

ARTICLE X

ADMINISTRATION AND ENFORCEMENT

Section 10.01 Administrative Official - It shall be the duty of the Inspector of Buildings to administer and enforce the provisions of this Bylaw. If the Inspector of Buildings receives in writing a request for enforcement and declines to act, or if a person alleges a violation in writing to that office who declines to act, the Inspector of Buildings shall notify in writing the party requesting action of his refusal to act and the reasons therefore within 14 days of receipt of such request.

Section 10.02 Permit Required - Except for the erection of a structure enclosing an area of 64 square feet or less and except for the erection of signs of less than two square feet in surface area identifying occupancy of a residence, it shall be unlawful for any person to: (a) erect, construct, reconstruct, or alter a structure, or (b) change the use or lot coverage, increase the intensity of use, or extend or displace the use, of any building, structure, or lot, without applying for and receiving from the Building Inspector a building permit. It shall also be unlawful for any person to attach, erect, or otherwise install any sign without applying for and receiving from the Building Inspector a sign permit.

Section 10.03 Previously Approved Permit - The status of previously approved permits shall be as determined by "The Zoning Act."

Section 10.04 Certificate of Occupancy Required - It shall be unlawful to occupy any structure or lot for which a building permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy specifying thereon the use to which the structure or lot may be put. The certificate of occupancy shall state that the building and use comply with the provisions of the Zoning Bylaw and the Building Code in effect at the time of issuance. No such certificate shall be issued unless the building and its accessory uses and the uses of all premises are in conformity with the provisions of this Bylaw and of the Building Code at the time of issuance. A certificate of occupancy shall be conditional on the provision of adequate parking space and other facilities as required by this Bylaw and shall lapse if such areas and facilities are used for other purposes.

A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this By-Law:

1. Occupancy and use of a building hereafter erected or structurally altered.
2. Change in use of an existing building or the use of land to a use of a different classification.

Certificates of occupancy shall be applied for coincidentally with the application for a building permit, and shall be acted upon within ten days after receipt by the Building Inspector of approved inspection Certificates and/or provisions of all governmental bodies so lawfully designated as required by the applicable laws, by-laws, and codes. Such certificates of occupancy shall be posted by the owner of the property in a conspicuous place for a period of not less than ten days after issuance.

Section 10.05 Permit and Certificate Fees - Fees shall be as established by the Selectmen.

Section 10.06 Permit Time Limits - Any work for which a permit has been issued by the Building Inspector shall be actively prosecuted within 90 days and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended at the discretion of the Building Inspector.

Section 10.07 Violations - The Building and Zoning Inspector shall serve a notice of VIOLATION AND ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

Section 10.08 Prosecution of Violation - If the notice of VIOLATION AND ORDER is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Any person, firm or corporation violating any of the provisions of this Bylaw shall for each violation, upon conviction thereof, pay a fine of not more than one hundred dollars (\$100). Each day that a violation is permitted to exist after notice to remove the same shall constitute a separate offense. Penalties for violations in connection with the removal of soil, loam, sand, gravel, quarry, or other earth materials shall be as set forth in the Earth Removal Bylaw.

Section 10.09 Board of Appeals

1. Membership: There shall be a Board of Appeals of five members and two associate members.

2. Appointment: Members of the Board in office at the effective date of this Bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act.
3. Powers: The Board shall have those powers granted under the Zoning Act.
4. Adoption of Rules: The Board shall adopt rules to govern its proceedings pursuant to the Zoning Act.
5. Whenever a plan is required to be submitted under any provision of this Bylaw, for good cause shown, the board may waive the submission, or modify the requirements, of such plans, according to their judgment. Provided however that the Board shall not waive such submission if any other town official or agency required or requested to pass on such plan objects to such waiver.

All plans required to be submitted to the Board of Appeals shall be drawn to the largest practicable scale which in no case shall be smaller than 1"=40'. They shall contain a locus map, shall show sufficient contour information to enable the Board to determine drainage flow, and shall contain all engineering information necessary for any proposed construction. All elevations provided must be relative to mean sea level as determined by the U.S. Geological Survey.

6. Appeals: Any appeal to the Board shall be taken within 30 days from the date of the order or decision which is being appealed by filing a notice of appeal specifying the grounds thereof with the Town Clerk who shall transmit copies to the Officer whose decision is being appealed and the permit granting authority. No appeal, application or petition to the Board of Appeals with respect to a particular parcel of land or with respect to any structure which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two years after the date of such unfavorable action, except in accordance with M.G.L. Chapter 40A, Section 16.

Section
10.10

Special Permits - Certain uses, structures or conditions are designated as allowed by special permit in Article V, Table of Use Regulations, and elsewhere in this Bylaw. Upon written application duly made to the Board, the Board may, in appropriate cases subject to the applicable conditions set forth in Articles XI and XII of this Bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for such uses, structures and conditions. When site plan approval is required, the granting authority shall be the Zoning Board of Appeals except in the Planned Mixed-Use District where a special permit is also required and that special permit granting authority is the Planning Board. In that case, the special permit granting authority for the site plan approval shall be the Planning Board.

1. Before granting an application for a special permit, the Board with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
 - a. The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this Bylaw.
 - b. The requested use is essential or desirable to the public convenience or welfare.
 - c. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
 - d. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
 - e. Any special regulations for the use, set forth in Article XI, are fulfilled.
 - f. The requested use will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.
2. The Board shall also impose in addition to any applicable conditions specified in this Bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this Bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.
3. In order that the Board may determine that the above-mentioned restrictions are to be met, a site plan shall be submitted, in quadruplicate to the Board by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse, and other waste disposal, and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.

The Board shall within ten days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.

The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.

4. The Special Permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown. And provided further that such construction once begun shall be actively and continuously pursued to completion within a reasonable time.
5. The Board shall hold a public hearing within 65 days after the filing by the applicant of the appropriate forms and plans with the Town Clerk who shall forthwith transmit said application to the Board. They shall act within 90 days of the hearing on the petition; failure to do so shall be deemed approval.
6. The Planning Board may appoint an Associate Member. The term of office of such Associate Member shall be two years. The Chairman of the Planning Board may designate the Associate Member to sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any members of the Planning Board or in the event of a vacancy on the Board.

Section
10.11

Variations - The Board may authorize a variance for a particular use of a parcel of land or to an existing building thereon from the terms of this Bylaw where, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such parcel of such building but not affecting generally the district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the applicant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. The Board may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance they shall lapse, and may be reestablished only after notice and a new hearing pursuant to this section.

Before any variance is granted, the Board must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.
2. Strict application of the provisions of this Bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.
3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Bylaw.
4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Bylaw.
5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

Section
10.12

Permits for Extension or Alterations of Nonconforming Uses or Nonconforming Structures - Upon written application, duly made to the Board and subsequent public hearing duly advertised by the Board, the Board may, in appropriate cases, subject to the applicable conditions set forth in Articles XI, XII, XIII, and XV of this Bylaw and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit for an extension or alteration of a nonconforming use or structure. The Board may, subject to the same conditions, grant a special permit for expansion of parking and other accessory uses appropriate to said nonconforming use or structure or expanded nonconforming use or structure.

1. Before granting a special permit for extension or alteration of such nonconforming use or structure the Board with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
 - a. The use requested for extension or alteration is listed in the Table of Use Regulations as permitted, or permitted by Special Permit, in at least one district within the Town.
 - b. The requested extension or alteration of the use or structure is essential or desirable to the public convenience or welfare.
 - c. The requested extension or alteration of the use or structure will not further create undue traffic congestion or unduly impair pedestrian safety.

- d. The requested extension or alteration of the use or structure will not further overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
 - e. Any special regulations for the use or structure as set forth in Article XII are fulfilled.
 - f. The requested extension or alteration of the use or structure will not impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, or welfare.
 - g. The requested extension or alteration of the use or structure will not bring the use or structure into violation of, or further violation of, the regulations set forth in Article IV, Table of Dimensional and Density Regulations, unless a variance is also granted subject to the provisions of Section 10.11 of this Bylaw.
 - h. The extended or altered use or structure will not be substantially different in character.
 - i. The extended or altered use or structure will not be more detrimental or objectionable to the neighborhood.
 - j. The extended or altered use or structure does not cause violation or further violation of Article VIII of this Bylaw.
2. The Board shall also impose in addition to any applicable conditions specified in this Bylaw such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purpose of this Bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearances of the structures; limitation upon the size, number of occupants, method of time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by the Bylaw. Such conditions shall be imposed in writing and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Board.
3. In order that the Board may determine that the above mentioned restrictions are to be met, a site plan prepared by a registered land surveyor or registered professional civil engineer shall be submitted with six (6) copies to the Board by the applicant.

Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and to other open uses, all facilities for sewage, refuse, and other waste disposal, wetlands, and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.

The Board shall within ten days after receipt thereof, transmit one copy of such plan to the Planning Board. The Planning Board may, in its discretion, investigate the case and report in writing its recommendation to the Board.

The Board shall not take final action on such plan until it has received a report thereon from the Planning Board or until said Planning Board has allowed 30 days to elapse after receipt of such plan without submission of a report thereon.