § 123-15B, unless the special permit granting authority or the Planning Board in either performing site plan review or responding to a request for determination by the Building Inspector finds that a lesser provision would be adequate for all parking needs because of such special circumstances as shared parking for uses having peak parking demands at different times, unusual age or other characteristics of site users, company-sponsored carpooling, or other measures which reduce parking demand. **[Amended by 4-25-1988 ATM, Art. 33 ; 5-29-2007 ATM, Art. 17]**
- B. Table of Requirements. **[Amended by 4-25-1988 ATM, Art. 33]**

Use	Parking Spaces Required
Dwellings	
Single-family	2 per dwelling unit
Other	1 1/2 per dwelling unit
Hotel, motel or boarding or rooming house	1 per guest unit
Retail sales or service	1 per 200 square feet of leasable floor area, but not fewer than 3 per separate enterprise
Office	
Professional	1 per 150 square feet of leasable floor area, but not fewer than 3 per separate office suite
Other	1 per 250 square feet of leasable floor area
Restaurant or place of assembly	1 per 3 persons maximum occupancy as allowed under the State Building Code
Commercial recreation	1 per 2 persons participant capacity, plus 1 per 3 persons spectator capacity
Nursing home or hospital	1 per 4 beds

Use	Parking Spaces Required
Industrial, wholesale or warehouse	1 per 1 1/4 employees per shift, but not less than 1 per 1,000 square feet of storage area, plus 1 per 400 square feet of production area, plus 1 per 180 feet of office area
Other	Individually determined by the Building Inspector, except that determination will be by the Planning Board in cases referred to that Board by the Building Inspector for site plan review

- C. Location of spaces. Required parking spaces must be on the same lot as the use they serve, except that crediting the following may be authorized on special permit by the Planning Board for cases where both the use and the parking are located within either or both the Commercial District or the Village Overlay District, upon determination by the Planning Board that, subject to conditions regarding location, egress design, landscaping and screening, or other matters doing so will be more beneficial to the vicinity than the alternative of requiring all demand to be met on site, and will not result in departure from historic patterns of land or street usage or substantially add to congestion or hazard:¹⁷ **[Added by 5-29-2007 ATM, Art. 17]**
- (1) Legal on-street parking spaces not otherwise assigned or credited, if on the same side of the street and extending not more than 10 feet beyond the extended side lines of the premises.
 - (2) Off-street spaces on a separate lot either in the same ownership as the premises in question or subject to a recorded agreement assuring the availability of those spaces for the duration of the use in question.
- D. No off-street parking area shall be maintained within 10 feet of a street line and, if servicing a use not allowed in a residential district, not within 10 feet of said district bounds. **[Amended by 6-5-1972 STM, Art. 5]**
- E. Driveways. Use of land for shared driveways is permitted in all districts, However, a shared driveway shall not be considered to adequately provide access for parking as required by this chapter on any lot for which a shared driveway is proposed as the sole means of access for parking unless the Planning Board so authorizes in performing site plan review under § 123-2C of the Zoning Bylaw or under a special permit. Authorization shall be granted only if all shared portions of the drive are to be paved and the Board determines that the arrangement improves public safety, such as by reducing the number of curb cuts on a major road or by avoiding a driveway at a potentially dangerous location; or serves environmental protection, such as by eliminating a wetlands crossing; and unless the Board further finds that the use of a shared driveway does not circumvent the intent of the Subdivision Control Law.¹⁸ **[Added by 5-18-1996 ATM, Art. 27 ; amended by 11-8-1999 STM, Art. 16]**

17. Editor's Note: Former Subsection C, dealing with landscaping of off-street parking areas, was repealed by 4-25-1994 ATM, Art. 23. See now § 123-18.1.

18. Editor's Note: See Ch. 191, Subdivision of Land.

§ 123-16. Litter and smoke; groundwater quality; toxic or hazardous materials. [Amended by 6-5-1972 STM, Art. 5 ; 9-20-1982 STM, Art. 4 ; 6-7-1993 Adjourned Session of 4-26-1993 ATM, Art. 25]

- A. No activity shall be permitted in any district unless it can be demonstrated that its operation will be so conducted that the following standards will be met:
- (1) No vibration, odor or flashing shall be normally perceptible more than 400 feet from the premises if located in the Industrial or Commercial Districts or more than 100 feet from the premises if located in a residence district. Interference originating in Commercial or Industrial Districts shall not normally be perceptible more than 100 feet within a residential district.
 - (2) Cinders, dust, fumes, gases, radiation or trash or other waste shall be effectively confined to the premises or disposed of.
 - (3) On-site disposal of industrial wastes (as defined in Title 5 of the Massachusetts Environmental Code) shall be allowed only in volumes and concentration such that resultant groundwater quality at the boundaries of the premises will not fall below the standards established by DEQE in Drinking Water Standards of Massachusetts.
 - (4) Premises involving the preparation, use or storage of toxic or hazardous materials shall make provisions to protect against discharge or loss of such materials through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials and indoor storage provisions for corrodible or dissolvable materials.
- B. The Zoning Agent may require that applicants furnish evidence of probable compliance with the above requirements, whether by example of similar facilities or by analysis and certification by a professional engineer. Issuance of a permit on the basis of that evidence shall indicate acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with these requirements.

§ 123-17. Signs. [Added by 6-26-1969 STM, Art. 1]

- A. Illumination, motion and location regulations.
- (1) Signs shall be illuminated only by internal illumination or steady, stationary, shielded light directed solely at the sign without causing glare for motorists, pedestrians or neighborhood residential premises.
 - (2) Except for indicators of time and temperature, no sign or part of any sign shall flash or move.
- B. Temporary signs. Temporary signs listed below shall be allowed for up to 12 months in any district without necessity of a permit:
- (1) An unlighted sign of up to 10 square feet pertaining to construction, sale or lease of the premises or subdivision while under development.
 - (2) Signs inside display windows covering not more than 30% of window area, illuminated by building illumination.
- C. Permitted accessory signs in residence districts.
- (1) One sign for each family residing on the premises indicating the owner or occupant or pertaining

to a permitted accessory use, provided that no sign shall exceed two square feet in area.

- (2) One sign not over 10 square feet in area pertaining to permitted buildings and uses of the premises other than dwellings and their accessory uses.
- D. Permitted accessory signs in Business and Industrial Districts. **[Amended by 12-28-1972 STM, Art. 2 ; 4-28-1986 ATM, Art. 38]**
- (1) Signs attached to a building, provided that they aggregate not more than 15% of the area of the wall to which they are attached. Roof signs shall not be permitted.
 - (2) Freestanding signs, provided that they aggregate not more than 60 square feet in area on any premises and are not located in a required side or rear yard. **[Amended by 5-29-2001 ATM, Art. 25]**
 - (3) Regardless of the provisions of Subsection D(1) and (2), the total area of all accessory signs, either attached to a building or freestanding, shall aggregate not more than 1 1/2 square feet per foot of lot frontage on the street toward which they are oriented.
- E. Permitted nonaccessory signs. No nonaccessory signs shall be erected, except that a nonaccessory directional sign, designating the route to an establishment not on a state highway, may be erected and maintained in any district on special permit from the Board of Appeals, subject to their finding that such sign will promote the public interest, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood. **[Amended by 12-28-1972 STM, Art. 2]**
- F. Administration.
- (1) No sign, except those specifically exempted by this chapter, shall be erected without a permit issued by the Building Inspector, application for which shall be accompanied by such scale drawings or photographs as the Building Inspector may require.
 - (2) Legally nonconforming signs shall be governed by § 123-10, Nonconforming uses and structures. **[Amended by 1-9-1978 STM, Art. 5]**

§ 123-18. (Reserved)¹⁹

§ 123-18.1. Landscaping. **[Added by 4-25-1994 ATM, Art. 23]**

- A. Buffering. All parking areas for more than four vehicles and all outdoor equipment or materials storage areas of 1,000 square feet or larger shall be buffered from each property line, including the street line, by:
- (1) An intervening building;
 - (2) At least 25 feet depth of vegetated area (retained natural growth or planted materials); or
 - (3) At least a four-foot depth of dense trees and shrubs or a vegetated berm, supplemented with fencing as needed to effectively obscure visibility of parked cars.
- B. Parking area plantings. At least 2% of the interior area of parking areas for 20 or more vehicles shall

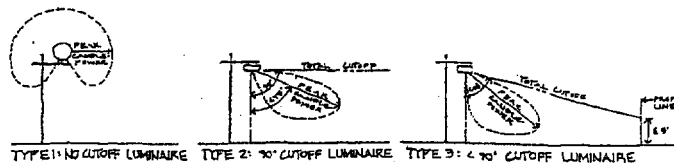
19. Editor's Note: Former § 123-18, Design, landscaping and performance standards applicable in Industrial Park Districts, added by 4-28-1986 ATM, Art. 38, as amended, was repealed by 5-29-2001 ATM, Art. 25.

be unpaved planting areas, each 40 square feet or larger, providing at least one tree per eight parking spaces or fraction thereof, located to assist in guiding traffic, provide shading or preserve existing trees.

§ 123-18.2. Exterior lighting. [Added by 11-8-1999 STM, Art. 18]

A. Fixtures. Lighting fixture types are defined as follows:

- (1) Type 1. No light cutoff.
- (2) Type 2. Luminaire shielded such that peak candlepower is at an angle of 75° or less from vertical and essentially no light is emitted above the horizontal.
- (3) Type 3. Luminaire shielded such that total cutoff is at less than 90° from vertical, and no light source is in direct view of an observer five feet above the ground at any point off the premises.



B. Lighting limitations. The following limitations shall be observed by all uses, unless granted a special permit by the Zoning Board of Appeals upon determination by the Board that it is inherently infeasible for that use (e.g., public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid light overspill onto residential premises and glare on public roads.

Lighting Limitations [Amended by 5-29-2001 ATM, Art. 25]

	District	
	I, C	R1, R2, R3
Maximum luminaire mounting height (feet)		
Fixture Type 1	20	10
Fixture Type 2	30	15
Fixture Type 3	40	20
Maximum off-site overspill (foot-candles)		
Fixture Type 1	0.3	0.2
Fixture Type 2	1.0	0.3
Fixture Type 3	3.0	0.5

- C. Flashing. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing reflected from the sky.
- D. Lighting plan. An exterior lighting plan may be required where compliance with these requirements is not apparent to include indication of location, mounting height and orientation of luminaires and sufficient technical information on the fixtures to determine their type and resulting illumination levels.

ARTICLE IV
Special Regulations

§ 123-19. Flood Hazard District [Added by 9-19-1979 STM, Art. 9 ; amended by 4-7-1980 ATM, Art. 20; 10-18-2011 STM, Art. 5]

The Flood Hazard District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Blackstone designated as Zones A and AE on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Blackstone are panel numbers 25027C1030E, 25027C1033E, 25027C1034E, 25027C1037E, 25027C1039E, 25027C1041E, 25027C1042E, 25027C1043E, 25027C1044E, and 25027C1055E dated July 4, 2011. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

- A. Permitted uses. The following uses are of low flood damage potential and cause no obstructions to flood flows and are therefore encouraged, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:
- (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
 - (2) Forestry and nursery uses;
 - (3) Outdoor recreational uses, including fishing, boating, play areas, etc.;
 - (4) Conservation of water, plants and wildlife;
 - (5) Wildlife management areas, foot bicycle and/or horse paths;
 - (6) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
 - (7) Buildings lawfully existing prior to the adoption of these provisions.
- B. Base flood elevation and floodway data.
- (1) Floodway data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in the floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (2) Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.
- C. Notification of watercourse alteration. In a riverine situation, the Conservation Agent shall notify the following of any alteration or relocation of a watercourse:
- (1) Adjacent communities;
 - (2) Bordering states;

- (3) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104;
- (4) NFIP Program Specialist, Federal Emergency Management Agency, Region 1, 99 High Street, 6th Floor, Boston, MA 02110.

D. Reference to existing regulations.

- (1) The District is established as an overlay district to all other districts. All development in the District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, and with the following:
 - (a) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR) which address floodplain and coastal construction;
 - (b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
 - (c) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
 - (d) Minimum requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).
- (2) 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.

E. Other use regulations.

- (1) In Zone AE, along watercourses that have a regulatory floodway designated within the Town of Blackstone on the Worcester County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) All subdivision proposals must be designed to assure that:
 - (a) Such proposals minimize flood damage;
 - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - (c) Adequate drainage is provided to reduce exposure to flood hazard.

§ 123-20. Accessory uses.

A. Home occupations. Customary home occupations are permitted if conforming to the following conditions:

- (1) No more than 25% of the floor area of the residence shall be used for the purpose of the home occupation.
- (2) Not more than one person not a member of the household shall be employed on the premises in the home occupation.
- (3) There shall be no exterior display, no exterior storage of materials and no other exterior

indication of the home occupation or other variation from the residential character of the principal building other than a sign not to exceed two square feet in area.

- (4) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced (see § 123-16).
- (5) Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- (6) Parking generated shall be accommodated off-street, other than in a required front yard.
- (7) An occupancy permit shall be applied for and issued by the Selectmen for such use.

B. Fence regulations. [Added by 9-25-1975 STM, Art. 7]

- (1) No fence, wall or hedge shall exceed six feet in height.
- (2) No portion of an opaque fence located within 25 feet of a street right-of-way shall exceed three feet in height unless located to the rear of the front line of a building on the same lot.
- (3) Compliance with Subsection B(1) and (2) may be waived by the Board of Appeals through issuance of a special permit. Such special permit may only be granted upon determination by the Board of Appeals that construction of the proposed fence, wall or hedge would not create hazard, unreasonably obstruct vision or otherwise be detrimental to the public interest and would not deviate from the intent of Subsection B(1) and (2).

C. Swimming pools. Every outdoor swimming pool considered to be a structure, whether or not filled with water, shall be completely surrounded at all times by a fence or wall not less than 42 inches in height above grade, which may be the pool wall itself. [Added by 12-28-1972 STM, Art. 3]

- (1) Every such fence or wall shall be so constructed as to not have openings, holes or gaps larger than four inches in any dimension except for door, gates and picket fences; in the latter case, however, the gaps between pickets shall not exceed four inches.
- (2) All gates or doors opening through such enclosures shall be of not less than 42 inches in height and shall be equipped with a self-closing and self-latching device located at least 42 inches above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept latched at all times when the swimming pool is not in use, and any ladders removed.
- (3) A natural barrier, hedge, pool cover or other protective device approved by the zoning agent may be used in lieu of a fence or wall so long as the degree of protection afforded by the substitute device or structure is not less than the protection afforded by the enclosure, gate and latch described herein.

D. Accessory scientific uses. The Board of Appeals may grant a special permit for a use accessory to a scientific research, scientific development or related production activity, whether or not on the same parcel as such activity. A special permit shall be granted where the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good. [Added by 1-9-1978 STM, Art. 5]

E. Accessory apartments. The Planning Board may grant special permits for accessory apartments where so indicated in § 123-11, Use Schedule, if they conform to the following: [Added by 5-30-2006 ATM, Art. 23]

- (1) Either the primary single-family dwelling or the proposed accessory apartment must be owner-

occupied, except for temporary absences of no more than 12 consecutive months.

- (2) The accessory apartment shall occupy no more than 40% of the building floor area on the lot, and its creation shall involve no more than a five-percent increase in the gross floor area of the building in which it is located.
- (3) All stairways to upper floors shall be enclosed within the exterior walls of the dwelling.
- (4) If the dwelling is not to be served by both Town water and Town sewerage, then the applicant must document that the Board of Health has determined that provisions for water and sewage disposal will upon occupancy be adequate for the anticipated number of inhabitants.
- (5) While adding an accessory apartment does not require additional lot area or frontage, it does require that a total of at least three parking spaces be provided to service the primary dwelling plus the accessory apartment.
- (6) The special permit shall be approved, provided that the proposal satisfies Subsection E(1) through (5) above and that the Planning Board determines that there will be net benefits to the community through the proposed housing provision and the design of the proposal, after consideration of the following:
 - (a) The importance of the benefit resulting from serving either a community housing need or a special need of potential occupants.
 - (b) The consistency of the design of any exterior construction or alteration, if any, with the design of existing structures on the site and in the neighborhood.
 - (c) How well any site alterations to accommodate parking or building expansion avoid damage to natural resources, to privacy and sunlight on abutting premises, to the character of the neighborhood, and to safety.

§ 123-21. Mobile homes, trailers and campers.

- A. No mobile home, trailer or camper shall be used for permanent residence.
- B. As an accessory use, a mobile home may be stored, and following issuance of a zoning permit by the Selectmen a mobile home, trailer or camper may be occupied by visitors for not more than 30 days in any successive twelve-month period, or for a period not exceeding six months during the erection of a permanent dwelling on the same premises, provided that it is so placed on the lot as to meet minimum yard requirements.
- C. A trailer or camper may be regularly stored accessory to a permitted use, provided that it is so located on the lot as to meet minimum yard requirements, and may be parked anywhere on the premises for loading or unloading purposes.²⁰

§ 123-22. Conversion of a municipal building. [Added by 9-20-1982 STM, Art. 5]

A building or portion of a building then or formerly in municipal use may be converted from that use to multifamily dwellings, business or professional office or other business use not involving retail sales, provided that if the use is not allowed outright at that location, the following shall apply. A special

20. Editor's Note: Original Section 4400, Cluster Development, added by 6-5-1972 STM, Art. 5; amended by 1-9-1978 STM, Art. 5, which immediately followed this section, was repealed by 4-28-1986 ATM, Art. 40.

permit must be obtained from the Board of Appeals, subject to the criteria of § 123-4C and subject to the following.

- A. Any building additions shall not increase lot coverage by more than 5% of lot area.
- B. Off-street parking must be provided to meet the requirements of § 123-15.
- C. In the case of multifamily dwellings, lot area plus contiguous land dedicated to public recreation or conservation use must equal at least 5,000 square feet per dwelling unit.

§ 123-23. Multifamily dwellings. [Added by 9-24-1984 STM, Art. 1 ; amended by 11-19-1984 STM, Art. 1 ; 4-28-1986 ATM, Art. 10 ; 4-28-1986 ATM, Art. 40]

- A. Submittals. Applicants for a special permit for multifamily dwellings shall simultaneously file for site plan review, as provided at § 123-2C. In addition to the information required there, the following shall also be submitted:
 - (1) Ground floor plan, sections and elevations of all proposed buildings.
 - (2) Materials indicating the proposed number of dwelling units, distinguishing units by number of bedrooms and any special occupancies (elderly or handicapped); form of tenure; any subsidies anticipated; rent or sales prices including any commitments for price ceilings; methods of water supply and sewage disposal; time schedule for construction of units and improvements; service improvements proposed at the developer's and those anticipated at the Town's expense; and means, if any, of providing for design control.
 - (3) Analysis of the consequences of the proposed development, evaluating the following impacts at a level of detail appropriate to the number of units proposed.
 - (a) Natural environment: ground water and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees) and wildlife habitats.
 - (b) Public services: traffic safety and congestion, need for water or sewer system improvements, need for additional public recreation facilities, need for additional school facilities.
 - (c) Economics: municipal costs and revenues, local business activity, local jobs.
 - (d) Social environment: rate of Town population growth, range of available housing choice.
 - (e) Visual environment: visibility of buildings and parking, visual compatibility with existing development in the area.
 - (4) In the case of proposals for 30 or more dwelling units, a site analysis shall also be submitted, consisting of a series of site analysis drawings at the same scale as the site plan, each on a separate sheet, indicating analysis of hydrologic considerations, vegetative cover, slope and land form, soils and geology and such other characteristics as the applicant deems advisable.
 - (5) If involving more than 10 dwelling units, a phasing schedule, to be acted upon under § 123-14, Phasing of development. **[Added by 5-27-2008 ATM, Art. 19]**
- B. Locational requirements.

- (1) Multifamily dwellings must be so located as to allow connection to the municipal sewerage system at the time of construction.
 - (2) Multifamily dwellings must be so located that the traffic they are projected to generate will not increase average daily traffic by more than 10% on any existing street.
 - (3) Egress from multifamily developments of 24 or more dwelling units must be so located that there is at least 250 feet visibility in each travel direction at the curb line.
- C. Intensity of use requirement The following shall apply to multifamily dwellings instead of the requirements of § 123-13.
- (1) Minimum lot area per dwelling unit shall equal 30% of the required lot area for a single-family dwelling at that location plus 10% of that required lot area per bedroom. (e.g., a two-bedroom dwelling unit requires 30% plus 10% plus 10% or 50% of the lot area required for a single-family dwelling.)
 - (2) Minimum lot frontage and maximum lot coverage shall be as required at § 123-13.
 - (3) Front, side and rear yards shall be as required at § 123-13, except that front yard shall be not less than twice building height and side and rear yards shall be not less than building height, if more restrictive than the underlying requirement. No parking area for more than two cars shall be located within a required yard unless that yard abuts a lot committed to multifamily use.
- D. Site design requirements.
- (1) Requirements of § 123-2C(3) shall apply.
 - (2) Light intrusion shall be controlled by having no building floodlighting, and by having lighting for drives and parking areas employ shielded fixtures mounted not more than 15 feet high.
- E. Building design requirements.
- (1) No structure shall contain more than 12 dwelling units.
 - (2) Not more than four dwelling units shall be served from a single building entrance.
 - (3) No building shall exceed 200 feet in length, 32 feet in height, or have an unbroken roof area of more than 2,000 square feet.
 - (4) No occupied floor shall be below grade at its entire perimeter.
- F. Decision. In deciding on a special permit for multifamily dwellings, the following more detailed criteria shall be used rather than those of § 123-4C. Such special permit shall be granted only if the Planning Board determines that the proposal would have beneficial effects which overbalance any adverse impacts on the neighborhood or the Town, considering the following:
- (1) Municipal costs and revenues.
 - (2) Effect on the range of available housing choice.
 - (3) Service to identified housing needs.
 - (4) Support for local business activity and jobs.
 - (5) Impact on the natural environment, especially on ground and surface water quality and level.

- (6) Impacts on traffic safety and congestion, adequacy of water service and need for school facilities.
- (7) Impacts on the visual environment through preservation or displacement of visual assets and consistency with existing development in area.
- (8) Architectural design compatible with the local area and the nature of the Town.

§ 123-23.1. Groundwater Protection District. [Added by 4-25-1988 ATM, Art. 7 ; amended by 4-29-1991 ATM, Art. 33]

- A. Purposes. The purposes of this section are to protect public health from contamination of existing and potential public and private water supplies and to protect the general welfare by preserving limited water supplies for present and future use.
- B. Delineation of Groundwater Protection District.
 - (1) For the purposes of this section, there is hereby established within the Town of Blackstone an overlay district consisting of certain groundwater protection areas, including aquifers and recharge areas, which are delineated on the map entitled "Groundwater Protection District Map, Town of Blackstone," dated October 2011 and which shall be considered as superimposed over other districts established by the zoning bylaws of this Town. This map, as it may be amended from time to time, is on file with the office of the Town Clerk and, with any explanatory material thereon, is hereby made a part of this chapter. **[Amended by 10-18-2011 STM, Art. 4]**
 - (2) Where the bounds of the Groundwater Protection District, as delineated on the Groundwater Protection District Map, are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Town may engage a professional hydrogeologist or soil scientist to determine more accurately the location and extent of an aquifer or recharge area and may charge the owner(s) for all or part of the cost of the investigation.
- C. Use regulations. Within the Water Resource District, the use requirements of the underlying zoning districts continue to apply, except that uses are prohibited or require a special permit from the Planning Board as provided in Subsections D and E below, even where the underlying district requirements are more permissive.
- D. Prohibited uses. Within the Groundwater Protection District, the following uses are prohibited.
 - (1) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21 (2)a. Generally, those are the following [see 310 CMR 22.21 (2)a, on file with the Building Inspector, for exact provisions]:
 - (a) Landfills, open dumps, and sludge or septage landfills.
 - (b) Auto graveyards or junkyards.
 - (c) Stockpiling and disposal of snow from outside of the district, if containing ice control chemicals.
 - (d) Individual sewage disposal systems designed to receive more than 110 gallons per day per 1/4 acre or 440 gallons per day on any one acre.
 - (e) Sewage treatment facilities subject to 314 CMR 5.00, until such time as that regulation

may be amended to specifically allow them.

- (f) Facilities that generate, treat, store or dispose of hazardous waste subject to MGL c. 21 and 310 CMR 30.00, except:
 - [1] Very small quantity generators, as defined under 310 CMR 30.00.
 - [2] Household hazardous waste centers and events under 310 CMR 30.390.
 - [3] Waste oil retention facilities required by MGL c. 21, § 52A.
 - [4] Remediation treatment works approved under 314 CMR 5.00.
- (2) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21 (2)b, unless designed in accordance with specified performance standards. Generally, those are the following [see 310 CMR 22.21 (2)b, on file with the Building Inspector, for exact provisions]:
 - (a) Storage of sludge and septage unless in accordance 310 CMR 32.30 and 310 CMR 32.31.
 - (b) Storage of ice removal chemicals, commercial fertilizers and soil conditioners unless within a structure designed to prevent generation and escape of contaminated runoff or leachate.
 - (c) Storage of animal manure, unless covered or contained.
 - (d) Storage of liquid hazardous materials as defined in MGL c. 21E, unless in a freestanding container within a building or above ground with adequate secondary containment.
 - (e) Earth removal to within four feet of historical high groundwater, unless regraded to a higher level within 45 days, except for excavations for building foundations or utility works.
 - (f) Storage of liquid petroleum products, provided that such storage is in a freestanding container within a building or above ground with adequate secondary containment, except
 - [1] Normal household use, outdoor maintenance and heating of a structure.
 - [2] Waste oil retention facilities required by MGL c. 21, § 52A.
 - [3] Emergency generators required by statute, rule or regulation.
 - [4] Treatment works approved under 314 CMR 5.00 for treatment of contaminated ground or surface waters.
 - (g) Industrial uses that discharge process wastewater on site.
 - (h) Animal feedlots.
 - (i) Dry-cleaning establishments.
 - (j) Boat and motor vehicle service, washing and repair establishments.
 - (k) Mining of land, except as incidental to a permitted use.

E. Special permit uses.

- (1) The following uses, unless prohibited by a specific provision of § 123-23.1D, may be permitted, but only by a special permit from the Planning Board under such conditions as the Planning Board may require:
 - (a) Commercial and industrial activities permitted in the underlying district and involving the manufacture, storage, transportation or use of any hazardous material other than hazardous wastes as defined in MGL c. 21C.
 - (b) Rendering impervious more than 15% of lot area or 2,500 square feet, to be approved only if using a system for artificial recharge of stormwater that will not degrade groundwater quality.
 - (2) Any application for a special permit shall be made, reviewed, and acted upon in accordance with the following procedures:
 - (a) Each application for a special permit shall be filed, in writing, with the Planning Board and shall contain a complete description of the proposed use together with any supporting information and plans which the Planning Board may require.
 - (b) The Planning Board shall refer copies of the application to the Board of Health, Board of Selectmen, Conservation Commission and Department of Public Works, which shall review, either jointly or separately, the application and shall submit their recommendations to the Planning Board.
 - (c) After notice and public hearing and after due consideration of the reports and recommendations of the local boards and departments, the Planning Board may grant such a special permit, provided that it finds that the proposed use:
 - [1] Is in harmony with the purpose and intent of this section and will promote the purposes of the Groundwater Protection District.
 - [2] Is appropriate to the natural topography, soils and other characteristics of the site to be developed.
 - [3] Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area.
 - [4] Will not adversely affect an existing or potential water supply.
- F. Design and operations guidelines. Within the Groundwater Protection District, the following design and operations guidelines shall be observed, except for single- and two-family dwellings:
- (1) Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel-delivery points, secure storage areas for toxic or hazardous materials and indoor storage provisions for corrodible or dissolvable materials.
 - (2) Locations. Where the premises are partially outside of the Groundwater Protection District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the district.
 - (3) Monitoring. Periodic monitoring may be required by the Building Inspector or by the Planning Board either in performing the site plan review or in acting on a special permit. That monitoring

may include sampling of wastewater disposed to on-site systems or dry wells and sampling from groundwater-monitoring wells, to be located and constructed as specified by the Building Inspector or Planning Board, with reports to be submitted to the Building Inspector, the Planning Board, the Department of Public Works and the Board of Health. The costs of monitoring, including sampling and analysis, shall be borne by the owner of the premises.

- G. Violations. Written notice of any violation shall be provided by the Building Inspector to the owner of the premises, specifying the nature of the violation and specifying a time for compliance, including cleanup of any spilled materials. The time allowed shall be reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer-term compliance. The costs of achieving compliance shall be borne by the owner of the premises or, if uncollectable from the owner, by the responsible occupant.

§ 123-23.2. Village Overlay District. [Added by 4-25-1994 ATM, Art. 22]

- A. Purposes. The purposes of the Village Overlay District are to facilitate new investment within the district, to build pedestrian-scale convenience and amenity, to meet housing needs, to serve entrepreneurial interests of Blackstone residents and to protect and enhance the village heritage.
- B. Village-compatible development. Applicants for development within the Village Overlay District may choose to develop subject to the alternative use and dimensional regulations of Subsections C and D, rather than those normally applicable, provided that the Planning Board grants the development proposal a special permit for village-compatible development upon its determination that the proposal is consistent with one or the other of the following: **[Amended by 5-31-2005 ATM, Art. 37]**
- (1) The development proposed is an alteration or addition to an existing structure, increasing the total floor area by up to 50% above that existing on the premises as of January 1, 1994; or
 - (2) The Planning Board finds that the building as proposed would be compatible with development within a comparison area consisting of all lots abutting the premises in question plus all lots in whole or part within 300 feet of the boundary of the premises. That determination is to be based upon compliance with the following, unless the Planning Board finds that, owing to peculiarities of the location or of the proposed building but not found generally in the District, the proposal would on balance advance the purposes of the Village Overlay District despite noncompliance with one or more of the following standards, or conversely finds that despite compliance with these standards the proposal would not on balance advance the purposes of the Village Overlay District:
 - (a) Any proposed buildings are in scale with those existing within the comparison area, which means:
 - [1] The total floor area proposed to be on the premises is to be no more than 1/4 greater than the total floor area existing on at least one lot within the comparison area; and
 - [2] The ratio of total floor area (as proposed) to total lot area is to be no more than 1/4 greater than the ratio existing on at least one lot within the comparison area; and
 - [3] The maximum building height is to be no more than 10% greater than the tallest building existing within the comparison area and no less than 2/3 that of the lowest building existing within that area.

- (b) The site design is consistent with that of the comparison area and abutting premises, which means:
- [1] The building is proposed not to be separated from the street line except by a landscaped yard and usual walks and drives; and
 - [2] If abutting properties to the left and right both have some physical definition of the street line (such as walls, fences, hedges, or building location at the street line) development on the premises in question is proposed to also provide some physical street line definition; and
 - [3] The location of parking facilities relative to the principal building is consistent with that found on the majority of developed lots within the comparison area.
- C. Use regulations. Within the Village Overlay District, the use requirements of § 123-11, Use schedule, for the underlying districts shall continue to apply, except that **[Amended by 5-28-2013 ATM, Art. 30]**
- (1) multifamily dwellings may be allowed on special permit from the Planning Board; and
 - (2) within the Commercial "C" District portion, a mix of uses may be allowed without regard to Subsection F of § 123-12
- provided that in both cases the development is determined to be village-compatible as specified in Subsection B above.
- D. Dimensional regulations. For village-compatible development as specified in Subsection B above, the following dimensional regulations shall apply rather than those of § 123-13. **[Amended by 5-30-2006 ATM, Art. 22; 5-28-2013 ATM, Art. 30]**

Minimum lot area	7,500 square feet ^a
Minimum lot frontage	70 feet
Minimum front yard	20 feet ^b
Minimum side or rear yard:	
At Village Overlay Boundary	15 feet
Elsewhere	8 feet
Maximum lot coverage	40%

NOTES:

^a Except not less than 5,000 square feet per dwelling unit for two-family or multifamily dwellings in the R-1 portion of the overlay district.

^b Except that the front yard need not be larger than the average of the front yards provided on lots adjoining it on the same street, with a vacant lot considered to have a front yard of 20 feet.

- E. Conforming and grandfathered lots. By-right development on lots that comply with the dimensional requirements of the underlying district and those lots grandfathered for single- and two-family dwellings under MGL c. 40A, § 6, shall be subject to the site design standards of Subsection B as determined by site plan review by the Planning Board. **[Added by 5-30-2017 ATM, Art. 20]**

§ 123-23.3. Earth removal. [Added by 5-27-1997 ATM, Art. 9]

- A. Purpose. Earth removal must meet the requirements of Chapter 109, Soil Removal, of the Code of the Town of Blackstone in addition to meeting the requirements of the Zoning Bylaw. The purpose of this section is to provide a procedure for the determination of whether given locations are suitable for certain earth removal activities.
- B. Procedure. Upon their receipt by the Selectmen, a copy of earth removal special permit application materials shall be forwarded to the Planning Board. Within 35 days of receiving the materials, the Planning Board shall review them and submit a report with recommendations to the Selectmen, as provided in MGL c. 40A, § 11. If the decision of the Selectmen is inconsistent with the recommendation of the Planning Board, the Selectmen shall explain the reasons for the inconsistency to the Planning Board in writing.
- C. Criteria. Special permits are to be approved by the Board of Selectmen only if it finds that the criteria of § 123-4C are met and that the location of the proposed activity relative to dwellings, means of access, environmental resources likely to be displaced by the operation and natural buffering through topography and vegetation assure that environmental and residential disturbance will meet the performance standards of § 123-16 of the Zoning Bylaw and Chapter 109, Soil Removal, of the Code of the Town of Blackstone and that any other environmental or residential impacts will be small.

§ 123-23.4. Personal wireless service facilities. [Added by 5-31-2005 ATM, Art. 38]

- A. Purpose. This section regulates personal wireless service facilities within the Town for the following purposes:
- (1) To protect the scenic, historic, environmental and natural or man-made resources of the Town;
 - (2) To protect property values;
 - (3) To minimize any adverse impacts on the residents of the Town (such as attractive nuisance, noise and falling objects) or on the general safety, welfare and quality of life in the community;
 - (4) To minimize the total number and height of towers located within the community through, among other things:
 - (a) Encouraging the use of existing structures and towers wherever appropriate; and
 - (b) Requiring tower sharing and clustering of wireless communications facilities where they reinforce the other purposes and objectives in this section.
 - (5) To accomplish those purposes through:
 - (a) Providing standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of wireless communications facilities; and
 - (b) Providing a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify wireless communications facilities;

and

- (c) Acting consistent with the Federal Telecommunications Act of 1996.
- B. Applicability. Special permits may be granted for personal wireless service facilities as defined in § 123-24 only in accordance with the standards and criteria below. However, facilities erected and maintained by the Town of Blackstone for the exclusive use of schools, public works, emergency and safety services, and facilities, such as satellite dishes of less than one-meter diameter, preempted from local control by the Federal Telecommunications Act, do not require special permits and are not subject to the following restrictions.
- C. Site location. The Town's priorities for siting wireless communications facilities are as follows, in descending order. Applicants shall document that they have investigated locations higher in priority ranking than the one for which they are applying, indicating whether sites are available within those higher-ranked categories and, if so, under what conditions.
- (1) Concealed within an existing structure so as not to be visible from outside the structure, achieved without damage to historic features of the structure or its context.
 - (2) On an existing building but not damaging important historic features of it, or on an existing structure such as an electric transmission tower or water tower, in either case camouflaged through location, design, color, or other means to resemble a compatible architectural feature or other element of the primary structure.
 - (3) Co-located with existing wireless communications facilities.
 - (4) On Town-owned land which complies with other requirements of this section and where visual impact can be minimized and mitigated;
 - (5) On other sites so located that the following are satisfied for the area within a radius equal to four times the height of the tower:
 - (a) No portion of an historic district established under MGL c. 40C or a district on or eligible to be on the National or State Register of Historic Places lies within that area.
 - (b) No portion of a Town-designated scenic road passes through that area.
 - (c) The area is not a densely settled residential or mixed-use one, evidenced by having no more than five existing principal buildings used as dwellings, churches, schools, or similar nonbusiness uses located in whole or in part within that area.
 - (d) The area is a low visibility one, meaning that no major arterial, arterial, or collector street (as classified in the Blackstone Municipal Plan as most recently approved by the Planning Board) passes within it.
- D. Design requirements.
- (1) Height. The height of personal wireless service facilities shall comply with the following:
 - (a) Ground-mounted facilities. The height of ground-mounted personal wireless service facilities (towers or other facilities attached directly to the ground rather than onto a building or other structure) measured above average grade at the base of the tower shall be less than 200 feet or, if smaller, a height equal to 40% of the distance from the tower center to the nearest point of an existing dwelling. For example, if the nearest portion of a

dwelling were 300 feet from the proposed tower base, then the maximum allowable height would be 40% of 300 feet or 120 feet.

- (b) Building-mounted facilities. Building-mounted personal wireless service facilities shall comply with the height limitations of § 123-13.3A. Personal wireless service facilities may be located on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.
 - (c) Location on existing structures. New antennas located on a water tower or personal wireless service facility existing on the effective date of this bylaw shall be exempt from the height restrictions of this section, provided that they do not increase the height of the existing structure. New antennas located on electric transmission and distribution towers, telephone poles and similar existing utility structures shall be exempt from the height restrictions of this bylaw, provided that there is no more than a twenty-foot increase in the height of the existing structure as a result of the installation of a personal wireless service facility.
- (2) Setbacks.
- (a) All personal wireless service structures and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the minimum distance from the center of the base of any ground-mounted personal wireless service facility to any property line shall be the height of the facility, including any antennas or other appurtenances.
 - (b) In reviewing a special permit application for a personal wireless service facility, the Planning Board may reduce the required setback distance by as much as 50% if it finds that on balance visual and safety impacts will be improved through such reduction.
- (3) Security and signs. Ground-mounted communications towers shall be secured from trespass or vandalism by eight-foot-high fencing or other means approved by the Planning Board, but fencing shall not include barbed or razor wire. A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number, along with any other signs or notices required by state or federal agencies. Advertising on any antenna, tower, fencing, accessory building or communications equipment shelter is prohibited.
- (4) Buffering. Existing on-site vegetation shall be preserved to the degree feasible, supplemented to the extent necessary to provide dense buffering from adjacent premises and streets by both trees and understory growth. Security fencing shall be screened by a landscaped buffer of evergreen plantings having a mature height at least equal to the fence height.
- (5) Tower design. New towers are to be monopole (single shaft without guy wires) type unless the applicant documents to the satisfaction of the Planning Board that an alternative would better serve the objectives of minimizing visual intrusion and adequately protecting safety.
- (6) Co-location capacity. New towers are to be designed to accommodate facilities for at least six wireless communications carriers, and the owner/applicant shall allow co-location for such carriers under fair-market leases without discrimination against other wireless service providers.
- (7) Accessory buildings. Shelters and other accessory buildings shall be located and designed to minimally intrude into or depart from the character of the environs, including use of

underground facilities where feasible. Consistency with the appearance of buildings in the vicinity shall include use of gable roofs with eave heights averaging not more than 20 feet above grade and exterior wall appearance being that of wood.

- (8) Interconnections. To the extent technologically feasible, all network interconnections from the facility shall be via land lines.
 - (9) Noise impact. Noise levels shall not exceed eight db(A) above ambient L90 levels measured at any property line or the nearest residence, exclusive of noise from construction, maintenance, and emergency alarms, and shall not result in tonal sounds [sounds in an octave band level exceeding the levels in adjacent bands by three db(A) or more] or in impulsive noise [noise which repetitively varies more than five db(A) more than 10 times in an hour].
- E. Procedure. Special permits for personal wireless service facilities shall require justification of need for the facility, approval of the location, and approval of the project design and other provisions.
- (1) Justification of need. In applying for determination of justification of need, the applicant shall submit the following:
 - (a) A map of the geographic area in which the proposed facility will provide coverage that is adequate as expected by the FCC, locating existing or pending facilities in and abutting the Town, indicating those in which the applicant has a legal or equitable interest, whether by ownership, leasehold or otherwise.
 - (b) Written documentation of any facility sites in the Town and in abutting towns in which the applicant has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide adequate coverage, or do not have the potential to do so by site adjustment.
 - (c) Written documentation that the applicant has investigated all facility sites located in the Town and in abutting towns in which the applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage.
 - (d) Written documentation that the proposed facility uses the least disruptive technology (through the use of repeaters or other similar technology as it may be developed subsequent to adoption of this bylaw) in which it can provide adequate coverage in conjunction with all facility sites listed above.
 - (2) Location approval. In applying for location approval, the applicant shall submit the following:
 - (a) Mapping and other graphic material documenting justification for the location selection in light of the Town's location priorities outlined at § 123-23.4C, and illustrating coverage adequacy.
 - (b) Visual evidence of the visibility and appearance of any proposed tower through photo simulation from locations selected by the Planning Board.
 - (c) Technical reports from qualified professional engineers describing:
 - [1] The technical, economic and other reasons for the facility height and location.
 - [2] The capacity of the facility, including the number and types of transmitters and receivers it can accommodate and the basis for the calculations of the capacity.

- [3] The basis for determining that the proposed facility location and design uses the least disruptive technology in which it can reasonably provide adequate coverage.
 - [4] The basis for determining that the proposed technology and location are the safest and least intrusive to the vicinity that is currently feasible.
 - [5] How the proposed facility complies with all applicable federal and state standards.
- (3) Project design. In applying for project design approval, the applicant shall submit the following:
- (a) All information required under the site plan requirements of § 123-2C.
 - (b) Written statements of compliance with, or exemption from, the regulations of all federal and state agencies governing personal wireless facilities or uses, including, but not limited to, the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Health.
 - (c) A report certified by an acoustical engineer documenting that the projected impact upon noise levels will meet the standard of § 123-23.4D(9).
 - (d) For proposed ground-mounted towers, a report prepared by a certified general appraiser documenting the projected difference in real estate values resulting between these two scenarios for any existing dwellings within the six-times tower height area specified at § 123-23.4C(5):
 - [1] Development of that area with the proposed communications facility plus nothing else; or
 - [2] Development of that area with the maximum amount of residential development feasible under current zoning and other regulations.
- (4) Approval criteria.
- (a) A special permit shall be granted under this section only if the Planning Board finds that the projects is in harmony with the general purpose and intent of this bylaw. In addition, the Planning Board shall make all the applicable findings before granting the special permit, as follows:
 - [1] That the applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the special permit;
 - [2] That the applicant is not able to use existing facility sites either with or without the use of repeaters to provide adequate coverage;
 - [3] That the proposed wireless service facility minimizes any adverse impact on historic resources, scenic views, residential property values, and natural or man-made resources;
 - [4] That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
 - [5] That the applicant has agreed to rent or lease available space on any tower it controls within Blackstone, under the terms of a fair-market lease, without discrimination to other wireless service providers.

- (b) In granting a special permit the Planning Board may, in addition to such terms and conditions as may be specified above, impose such additional conditions and safeguards as public safety, welfare and convenience may reasonably require.
 - (c) All special permit decisions by the Planning Board under this section shall be in writing and supported by substantial evidence contained in a written record, as required by the Federal Telecommunications Act and by MGL c. 40A.
- (5) Term of permit. Each special permit shall be valid for a fixed or conditional period of time as determined by the Planning Board, but not to exceed 25 years. At the end of the approved time period, the carrier shall remove the facility unless a new special permit has been approved.
- (6) Monitoring and reporting. Each carrier utilizing wireless communications facilities authorized under these provisions shall file a report with the Town every year on operational aspects of the facility, including power consumption; power radiation; frequency transmission; the number, location, and orientation of antennas; and types of services provided. With the report the application shall file a fee of \$1,000 per carrier for compliance monitoring.
- (7) Expert testimony and review.
 - (a) To ensure a well-informed process, the Planning Board will place important reliance on the written submittals required above. Those submittals shall be prepared by professionals who are expert on the topics which they are addressing and who, if requested by the Planning Board, will be available to provide oral testimony as well.
 - (b) The applicant shall pay the reasonable costs for the Planning Board to engage independent consultants to review the application submittals.
- F. Removal requirements. Any personal wireless service facility that ceases to perform the normal functions associated with the wireless service facility and its equipment on a continuous and ongoing basis for a period of one year shall be removed. At the time of removal, the facility owner shall remediate the site such that all wireless communications facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the owner shall also remove the tower (including the foundation). Existing trees shall only be removed if necessary to complete the required removal. The applicant shall, as a condition of the special permit, provide a bond or other form of financial guarantee acceptable to the Planning Board to cover the cost of removal of the facility and the remediation of the landscape.

§ 123-23.5. Wind energy facilities. [Added by 5-31-2011 ATM, Art. 26]

- A. Purposes. The purpose of this section is to provide for the construction and operation of wind energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the Town and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of wind energy facilities.
- B. Applicability. This section applies to all utility-scale, on-site wind facilities, and small wind energy systems, proposed to be constructed after the effective date of this section. This section also includes building integrated wind systems, and physical modifications to existing wind facilities that materially alter the type, configuration, or size of such facilities or other equipment.

C. General requirements for all wind energy facilities.

- (1) Exemptions. Wind turbines constructed, reconstructed, or renovated for the primary purpose of generating power for use as part of a commercial agriculture operation shall be considered a structure pursuant to MGL c. 40A, § 3 and, therefore, shall be exempt from this section.
- (2) A permit shall be granted unless the Planning Board finds, in writing, that there is substantial evidence that:
 - (a) The specific site is not an appropriate location for such use;
 - (b) There is expected to be a serious hazard to pedestrians or vehicles from the use;
 - (c) A nuisance is expected to be created by the use; and
 - (d) Adequate and appropriate facilities will not be provided for the proper operation and maintenance of the use.
- (3) Permit needed. The following wind energy facilities shall require a special permit from the Planning Board:
 - (a) Small wind - meteorological towers.
 - (b) Large wind - utility-scale, on-site wind use.
 - (c) Building-integrated wind.
- (4) Compliance with laws, ordinances and regulations. The construction and operation of all such proposed wind energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
- (5) Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance satisfactory to the Planning Board in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.
- (6) Site control. At the time of its application for a special or building permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.
- (7) Utility notification. No wind energy facility shall be installed until evidence has been given to the Planning Board that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (8) Temporary meteorological towers (met towers). Met towers shall be permitted under the same standards as a small wind system, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of three years, after which an extension may, in the discretion of the Planning Board, be granted. Small anemometers installed directly on buildings shall not require a building or special permit.
- (9) Design standards.

- (a) Appearance, color and finish. FAA safety consideration on color and appearance should be respected. Where an applicant is seeking a nonstandard color in an area not regulated by the FAA, the permit granting authority shall have authority to regulate the color of the turbine.
 - (b) Lighting. Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind energy facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
 - (c) Signage. Signs on the wind energy facility shall comply with the requirements of the Town's sign regulations, and shall be limited to those necessary to identify the owner, provide a twenty-four-hour emergency contact phone number, and warn of any danger as well as educational signs providing information about the facility and the benefits of renewable energy.
 - (d) Advertising. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
 - (e) Utility connections. Reasonable efforts shall be made to locate utility connections from the wind energy facility 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 aboveground if required by the utility provider.
 - (f) Appurtenant structures. All appurtenant structures to such wind energy facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.
- (10) Safety and environmental standards.
- (a) Emergency services. The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the local emergency services entity, as designated by the Planning Board. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the wind energy facility shall be clearly marked. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
 - (b) Unauthorized access. Wind turbines or other structures part of a wind energy facility shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or other climbing means readily accessible to the public for a minimum height of eight feet above the ground. Electrical equipment shall be locked where possible.
 - (c) Shadow/flicker. Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does

not have significant adverse impact on neighboring or adjacent uses.

- (d) Sound. The wind facility and associated equipment shall conform with the provisions of the Department of Environmental Protection's Division of Air Quality noise regulations (310 CMR 7.10), unless the Department and the Planning Board agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source either increases the broadband sound level by more than 10 dB(A) above ambient, or produces a "pure tone" condition - when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more. These criteria are measured both at the property line and at the nearest inhabited structure. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards, if required by the Planning Board. The Planning Board, in consultation with the Department, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.
- (e) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

(11) Monitoring and maintenance.

- (a) Facility conditions. The applicant shall maintain the wind energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and emergency medical services. The project owner shall be responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.
- (b) Modifications. All material modifications to a wind energy facility made after issuance of the permit shall require approval by the Planning Board as provided in this section.

(12) Abandonment or decommissioning.

- (a) Removal requirements. Any wind energy facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind energy facility is scheduled to be decommissioned, the applicant shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than 150 days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the condition it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of: physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site; disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations; and stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (b) Abandonment. Absent notice of a proposed date of decommissioning, the facility shall be

considered abandoned when the facility fails to operate for more than one year without the written consent of the Planning Board. The Planning Board shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind energy facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to exercise any remedies available under applicable law to compel such removal.

- (13) Expiration. A permit issued pursuant to this section shall expire if: (a) The wind energy facility is not installed and functioning within 48 months from the date the permit is issued; or (b) The wind energy facility is abandoned.
- (14) Violations. It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this section or with any condition contained in a permit issued pursuant to this section. Wind energy systems installed prior to the adoption of this section are exempt from the provisions hereof.

D. Requirements for small wind energy facilities.

- (1) Special permit required. No small wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit from the Planning Board. All such wind energy systems shall, where economically feasible, be constructed and operated in a manner that minimizes adverse visual, safety and environmental impacts. The construction of a small wind facility shall be permitted in any zoning district subject to the issuance of a special permit and provided that the use complies with all applicable requirements set forth in this section.
- (2) Height. Small wind turbines shall be no higher than 250 feet above the current grade of the land, as measured at the uppermost point of the rotor's swept area. A small wind turbine may exceed 250 feet if:
 - (a) The applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility;
 - (b) Such excess height is necessary to prevent financial hardship to the applicant; and
 - (c) The facility satisfies all other criteria for the granting of a building permit under the provisions of this section.
- (3) Setbacks. Small wind turbines shall be set back a distance equal to a minimum of 1.5 times the overall blade tip height of the wind turbine from the nearest property line and any abutting private or public way.
- (4) Setback waiver. The Planning Board may reduce the minimum setback distance as it may deem appropriate, based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.
- (5) Application process and requirements. A building permit shall be required for the installation of a small wind energy system.
 - (a) General required documents. The building permit application shall be accompanied by deliverables, including the following: (i) a plot plan showing property lines and physical

dimensions of the subject property within two times the total height of the wind turbine from the proposed tower location; (ii) location, dimensions, and types of existing major structures on the property; (iii) location of the proposed wind system tower, foundations, guy anchors and associated equipment; (iv) the right-of-way of any public road that is contiguous with the property; (v) any overhead utility lines; and (vi) location and approximate height of tree cover.

- (b) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
 - (c) One- or three-line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices.
 - (d) Foundations for towers less than or equal to 160 feet must have blueprints or drawings signed by a professional engineer.
 - (e) Foundations for towers greater than 160 feet must have blueprints or drawings signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
 - (f) Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any.
 - (g) The name, contact information and signature of any agents representing the applicant.
 - (h) A plan for maintenance of the small wind energy facility.
- (6) Fees. The application for a special permit for a wind energy system must be accompanied by the applicable special permit fee.

E. Requirements for large wind energy facilities (utility and on-site projects).

- (1) Special permit. No wind energy facility over 100 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the Planning Board. The construction of a wind energy facility shall be permitted subject to the issuance of a special permit and provided that the use complies with all requirements set forth in the this section. All such wind energy facilities shall, where economically feasible, be constructed and operated in a manner that minimizes adverse visual, safety, and environmental impacts.
- (2) Financial surety. The Planning Board may require the applicant for utility-scale wind facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal of the permitted facilities in the event the Town must remove the same. Said surety shall be in an amount and form determined by the Planning Board, but shall in no event exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The surety amount shall include a mechanism for periodic cost of living adjustment.
- (3) Height. Large wind energy facilities shall be no higher than 450 feet above the current grade of the land, provided that wind facilities may exceed 450 feet if:

- (a) The applicant demonstrates by substantial evidence that such height reflects industry standards or manufacturer recommendations for a similarly sited wind facility;
 - (b) The applicant can demonstrate significant financial gain due to additional height; and
 - (c) The facility satisfies all other criteria for the granting of a building permit under the provisions of this section.
- (4) Setbacks.
 - (a) Large wind turbines shall be set back a distance equal to three times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure and from the nearest property line and private or public way.
 - (b) The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.
- (5) Required supporting documentation. The applicant shall provide the special Planning Board with a description of the proposed project, which shall include:
 - (a) General. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be: (i) name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any; (ii) the name, contact information and signature of any agents representing the applicant; and (iii) documentation of the legal right to use the wind facility site.
 - (b) Technical documentation. The applicant shall, at a minimum, submit the following technical documentation regarding the proposed wind energy facility to the Planning Board: (i) wind energy facility technical specifications, including manufacturer and model, rotor diameter, tower height/type, foundation type/dimensions; (ii) tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts; (iii) tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts; and (e) Electrical schematic.
 - (c) Location map: utility-scale projects. The applicant shall submit to the Planning Board a copy of a portion of the most recent USGS quadrangle map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; however, a copy of a zoning map with the parcel identified is suitable.
 - (d) Site plan. A one inch equals 200 feet plan of the proposed wind facility site, with contour intervals of no more than 10 feet, showing the following: (i) property lines for the site parcel and adjacent parcels within 300 feet; (ii) outline of all existing buildings, including purpose (e.g., residence, garage, etc.) on the site parcel and all adjacent parcels within 500 feet, including distances from the wind facility to each building shown; (iii) location of all roads, public and private, on the site parcel and adjacent parcels within the setback distance of 1.2 times the blade tip height, and proposed roads or driveways, either temporary or permanent; and (iv) Existing areas of tree cover, including average height of

trees, on the site parcel and adjacent parcels within the setback distance of 1.2 times the blade tip height.

- (e) Proposed location and design of wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
 - (f) Location of viewpoints referenced below in Subsection E(6) and (7) of this section.
- (6) Visualizations: utility-scale projects. The Planning Board may select up to four sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a two-mile radius of the proposed wind energy facility. View representations shall have the following characteristics:
- (a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g., superimpositions of the wind facility onto photographs of existing views).
 - (b) All view representations will include existing, or proposed, buildings or tree coverage.
 - (c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).
- (7) Visualizations: on-site projects. The Planning Board may select up to three sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a two-mile radius of the proposed wind energy facility. View representations shall have the following characteristics:
- (a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g., superimpositions of the wind facility onto photographs of existing views).
 - (b) All view representations will include existing, or proposed, buildings or tree coverage.
 - (c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).
- (8) Operation and maintenance plan. The applicant shall submit a plan for maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the wind facility.
- (9) Compliance documents. The applicant will provide with the application:
- (a) Description of the proposed financial surety that satisfies Subsection E(2) of this section;
 - (b) Proof of liability insurance that satisfies Subsection C(5) of this section;
 - (c) Certification of height approval from the FAA;
 - (d) A statement that satisfies Subsection C(10)(d), listing existing and maximum projected sound levels from the wind energy facility.

- (10) Landscape plan. A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cutoff fixtures to reduce light pollution.

F. Requirements for building-integrated wind energy facility.

- (1) Special permit granting authority. No building-integrated wind energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the Planning Board. The construction of a building-integrated wind energy facility shall be permitted, subject to the issuance of a special permit and provided that the use complies with all requirements set forth in this section. All such wind energy facilities shall, where economically feasible, be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.
- (2) Required supporting documentation for building-integrated wind energy facilities. The special permit application submitted to the Planning Board must, at a minimum, include:
- (a) Analysis and design documents, completed by a structural engineer registered to practice in the Commonwealth of Massachusetts, demonstrating that the proposed building is structurally sufficient to support the permanent installation of the proposed building-integrated wind energy facility. At a minimum, the analysis should address vibration, wind load, and ice load.
 - (b) Elevation drawings of the building with the building-integrated wind energy facility installed, viewed from north, south, east, and west.
 - (c) Building schematic detailing point(s) of connection and associated supports for the building integrated wind energy facility.
 - (d) Schematic of attachment method for connecting the building-integrated wind energy facility to the building.
 - (e) Specification sheets for wind turbine and all related components (inverters, controllers, disconnects, etc.).
 - (f) One- or three-line electrical diagram detailing wind turbine, associated components, and electrical interconnection and overcurrent devices.

- G. Independent consultants. Upon submission of an application for a special permit, the Planning Board will be authorized to hire outside consultants, pursuant to MGL c. 44, § 53G.

§ 123-23.6. Commercial ground-mounted solar photovoltaic facilities. [Added 5-29-2012 ATM, Art. 19]

- A. Purposes. The purpose of this section is to promote and regulate the creation of new commercial ground-mounted solar photovoltaic installations and to provide 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. The provisions set forth in this section shall be applied in a manner consistent with the provisions of MGL c. 40A, § 3, and shall take precedence over all other sections of the Zoning Bylaws when considering applications

related to the construction, operation, and/or repair of commercial ground-mounted solar photovoltaic installations.

- B. Applicability. This section applies to commercial ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.
- C. General requirements for all commercial solar power generation installations.
 - (1) Exemptions.
 - (a) Solar photovoltaic facility constructed, reconstructed, or renovated for the primary purpose of generating power for use as part of a commercial agriculture operation shall be considered a structure pursuant to MGL c. 40A, § 3, and, therefore, shall be exempt from this section.
 - (b) Solar photovoltaic facilities that are otherwise exempt from local zoning provisions under MGL c. 40A, § 3, shall be exempt from this section.
 - (2) Permit required. A special permit from the Planning Board shall be required for commercial ground-mounted solar photovoltaic facilities.
 - (3) A special permit for a solar photovoltaic facility shall be granted unless the Planning Board finds, in writing, that there is substantial evidence that:
 - (a) The specific site is not an appropriate location for such use due to the physical or topographic characteristics of the site or the proximity of the proposed solar photovoltaic facilities to other structures on or existing uses of the site or abutting parcels;
 - (b) There would be a serious hazard to pedestrians or vehicles from the proposed use;
 - (c) A nuisance would be created by the proposed use; or
 - (d) Adequate and appropriate facilities will not be provided for the proper operation and maintenance of the proposed use.
 - (4) Compliance with laws, bylaws and regulations. The construction and operation of all commercial solar photovoltaic installations shall comply with all applicable local, state and federal laws, statutes, regulations, codes and policies, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with applicable provisions of the State Building Code.
 - (5) Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance in an amount, and for duration, sufficient, by determination of the Planning Board, to cover loss or damage to persons and property occasioned by the failure of the facility.
 - (6) Site control. At the time of its application for a special permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

- (7) Utility notification. No solar photovoltaic facility shall be installed until evidence has been provided to the Planning Board that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (8) Design standards.
 - (a) Lighting. Lighting of solar photovoltaic installations shall comply with local, state and federal law and regulations. Lighting of other parts of the installation, such as appurtenant structures, shall be sufficient 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 cutoff fixtures to reduce light pollution.
 - (b) Signage. Signs on commercial ground-mounted solar photovoltaic installations shall comply with the sign bylaw. A sign consistent with the sign bylaw shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number.
 - (c) Advertising. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
 - (d) Utility connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be placed aboveground if required by the utility provider.
 - (e) Appurtenant structures. All appurtenant structures to commercial ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever possible, structures should be reasonably shaded from view by vegetation or other buffers and/or joined or clustered to avoid adverse visual impacts.
- (9) Safety and environmental standards.
 - (a) Emergency services. Upon approval of a special permit, the commercial solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire and Police Chiefs, Building Inspector and other emergency response personnel. 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 contact person to be accessible for public inquiries throughout the life of the installation.
 - (b) 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 commercial ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

(10) Monitoring and maintenance.

- (a) Conditions. The commercial ground-mounted solar photovoltaic installation owner or operator shall maintain the solar photovoltaic facility in good condition at all times. Maintenance shall include, but not be limited to, painting, structural repairs, removal of debris and implementation of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic facilities and any access road(s), unless said roads have been accepted as public ways.
- (b) Modifications. All material modifications to a solar photovoltaic installation made after issuance of a special permit shall require approval by the Planning Board.

(11) Abandonment or decommissioning.

- (a) Removal requirements. Any commercial ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with Subsection C(11)(b) of this section shall be removed. The owner or operator shall physically remove the installation and restore the property, as near as possible, to its pre-installation condition no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of decommissioning and provide detailed plans for removal, including protection of abutting properties, and restoration of the site, for review and approval by the Planning Board prior to the start of removal operations. Decommissioning shall consist of physical removal of all commercial ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site; disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (b) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned if it fails to operate for more than 12 continuous months without the written consent of the Planning Board. If the owner or operator of the commercial ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of the issuance of a notice of abandonment by the Planning Board or the owner/operator's proposed date of decommissioning, the Town may enter the property and physically remove the installation. Any and all costs or expenses incurred by the Town in this regard shall be the responsibility of the owner/operator, and the Town reserves any and all rights and recourse with respect to collection thereof.
- (c) Financial surety. Owners/operators of commercial ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or other mechanism, satisfactory to the Planning Board, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form approved by the Planning Board. Such surety will not be required for municipally or state-owned facilities. The project proponent shall, upon issuance of a special permit, submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The surety shall remain in effect for the life of the facility, and shall include a

mechanism for periodically adjusting removal costs due to inflation and the amount of the surety to correspond to those increasing costs.

(12) Expiration. A permit issued pursuant to this section shall expire if:

- (a) The solar photovoltaic facility is not installed and functioning within 24-months from the date the permit is issued; or
- (b) The facility is abandoned.

(13) Violations. It is unlawful for any person to construct, install, or operate a solar photovoltaic facility that is not in compliance with this section or with any condition contained in a permit issued pursuant to this section.

D. Requirements for solar photovoltaic facilities.

(1) Special permit. No solar photovoltaic facility over 100 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit from the Planning Board. The construction of a solar photovoltaic facility shall be permitted subject to the issuance of a special permit and provided that the use complies with all requirements set forth in this § 123-23.6. All such solar photovoltaic facilities shall be constructed and operated in a manner that minimizes adverse visual, safety, and environmental impacts. No special permit shall be issued for a solar photovoltaic facility for any parcel that will result in more than 25% of the total land area of an Industrial District consisting of parcels that are the site of commercial ground-mounted solar photovoltaic installations. **[Amended 5-28-2019 ATM by Art. 28]**

(2) Setbacks.

- (a) Commercial solar photovoltaic facilities shall be set back a minimum of 50 feet from the nearest property line and private or public way.
- (b) The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.

(3) Required supporting documentation. The applicant shall provide the special Planning Board with a description of the proposed project, which shall include:

- (a) General. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:
 - [1] Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;
 - [2] The name, contact information and signature of any agents representing the applicant;
 - [3] Name, address, and contact information of proposed facility installer; and
 - [4] Documentation of the legal right to access and use the proposed solar photovoltaic facility site.
- (b) Property lines and physical features, including roads, for the project site;

- (c) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, roadways or driveways, exterior lighting, screening vegetation or structures;
 - (d) Blueprints or drawings of the solar photovoltaic installation showing the proposed layout of the system and any potential shading from nearby trees or structures;
 - (e) One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - (f) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - (g) A site plan in compliance with the provisions of § 123-2C(2) through (5);
 - (h) The project proponent shall submit a plan for the operation and maintenance of the commercial ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - (i) A list of potential dangers that may result from construction, operation and removal of the facility.
- (4) Compliance documents. The applicant will provide with the application:
- (a) Description of financial surety that satisfies Subsection C(11)(c) of this section;
 - (b) Description of liability insurance that satisfies Subsection C(5) of this section;
- E. Independent consultants. Upon submission of an application for a special permit, the Planning Board shall be authorized to retain outside consultants, pursuant to MGL c. 44, § 53G, and require that the permit applicant deposit a reasonable fee for such services.

§ 123-23.7. Marijuana establishments and marijuana retailers. [Added by 5-27-2014 ATM, Art. 25²¹; amended 5-28-2019 ATM by Art. 27]

- A. Purpose. This section regulates marijuana establishments and marijuana retailers for the following purposes as defined in § 123-24 (Definitions):
- (1) To provide for marijuana establishments and marijuana retailers in appropriate places and under strict conditions in accordance with Chapter 369 of the Acts of 2012 and Chapter 55 of the Acts of 2017.
 - (2) To minimize the adverse impacts of marijuana establishments and marijuana retailers on adjacent properties, residential neighborhoods, schools, parks and other places where children congregate, local historic districts, and other land uses potentially incompatible with said facilities.
 - (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of marijuana establishments and marijuana retailers, but shall not supersede the requirements of any host community agreement.

21. Editor's Note: This section was enacted as § 123-23.6 but was renumbered to § 123-23.7 by 5-26-2015 ATM, Art. 26.

B. Applicability.

- (1) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale trade, distribution or dispensing of marijuana is prohibited unless permitted as a marijuana establishment or marijuana retailer under this § 123-23.7.
- (2) No marijuana establishment or marijuana retailer shall be established except in compliance with the provisions of this § 123-23.7.
- (3) Nothing in this bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- (4) If any provision of this section or the application of any such provision to any person or circumstance shall be invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

C. Eligible locations for marijuana establishments and marijuana retailers.

- (1) Marijuana establishments may be allowed by special permit from the Blackstone Planning Board in the Industrial Zoning District provided the facility meets the requirements of this § 123-23.7.
- (2) Marijuana retailers may be allowed by special permit from the Blackstone Planning Board in the Commercial or Industrial Zoning Districts.
- (3) Marijuana retailers may also be allowed in an R-1 or R-2 District by special permit from the Blackstone Planning Board, but only for sites that abut a Commercial or Industrial District and that have previously been used for commercial purposes.

D. General requirements and conditions for all marijuana establishments and marijuana retailers.

- (1) A medical marijuana facility shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- (2) No marijuana establishments and marijuana retailers shall be located within 500 feet of a public or private school or within 200 feet of a library, church, child-care facility, park or playground. Distances shall be measured from the property line of the proposed use or from a line 100 feet from the building in which the use is located, whichever is less.
- (3) No marijuana establishment and marijuana retailers shall be located inside buildings containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (4) Signage for the medical marijuana facility shall include the following language: "Registration card issued by the Massachusetts Cannabis Control Commission required." The required text shall be a minimum of two inches in height.
- (5) Marijuana establishments and marijuana retailers shall provide the Blackstone Police Department, Building Inspector and the special permit granting authority with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.

E. Special permit requirements.

- (1) Marijuana establishments and marijuana retailers shall only be allowed by special permit from the Blackstone Planning Board in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) The proposed marijuana establishment or marijuana retailer shall meet the special permit criteria of § 123-4.
- (3) In addition to the application requirements set forth in Subsections D and E of this bylaw, a special permit application for a marijuana establishment or marijuana retailer shall include the following:
 - (a) The name and address of each owner of the facility;
 - (b) The following information may be provided in the form of copies of the applicant's submittal to the Cannabis Control Commission for authorization to operate the proposed facility:
 - [1] Evidence of the applicant's right to use the site of the marijuana establishment or marijuana retailer, such as a deed or lease;
 - [2] If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
 - [3] A certified list all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the Town and certified by the Town Assessor;
 - [4] Proposed security measures for the marijuana establishment or marijuana retailer, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.
 - (c) For marijuana cultivation or grow facilities, the following additional requirements shall apply:
 - [1] Proposed odor mitigation plan, including floor plans indicating locations of odor mitigation equipment. Odor mitigation equipment shall be state-of-the-art equipment to the maximum extent practicable. Such odor mitigation plan shall be subject to peer review by a qualified marijuana odor mitigation consultant.
 - [2] Proposed noise mitigation plan for mechanical equipment. Noise mitigation facilities shall be state-of-the-art to maximum extent practicable. The plan must document compliance with Massachusetts Department of Environmental Protection standards for noise.
- (4) Mandatory findings. The special permit authority shall not issue a special permit for a marijuana establishment or marijuana retailer unless it finds that:
 - (a) The facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11;

- (b) The facility demonstrates how it plans to meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts; and
 - (c) The applicant has satisfied all of the conditions and requirements of Subsections D and E herein.
 - (5) Annual reporting. Each marijuana establishment or marijuana retailer permitted under this bylaw shall as a condition of its special permit file an annual report to and appear before the special permit granting authority and the Town Clerk no later than January 31, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the special permit.
 - (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or tenancy of the premises as a marijuana establishment or marijuana retailer. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this § 123-23.7.
 - (7) The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the marijuana establishment or marijuana retailer in the event the Town must remove the facility. Documentation of a bond posted with the Cannabis Control Commission shall satisfy this requirement.
- F. Abandonment or discontinuance of use.
- (1) A special permit shall lapse if not exercised within one year of issuance.
 - (2) A marijuana establishment or marijuana retailer shall be required to remove all material, plants equipment and other paraphernalia:
 - (a) Prior to surrendering its state-issued licenses or permits; or
 - (b) Within six months of ceasing operations, whichever comes first.

ARTICLE V
Definitions and Word Usage

§ 123-24. Definitions and word usage.

- A. Words used in the present tense include the future, and the plural includes the singular; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.
- B. In this chapter, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

ACCESSORY APARTMENT — A second dwelling unit subordinate in size to a single-family dwelling unit on the lot and having separate cooking, sleeping and bathroom facilities, located either in the principal building or in an existing accessory structure. **[Added by 5-30-2006 ATM, Art. 23]**

ACCESSORY USE OR BUILDING — A use or building customarily incidental to and located on the same lot with the use or building to which it is accessory and not detrimental to the neighborhood.

ANIMAL FEEDLOT — A plot of land on which 25 or more livestock per acre are kept for the purposes of feeding.

ANIMAL KENNEL OR HOSPITAL — A structure used for the harboring and/or care of more than three dogs that are more than six months old, whether commercially operated or not.

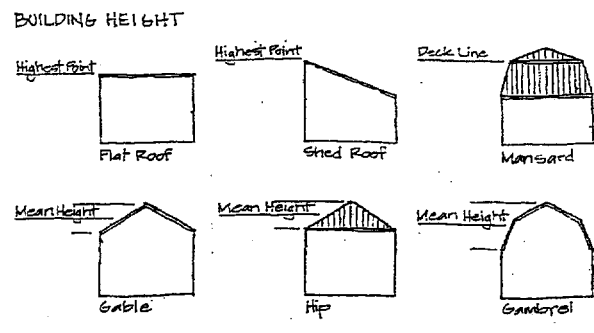
AQUIFER — A geologic formation, group of formations or part of a formation which contains sufficient saturated permeable material to yield significant quantities of potable groundwater to public or private wells. **[Added by 4-25-1988 ATM, Art. 7]**

ASSISTED LIVING FACILITY — A residential facility certified by the Massachusetts Department of Elder Affairs, which provides a combination of housing, meals and personalized support services for activities of daily living, but not providing the level of care of a skilled nursing facility. **[Added by 5-31-2011 ATM, Art. 23]**

BEDROOM — Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room or bath if such room exceeds 60 square feet. Any dwelling unit in which no such room exists shall be construed to contain one "bedroom." **[Added by 9-24-1984 STM, Art. 1 ; amended by 11-19-1984 STM, Art. 1]**

BUILDING — A structure enclosing useful space.

BUILDING HEIGHT — The vertical distance from the mean finished grade of the ground adjoining the building to the highest point of the roof for flat or shed roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. **[Added by 9-24-1984 STM, Art. 1 ; amended by 11-19-1984 STM, Art. 1 ; 11-8-1999 STM, Art. 19 ; 11-20-2000 STM, Art. 31]**



BUILDING-INTEGRATED WIND ENERGY FACILITY — A wind energy facility shall be considered to be building integrated if it is designed to be permanently mounted on a building or other inhabitable structure. This definition applies to wind turbines of any capacity that are designed to be operated in direct contact with a building. This definition also covers, for the purposes of this zoning provision, other wind energy facilities primarily used for land-based applications which may be permanently mounted and operated on a building. **[Added by 5-31-2011 ATM, Art. 27]**

BULK STORAGE — Exposed outside storage of sand, lumber, coal or other bulk materials and bulk storage of liquids in tanks except underground as an accessory use.

CAMPER — A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses, but not for permanent residence. Included devices commonly called "travel trailers," "pickup campers," "motorized campers" and "tent trailers."

CAMPGROUND — Premises operated with written permission of the Board of Health, used for travel trailers, campers, tenting or temporary overnight facilities of any kind where a fee is charged.

CAMPING, SUPERVISED — Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious and/or athletic program, with persons enrolled for periods of not less than one week.

CLUB or LODGE — Premises or buildings or a nonprofit organization exclusively servicing members and their guests for recreational athletic or civic purposes, but not including any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs or sportsmen's clubs, as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried on as a business. ²²

COMMERCIAL GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system that is structurally mounted on the ground and is not roof or building mounted, and has a minimum rated nameplate capacity of 100 kW DC. **[Added 5-29-2012 ATM, Art. 19]**

CONTRACTOR'S YARD — Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies and parking of wheeled equipment.

DETACHED STRUCTURE — One having no common or party walls.

DISPOSAL — The deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater. **[Added by 4-25-1988 ATM, Art. 7]**

22. Editor's Note: The definition of "commercial schools," which originally had immediately followed this definition, was repealed by 1-9-1978 STM, Art. 5.

DWELLING, MULTIFAMILY — Three or more dwelling units on a single lot, or in a single structure or set of contiguous structures, irrespective of ownership or tenure.**[Added by 9-24-1984 STM, Art. 1 ; amended by 11-19-1984 STM, Art. 1]**

DWELLING, SINGLE-FAMILY — A detached residential building intended and designed to be occupied exclusively by a single family.

DWELLING, TWO-FAMILY — A detached residential building intended and designed to be occupied exclusively by two families.

DWELLING UNIT — Living quarters for a single family.

EARTH REMOVAL — Removal of soil, loam sand, gravel, clay, peat or other organic materials, stone or other earth products from premises not in public use, except those removal activities categorized as "limited operations" under § 109-4 of the Code of the Town of Blackstone (removal incidental to building construction or incidental to grading ways within subdivisions) if involving quantities of less than 1,000 cubic yards per applicant per year.**[Added by 5-27-1997 ATM, Art. 9]**

ERECTED — Includes the words "built," "constructed," "reconstructed," "altered," "enlarged" and "moved."

EXTENSIVE RESORT — Premises comprising at least 200 acres contiguous except for intervening roads, with no buildings within 100 feet of a public way, used principally for skiing, snowmobile trails, riding trails or similar extensive recreation, and optionally including restaurant, sporting goods shop or lodging in conjunction with the above.**[Added by 6-5-1972 STM, Art. 8]**

FAMILY — Any number of individuals living and cooking together in a single housekeeping unit.

FLEA MARKET — Swap shop or similar activity by whatever name, involving the temporary setting up of 10 or more booths, tables, platforms, racks or similar display areas for sales by three or more vendors.**[Added by 4-25-1981 ATM, Art. 2]**

FLEXIBLE RESIDENTIAL DEVELOPMENT — An alternative form of land development, involving the division of a parcel into building lots, using flexible intensity regulations, as provided at § 123-13.1 of this chapter.**[Added by 4-25-1994 ATM, Art. 24A]**

FLOOR AREA, LEASABLE — The sum of the area on the several floors of a building which is or could be leased, including leasable basements.

FRONTAGE — That portion of a lot that abuts the right-of-way of a street.**[Added by 5-31-2011 ATM, Art. 23]**

GOLF COURSE, STANDARD or PAR-THREE — Course, including customary accessory buildings, where tee-to-hole distance averages not less than 80 yards.

GROUNDWATER — All the water beneath the surface of the ground.**[Added by 4-25-1988 ATM, Art. 7]**

HAZARDOUS MATERIAL — Any substance or combination of substances, not including any liquid petroleum product, that, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of into or on any land or water in this Town. Any substance deemed a hazardous waste in Chapter 21C of the Massachusetts General Laws shall also be deemed a "hazardous material" for purposes of this section.**[Added by 4-25-1988 ATM, Art. 7]**

HEIGHT — The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.**[Added by 5-31-2011 ATM, Art. 27]**

HOME OCCUPATION — Certain occupations engaged in within an existing dwelling or building accessory thereto by a resident thereof. Such occupations include the professions of medicine, dentistry, law, architecture and engineering; machine, woodworking, metals, art or photo shop; domestic work, such as dressmaking, millinery and clothes washing; teaching and exercise of professional skills in music, dramatics, arts and crafts and academic pursuits; real estate and insurance offices; and inside storage of tradesman's materials and equipment.

HOTEL or MOTEL — A structure providing sleeping rooms for resident or transient guests and where public eating facilities are provided, but not including buildings of charitable, educational or philanthropic institutions.

IMPERVIOUS — Impenetrable by water.**[Added by 4-25-1988 ATM, Art. 7]**

LARGE WIND FACILITY — Equipment, machinery and structures utilized in connection with the conversion of kinetic energy of wind into electrical power with a rated output of electrical power production equipment of greater than 100kW/0.1MW.**[Added by 5-31-2011 ATM, Art. 27]**

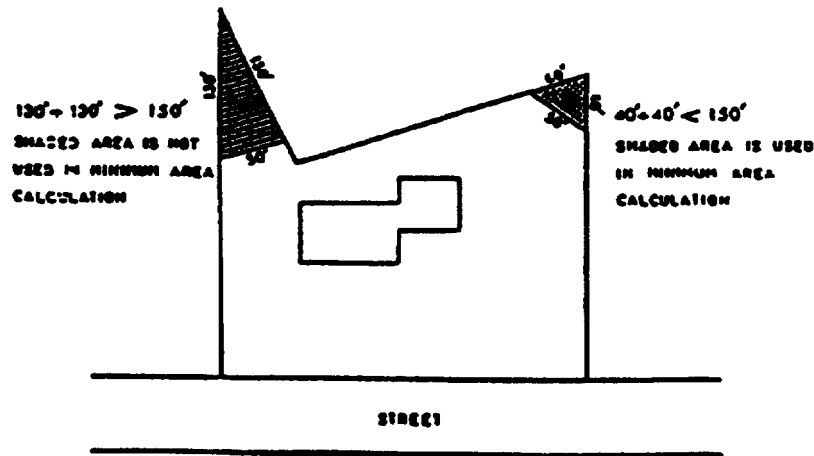
LEACHABLE WASTES — Waste materials, including solid wastes, sewage, sludge and agricultural wastes, that are capable of releasing waterborne contaminants to the surrounding environment**[Added by 4-25-1988 ATM, Art. 7]**

LIGHT MANUFACTURING — Fabrication, processing or assembly such that the provisions of § 123-16 are complied with.

LIVESTOCK RAISING — The keeping or raising of any number of pigs, animals raised for pelts or animals for hire; or more than three horses, cows, goats and/or sheep; or more than 10 poultry; or a number of other animals equivalent to the above in waste production.**[Amended by 6-14-1982 STM, Art. 29]**

LOT — An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.

LOT AREA — The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least 90% of the "lot area" required for compliance shall also be exclusive of areas subject to protection under the Wetlands Protection Act, MGL c. 131, § 40, for reasons other than being subject to flooding and exclusive of areas included within easements for surface drainage elements, such as retention or detention ponds. If the distance between any two points on lot line is less than 50 feet, as measured in a straight line, the smaller portion of the lot as divided by that line shall not be included in "lot area" unless the two points are separated by less than 150 feet measured along lot lines.**[Amended by 4-25-1988 ATM, Art. 34]**



LOT, CORNER — A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting a curved street shall be considered a "corner lot" if the tangents to the curve at the point of intersection of the side lot lines intersect with an interior angle of less than 135°.

LOT COVERAGE — Percentage of total lot area covered by structures or roofed.

LOT FRONTAGE — The boundary of a lot coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site, and the street has been determined by the Planning Board to provide adequate access to the premises under the provisions of the Subdivision Control Law and the Blackstone Subdivision Regulations.²³ To be measured continuously along one street line between side lot lines or, in the case of corner lots, between one side lot line and the midpoint of the corner radius.²⁴ [Amended by 4-25-1988 ATM, Art. 34]

MAJOR SPECTATOR CENTER — Premises comprising at least 35 contiguous acres containing facilities for engaging in and watching athletics, racing, concerts or other spectator events, having an audience seating capacity of 5,000 or more, and optionally including restaurant, retail sales or services and motel or hotel in conjunction with the above.[Added by 2-15-1975 STM, Art. 1 ; amended by 5-14-1975 STM, Art. 2]

MARIJUANA ESTABLISHMENT (ME) — A medical marijuana facility, marijuana independent testing laboratory, marijuana product manufacturer, or marijuana cultivator, all as defined in MGL c. 94G, § 1, but not including marijuana retailers.[Added 5-28-2019 ATM by Art. 27]

MARIJUANA RETAILER — An entity licensed to purchase and deliver medical and/or recreational marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.[Added 5-28-2019 ATM by Art. 27]

MEDICAL MARIJUANA FACILITY — A not-for-profit entity (also known as a "medical marijuana treatment center") registered under 105 CMR 725.100, to be known as a "registered marijuana dispensary (RMD)," that acquires, cultivates, possesses, processes [including development of related products such as edible marijuana-infused products (MIPs), tinctures, aerosols, oils, or ointments], transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing

23. Editor's Note: See Ch. 191, Subdivision of Land.

24. Editor's Note: The former definition of "major residential development," added by 5-28-1996 ATM, Art. 22, which immediately followed this definition, was repealed 5-27-2008 ATM, Art. 20.

marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, "RMD" refers to the site(s) of dispensing, cultivation, and preparation of marijuana.[Added by 5-27-2014 ATM, Art. 25]

MINING OF LAND — The removal or relocation of geologic materials such as topsoil, sand and gravel, metallic ores and bedrock.[Added by 4-25-1988 ATM, Art. 7]

MOBILE HOME — A dwelling unit built on a chassis, containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or permanent foundation for either temporary or permanent living quarters.

MUNICIPAL USE — Premises used for any operation by the Town government except as elsewhere more specifically defined.

NONCONFORMING USE OR BUILDING — A lawfully existing use or building which does not conform to the regulations for the district in which such use or building exists.

NURSING, CONVALESCENT, OR REST HOME — Premises for the care of three or more persons, as licensed by the Massachusetts Department of Public Health.

ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.[Added 5-29-2012 ATM, Art. 19]

ON-SITE WIND FACILITY — A wind project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will generate electricity on site.[Added by 5-31-2011 ATM, Art. 27]

PAPER STREET — A road or street which appears on an Assessor's Map but which has not been constructed on the ground and therefore does not provide frontage for a lot.[Added by 5-31-2011 ATM, Art. 23]

PARKING SPACE — An area intended for parking one automobile, provided that the area's dimensions and access meet standards adopted and from time to time amended by the Planning Board.[Amended by 4-25-1988 ATM, Art. 33]

PARTY WALL — A building wall erected on a lot sideline for shared use of adjoining properties.

PERSONAL WIRELESS SERVICE FACILITIES — Antennas used by wireless communications service carriers to broadcast or receive the radio-frequency waves which carry their services, the mounting structures (including towers) upon which such antennas are placed, the equipment shelters ancillary to those facilities, and the premises upon which those facilities are located in providing personal wireless service, as defined under the Federal Telecommunications Act of 1996 [47 U.S.C. § 332(c)].[Added by 5-31-2005 ATM, Art. 38]

PHILANTHROPIC INSTITUTION — An endowed or charitably supported nonprofit religious or nonsectarian activity maintained for a public or semipublic use.

PUBLIC HOUSING — Housing operated by a public body created pursuant to MGL c. 121, § 26K,²⁵ or corresponding provisions of earlier laws.

PUBLIC STABLE — Premises where two or more horses are kept for remuneration, hire or sale.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).[Added by 5-31-2011 ATM, Art. 27; amended

25. Editor's Note: Section 26K was repealed by St. 1969, c. 751. See now MGL c. 121B § 3.

5-29-2012 ATM, Art. 19]

RECHARGE AREA — Any area of porous, permeable geologic deposits, especially, but not exclusively, deposits of stratified sand and gravel, through which water from any source drains into an aquifer, and includes any wetland or body of surface water surrounded by or adjacent to such area, together with the watershed of any wetland or body of surface water adjacent to such area.**[Added by 4-25-1988 ATM, Art. 7 ; amended 5-29-2012 ATM, Art. 19]**

RELATED EQUIPMENT OR FACILITIES — Any equipment, building, structure, accessway, landscaping or other means used to support the operation, or disguise the appearance, of a solar photovoltaic tower, antenna, or transmitting or receiving equipment of any kind.**[Added 5-29-2012 ATM, Art. 19]**

RENEWABLE OR ALTERNATIVE ENERGY — Energy derived from sources that do not use up natural resources or harm the environment, including solar, wind, geothermal, hydrogen and hydro energy and excluding fossil fuels and biomass.**[Added 5-29-2012 ATM, Art. 20]**

ROADSIDE STAND — Premises for the sale of agricultural products, the major portion of which were raised on the premises.

SECURITY BARRIER — A locked wall, fence or berm, or combination thereof, which seals an area from unauthorized entry or trespass.**[Added 5-29-2012 ATM, Art. 19]**

SIGN — Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations of this chapter:**[Added by 6-26-1969 STM, Art. 1]**

- (1) Signs not exceeding one square foot in area and bearing only property numbers, names of occupants or premises or other identification of premises not having commercial connotations.
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (3) Legal notices, identification, informational or directional signs erected or required by governmental bodies.
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (6) Standard gasoline pumps bearing thereon in usual size and form the name, type and price of gasoline.

SIGN, ACCESSORY — A sign whose subject matter relates to the premises on which it is located, or to products, accommodations, services or activities on the premises.**[Added by 6-26-1969 STM, Art. 1]**

SIGN, AREA OF — The area within a regular geometric form or forms comprising all the display area of the sign, including intermediary removable surfaces, but not including structural members not bearing advertising matter.**[Added by 6-26-1969 STM, Art. 1]**

SIGN, FREESTANDING — A sign erected or affixed to the land, and not attached to a building.**[Added by 6-26-1969 STM, Art. 1]**

SIGN, TEMPORARY — A sign which, by its inherent nature, can be expected to remain in place

for less than a year, as real estate signs or signs inside display windows.[**Added by 6-26-1969 STM, Art. 1**]

SMALL WIND ENERGY SYSTEM — All equipment, machinery and structures utilized in connection with the conversion of kinetic energy of wind into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines, which have a total rated nameplate capacity of not more than 100kW/0.1MW.[**Added by 5-31-2011 ATM, Art. 27**]

SOLID WASTES — Useless, unwanted or discarded solid materials with insufficient liquid content to be free-flowing, including, for example, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.[**Added by 4-25-1988 ATM, Art. 7**]

SPORTSMEN'S CLUB — A club whose primary purposes are conservation, hunting or fishing.

STREETS — Either:

- (1) A public way or a way which the Town Clerk certifies is maintained and used as a public way;
- (2) A way shown on a plan approved in accordance with the Subdivision Control Law;²⁶ or
- (3) A way in existence when the subdivision control became effective in Blackstone, 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 thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground, including buildings, mobile homes, billboards, swimming pools, tanks, or the like or part thereof.

SWIMMING POOL — Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading or bathing purposes. Pools having a depth of two feet or more and having a capacity of 200 cubic feet or more in volume shall be considered structures.

TEMPORARY STRUCTURE — Tent, construction shanty or similarly portable or demountable structure intended for continuous use for not longer than one year.

TRAILER — A towed vehicle for transportation of goods or animals, but not intended for human occupancy.

TRANSPORTATION TERMINAL — Premises for the parking and/or servicing of commercial vehicles.

UTILITY — A system of wires or conductors and supporting structures that functions in the transmission of electrical energy or communication services (both audio and video) between generating stations, substations, and transmission lines.[**Added 5-29-2012 ATM, Art. 19**]

UTILITY-SCALE WIND FACILITY — A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.[**Added by 5-31-2011 ATM, Art. 27**]

VEHICLE, HEAVY COMMERCIAL — A bus or truck having capacity in excess of the limits for a light commercial vehicle or motorized construction equipment other than trucks.

26. Editor's Note: See Ch. 191, Subdivision of Land.

VEHICLE, LIGHT COMMERCIAL — A taxi; a bus with capacity not exceeding 10 passengers; or a truck with a gross vehicular weight rating not exceeding 14,000 pounds and enclosed cargo area not exceeding 800 cubic feet.**[Amended by 1-9-1978 STM, Art. 4]**

WIND ENERGY FACILITY — All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.**[Added by 5-31-2011 ATM, Art. 27]**

WIND MONITORING OR METEOROLOGICAL TOWER — A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.**[Added by 5-31-2011 ATM, Art. 27]**

WIND TURBINE — A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.**[Added by 5-31-2011 ATM, Art. 27]**

YARD — A required open space, unoccupied and unobstructed by any structure or portion of a structure, except the following:

- (1) Fences, walls, poles, posts and other customary yard accessories, ornaments and furniture.
- (2) In front yards only, eaves, steps and noncovered porches.

YARD, FRONT — A yard extending between side lot lines across the front of a lot on each street it adjoins. Depth shall be measured perpendicular to a line connecting the foremost points of the side lot lines.

YARD, REAR — A yard extending across the rear of the lot between inner side yard lines.

YARD SALE — Sale or offering for sale of 10 or more items of personal property outdoors at any one residential premises at any one time, but not including a flea market.**[Added by 4-25-1981 ATM, Art. 2]**

YARD, SIDE — A yard extending from the rear line of the required front yard to the rear lot line.