

**LEVERETT ZONING BY-LAW
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ZONING BY-LAWS

TOWN OF LEVERETT, MASSACHUSETTS

ARTICLE I. PURPOSE.

These regulations are enacted to promote the general welfare of the Town of Leverett, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to increase the amenities of the town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by the provisions of the Zoning Act, M.G.L.A. ch. 40A, as amended, and by Article 89 of the Amendments to the Constitution.

ARTICLE II. USE AND DIMENSIONAL REGULATIONS.

2100. Districts.

2110. Establishment. For the purposes of this By-Law, the Town of Leverett is hereby divided into the following districts:

- Residential/Village RV
- Rural ResidentialRR
- Rural Outlying Residential.....RO
- General Business GB
- Commercial COM

Four additional "overlay" districts are also hereby created: a Stream and Lake Protection District (pursuant to Section 4500), a Flood Hazard District (pursuant to Section 4400), an Aquifer Protection District (pursuant to Section 4300), and a Scenic Roads Protection District (pursuant to Section 4600) and a Rattlesnake Gutter Overlay District (pursuant to Section 4700).

The boundaries of these districts are defined and set forth on the map entitled, "Town of Leverett Official Zoning Map", dated March 11, 2008 as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. This map and all explanatory matter therein are hereby made a part of this Zoning By-Law.

2120. Boundary Definition. Except when labeled 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 at water body shoreline or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or at an angle to such lines shall be construed to be actually parallel, perpendicular, or at an angle thereto. When not located in any other way, boundaries shall be determined by scale from the map. The Rural Outlying (RO) Residential District shall commence 500 feet from the edge of the Right of Way of the road layout.

2130. Existing Lots. Where a district boundary line divides any lot existing at the time such line is adopted, the use regulations for any district in which the lot has frontage on a street may be extended not more than forty (40) feet into the other district.

2200. Use Regulations.

2210. General. No structure shall be erected or used or land used except as set forth in Section 2230, "Use Regulation Schedule", or in Section 2240, "Accessory Buildings and Uses", unless exempted by Section 2240, or by statute.

Symbols employed below shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

SP - A use authorized under special permit as provided under Section 5300.

SPR - Site Plan Review required as provided under Section 3900

2220. Applicability. When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

2230. Use Regulation Schedule.

Districts

	RV	RR	RO	GB	COM
2231. Principal Uses. (For Accessory uses, see Section 2240)					
Residential Uses (see Section 4880)					
One-family dwelling incl. mobile homes	Y	Y	Y	Y	Y
Two-family dwelling	Y	Y	Y	Y	Y
Multi-family dwelling (3 or more units)	N	N	N	N	N
Flexible Development	N	N	SPR	N	N
Non-Family accommodations (boarding house, etc.) with 2 or 3 rooms for let	SP	SP	SP	SP	SP
Bed & Breakfast with 4 or 5 rooms to let	N	SP	SP	N	N
Recreational occupancy of camping vehicle for not more than 14 consecutive days in any one month period	Y	Y	Y	Y	Y
2232. Extensive Uses.					
Agriculture, silviculture, horticulture, floriculture or viticulture pursuant to M.G.L. c. 40A, sec. 3	Y	Y	Y	Y	Y
Private commercial campgrounds	N	SP	SP	N	N
Private commercial outdoor recreation area	SP	SP	SP	SP	SP
Commercial earth removal	N	N	N	SP	SP
Conservation area, public park	Y	Y	Y	Y	Y
2233. Community Service Uses.					
Public utility	SP	SP	SP	SP	SP
Cemeteries	SP	SP	SP	SP	SP

2233. Community Service Uses. (cont.)	RV	RR	RO	GB	COM
School - Exempted from zoning regulation by M.G.L. ch. 40A, sec.3	Y	Y	Y	Y	Y
Church or other religious use - Exempted from zoning regulation by M.G.L. ch. 40A, sec.3	Y	Y	Y	Y	Y
Other educational or religious uses	SP	SP	SP	SP	SP
Other non-commercial community service use	SP	SP	SP	SP	SP
2234. Business/Industrial Uses.					
Hotel or motel	N	N	N	SP	SP
Restaurant, including take-out or drive-in service	N	N	N	SP	SP
Private commercial indoor recreation facility or club	N	N	N	SP	SP
Junkyard, salvage yard	N	N	N	N	N
Sawmill (see definition)	N	N	N	SP	SP
Gasoline service station	N	N	N	SP	SP
Automobile sales and repair	N	N	N	SP	SP
Sales, service, or storage of trucks, tractors, farm or construction equipment	N	N	N	SP	SP
Business or professional Offices	N	N	N	SP	SP
Bank	N	N	N	Y	Y
Retail grocery or general store up to 3,000 square feet of enclosed floor area	SP*	N	N	Y	Y
Retail grocery or general store greater than 3,000 square feet of enclosed floor area	N	N	N	SP*	SP*
Other retail stores and services	N	N	N	SP	SP
Small scale environmentally sensitive craft production, consistent with neighborhood character	N	N	N	SP*	SP*

2234. Business/Industrial Uses. (cont.)	RV	RR	RO	GB	COM
Manufacturing, production, assembly, or processing firm	N	N	N	N	SP
Research facility	N	N	N	SP	SP
Bulk storage, warehouse	N	N	N	N	SP
Sale or storage of feed, fuel, lumber or building supplies	N	N	N	N	SP
Telecommunications Facilities	N	N	N	N	SP
Transportation or private bus terminal	N	N	N	N	N
Farm stand, seasonal	Y	Y	Y	Y	Y
Kennels	N	N	N	SP	SP
Nursing home, funeral home	SP	SP	SP	SP	SP
Ready-mix concrete plant	N	N	N	N	N
2235. Other Principal Uses					
Having attributes similar to a use permitted (Y or SP)	SP	SP	SP	SP	SP
Other principal uses	N	N	N	N	N

* = Special permit to be issued by the Planning Board

2240. Accessory Buildings and Uses. Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses.

2241. Home Occupations. A business or profession may be engaged in as an accessory use of a dwelling by a resident of that dwelling, upon issuance of a special permit by the Board of Appeals, if conforming to the following conditions:

- a. The occupation or profession shall be carried on wholly within the principal building or within building or other structure accessory thereto.
- b. Not more than thirty (30) percent of the combined floor area of the residence and any accessory structures shall be used in the home occupation.

- c. The home occupation shall be accommodated within an existing structure without extension thereof.
- d. Not more than two persons not a member of the household shall be employed on the premises in the home occupation.
- e. Except for a permitted sign, 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 premises.
- f. No disturbance shall be caused as defined in Section 3420.
- g. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- h. Parking generated shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 10% of lot area.
- i. Home occupations in an Aquifer Protection District shall not use or store hazardous materials, as defined herein, in quantities greater than 5 gallons or 5 lbs.

2242. Animals. Horses and other animals, including pigs, chickens, and other farm animals, used for non-commercial or non-agricultural purposes, may be stabled (as an accessory use) within the R-R and R-V districts.

2243. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.

2244. One house trailer, mobile home, camping vehicle, or tent may be used as an accessory dwelling

on a lot for not more than thirty (30) days in any twelve (12) month period. One house trailer, mobile home, camping trailer, or similar vehicle, not used for dwelling purposes, may be stored out of doors on a lot.

2245. No garage building or accessory building shall be used as a dwelling unit if it is located on a lot with a principal structure serving as a residence.

2246. Rental of a single room in a principal residential structure is permitted as an accessory use.

2247. Dimensional Regulation: Accessory Uses. Accessory structures may not be placed within required yards, except that permitted signs may be located within a required front yard, and a permitted one-story accessory structure may be located within a required rear yard provided that it occupies not more than 25% of the required yard, and provided that it is not located within 10 feet of any property line.

2250. Nonconforming Uses. Any use or structure not conforming with this By-Law may be continued if the use or structure was lawfully existing at the time it became nonconforming, subject to the following:

2251. Alteration, Extension, or Change. As provided in M.G.L.A. ch. 40A, s.6, a nonconforming single or two-family dwelling may be altered or extended provided that the Building Inspector determines that doing so does not increase the nonconforming nature of said structure. Other pre-existing nonconforming structures or uses may be extended, altered, or changed in use on special permit from the Board of Appeals, in accordance with Section 5300 herein, upon a finding by the Board that such alteration, extension, or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

2252. Abandonment. A nonconforming use which has been abandoned, discontinued for a period of two years (five years for agriculture, horticulture, floriculture, silviculture or viticulture), or changed to a conforming use, shall not be reestablished, and any future use of the premises shall conform to this Zoning By-Law.

2253. Restoration. Any legally existing nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if such reconstruction is commenced within twenty-four (24) months from the date of the catastrophe (unless a longer period is granted by special permit by the Board of Appeals). Notwithstanding the above, any structure so restored shall not exceed in volume or area the original non-conforming structure, except that where the original structure was non-conforming by virtue of its relation to the set-back, rear yard, or side yard requirements of this By-Law, any restoration may exceed in volume or area the original non-conforming structure as long as the foundation of the restored structure is not in greater noncompliance, as to set-back, rear yard, or side yard, than the original structure.

2254. Premises may be changed from one category of nonconforming use to another only on special permit from the Board of Appeals. Such special permit shall be granted only for uses no more damaging or inharmonious with the environs than the use being replaced.

2255. Additions and accessory buildings which are associated with existing residences that are non-conforming by reason of being closer to lot boundaries than is permitted by these by-laws may be built as close, but not closer, to the lot boundaries than the existing residence.

2300. Dimensional Requirements.

2310. General. No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless exempted by this By-Law or by statute (see especially M.G.L.A. ch. 40A, s.6).

2320. Multiple Principal Structures. Not more than one principal structure shall be erected on a lot, unless otherwise authorized in this By-Law, or unless pursuant to a special permit issued by the Planning Board in accordance with Section 5300 herein and the following conditions:

2321. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire.

2322. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;

2323. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

2330. Rear Lots. Rear lots shall not be allowed in General Business or Commercial Districts. Individual lots in Residence Districts need not have the required amount of street frontage, provided that all of the following conditions can be met for each individual lot lacking such frontage:

2331. The area of said lot is at least double the minimum area normally required for the district.

2332. A building line is designated on the plan, and the width of the lot at that line equals or exceeds the number of feet normally required for street frontage in the district. For the purpose of this section 2332 only, the building line for a rear lot shall designate the line behind which the principal building on the lot shall be built.

2333. Lot width is at no point less than 30 feet, and lot frontage is not less than 30 feet. Frontage shall meet all of the requirements contained in the definition for "frontage" in Article VI, herein.

2334. Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of April 30, 1988. Documentation to this effect shall be submitted to the Planning Board along with the application for Approval Not Required or Definitive Subdivision Plans under the Subdivision Control Law. The Building Inspector shall not issue a building permit for any rear lot without first establishing that compliance with this provision has been determined by the Planning Board.

2335. At the time of the creation of the rear lot, it shall be held in common and contiguous ownership with the front lot.

2336. The Planning Board shall not approve an application for creation of a rear lot unless the applicant submits a plan under the Subdivision Control Law depicting both the rear lot and the front lot from which the rear lot was created.

2337. Where a single-family structure is situated on a rear lot, the front, rear, and side yards shall equal or exceed those required in the district. However, where a two-family structure is situated on a rear lot, the rear lot shall have 50% more lot area, side yard setback, and frontage than is otherwise required by Section 2330 or Section 2340, whichever is greater.

2340. Dimensional Schedule. (For accessory buildings, see Section 2247).

	Districts				
	Residential Village (RV)	Roadside Residential (RR)	Rural Outlying Residential (RO)	General Business (GB)	Commercial (COM)
Minimum Lot Area (sq. ft.) ^{1,2,8}	40,000	60,000	200,000	40,000	40,000
Minimum Lot Frontage (sq. ft.) ^{1,3,8}	200	200	400	150 ⁴	150 ⁴
Minimum Front yard (ft.) ^{5,7}	40	40	40	40	40
Minimum Side Yard (ft.) ¹	20	25	25	25	25
Minimum Rear Yard (ft.) ¹	30	30	30	30	30
Maximum Building Height (ft.) ⁶	35	35	35	35	35
Maximum Lot Coverage (%)					
By Buildings	15	10	10	20	20
By Buildings, Structures, and Impervious Surfaces	35	35	25	50	50
Minimum Open Space (%)				40	40

1 - Increase by 50% for two-family structures in the RV, RR, GB, and COM Districts, after accounting for any increase in lot size required by location in an Aquifer Protection District. See Footnotes 2 and 3, below.

2 - Increase to 120,000 sq. ft. in Aquifer Protection District in the RV, RR, GB, and COM Districts.

3 - Increase to 300 ft. in Aquifer Protection District for Single-family in RV, RR, GB, and COM Districts and 450 ft. in Aquifer Protection District for a two-family structure in all districts.

4 - 200 ft. for single-family residences (except 300 ft. in Aquifer Protection District), 300 ft. for two-family residences (except 450 ft. in Aquifer Protection District).

5 - Or aligned with existing buildings on adjacent properties.

6 - The height provisions of these regulations shall not apply to the erection of churches, belfries, and towers designed exclusively for ornamental purposes, flagstaffs, chimneys, silos, antennae, water tanks, or similar structures.

7 - In the Rattlesnake Gutter Overlay District, no structure shall be permitted within 500 feet of the centerline of the traveled portion of Rattlesnake Gutter Road. Where a structure is proposed on a lot in existence as of March 2, 1998, which cannot meet this requirement because of size of shape, the structure shall be located at the most distant feasible development site from Rattlesnake Gutter Road, as determined by the Planning Board in accordance with section 4740, below.

8 - An Approval Not Required (ANR) lot having the required frontage for the RR District on a Street in the RR District in existence on March 12, 2008 that has a portion of the lot in the RR district and a portion of the lot in the RO district may have the house sited on the RO portion of the lot without meeting the greater frontage and acreage requirements of the RO district provided that the lot meets all the dimensional requirements, including frontage, of the RR district as increased by the Aquifer Protection District requirements if applicable.

2400. Accessory Apartments.

2410. Purpose. For the purpose of providing small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town, and for the purpose of enabling owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Board of

Appeals may grant a special permit in accordance with the following requirements.

2420. Procedure. Accessory apartments may be allowed on special permit, which shall lapse every two years, by the Board of Appeals, in accordance with the special permit process in this Zoning By-Law, as set forth in Section 5300, and provided that each of the following additional criteria are met.

2430. Conditions.

2431. A plot plan, prepared by a Registered Land Surveyor, of the existing dwelling unit and proposed accessory apartment shall be submitted to the Board of Appeals, showing the location of the building on the lot, proposed accessory apartment, location of any septic system and required parking. A mortgage inspection survey, properly adapted by a surveyor, shall be sufficient to meet this requirement;

2432. Any special permit shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). The Board of Health shall also approve water supply and drainage resulting from the proposed accessory apartment as adequate for the proposed construction;

2433. Certification by affidavit shall be provided that one of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence;

2434. Not more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed 800 sq. ft. in floor space and shall be located in the existing residential structure on the premises;

2435. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure, in accordance with the following:

a. Any accessory apartment construction shall not create more than a 15% increase in the gross floor space of the structure existing as of April 27, 1991.

b. Any stairways or access and egress alterations serving the accessory apartment shall be enclosed, screened, or located so that visibility from public ways is minimized;

c. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.

2440. Conditions for Issuance and Renewal of Special Permits. The initial term and subsequent terms of a special permit for an accessory apartment shall expire after two years. Subsequent special permit issuances for existing accessory apartments shall be granted after certification by affidavit is made by the applicant to the Board of Appeals that the accessory apartment has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application.

2450. Decision. Special permits for an accessory apartment may be issued by the Board of Appeals upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 5300 of this Zoning By-Law, governing special permits.

ARTICLE III. GENERAL REGULATIONS.

3100. Parking and Loading Requirements.

3110. General. Adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures.

Such parking shall be on the same premises as the activity it serves, or within 300 feet on a separate parcel, which may be jointly used with other premises for this purpose, provided that the continued joint use of such parcel be ensured through an agreement recorded in the Registry of Deeds.

3120. Schedule of Parking Area Requirements. In applying for a building or occupancy permit, the applicant must demonstrate that the following minimums will be met for the new demand without counting existing parking:

Dwellings: Two spaces per dwelling unit.

Motels, hotels, lodging houses: One space per guest unit plus one additional space per eight guest units or fraction thereof.

Retail stores, offices: One space per 150 square feet of leasable floor area.

Industrial or wholesale: Four spaces per five employees on the largest shift.

Places of assembly: One space per three seats, or one space per 12 square feet of seating area, whichever is greater.

Hospitals: One space per bed.

Nursing homes: One space per four beds.

All others: As determined by the Building Inspector.

3130. Parking Area Design. No off-street parking area shall be maintained within 20 feet of a street right-of-wayline. All required parking areas except those serving single-family or two-family residences shall be paved or covered with some other appropriate surface, except that oil and stone surfaces shall not be permitted. For parking areas of eight (8) cars or more, Sections 3131 - 3132 shall apply:

3131. Parking area use shall not require backing onto a public way.

3132. Parking lots for 8 or more cars shall be screened from any residential use or district which is abutting or separated from it only by a street, pursuant to Section 3432.

3140. Loading Requirements. Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so.

3200. Sight Obstruction.

At corners, no sign (except signs erected by a public agency), fence, wall, hedge, or other obstruction shall be allowed to block vision between 2 1/2 and 8 feet above the street grade within an area formed by the intersecting street lines and a straight line joining the points of said street lines 20 feet back from their point of intersection.

3300. Signs.

3310. In Residence Districts the following signs are permitted.

3311. For each residence or permitted accessory use, one sign not over six square feet in area is allowed.

3312. For permitted buildings, structures and uses of the premises, other than one or two family dwellings and their accessory uses, two signs not over six square feet in total area are allowed, unless the Board of Appeals grants a special permit for a larger sign.

3313. Temporary, unlighted signs pertaining to the construction, lease or sale of the premises are allowed provided such signs do not exceed 6 square feet in total area.

3320. In General Business and Commercial Districts, signs advertising the name of the firm and the products and services produced or available on the premises are permitted only as follows:

3321. One (1) sign or other advertising device attached flat against the wall of a building, which does not project above the wall to which it is attached and which does not project more than 24 inches from the building shall be allowed for each firm on the premises. The aggregate sign(s) or device(s) serving all firms on the premises shall not exceed 32 square feet in area, and no single sign shall exceed 16 square feet in area. One additional sign serving all firms may be attached to a marquee which is an integral part of the building provided the total area of such sign does not exceed six square feet.

3322. As an alternative to Section 3321, one sign or other advertising device of a free-standing nature may be erected for each firm or such signs may be combined into one or more units provided that in all cases the total sign area for the premises does not exceed 16 square feet in area and 15 feet in height. All such signs shall be located at least 10 feet from the public right-of-way and 20 feet from the principal structure(s) on the premises.

3330. General Sign Restrictions.

3331. Signs, announcements, or bulletin boards not exceeding 16 square feet in area are allowed in all zoning districts in connection with public, charitable or religious uses.

3332. No sign or advertising device shall project over any pedestrian or vehicular way customarily used by the public.

3333. No exterior sign or advertising device shall incorporate motion or be lighted by flashing or blinking lights or utilize a change in light intensity.

3334. All illumination of signs or other advertising devices shall be shielded or indirect. No exterior sign or interior sign visible from the exterior of the structure shall be illuminated during hours the business is not open, provided, however, that no sign in a Residence District shall be illuminated after 9:00 p.m.

3335. No non-accessory sign or billboard shall be allowed.

3336. Signs required by federal or state law are allowed in all districts. Signs posting land against trespassing, hunting, or fishing, are also allowed in all districts.

3340. Signs Allowed on Special Permit. The Board of Appeals may grant special permits as follows, without application of Section 5330.

3341. For changes in existing signs on nonconforming uses in Residence Districts provided such changes are within the limits established for General Business and Commercial Districts, and not detrimental to the neighborhood.

3342. For a directional or identification sign in any district where such sign will serve the public convenience and not be detrimental to the neighborhood with respect to size, location, or design.

3350. Temporary Signs. Temporary signs (except for signs relating to sale, rental, or construction on the premises governed by Section 3313) referring to a political campaign public event shall be allowed, provided that each sign does not exceed twelve (12) square feet in area. No such temporary sign shall be displayed more than one month prior to the election or event, and such signs shall be removed within 7 days of the completion of the activity to which they relate.

3400. Environmental Controls and Septic Regulations.

3410. Erosion Control. Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

3411. Grading or construction, or natural site characteristics, which will result in final slopes of 20% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single parcel, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Section 5330 shall not be applicable to such special permit applications. Applications and plans for such special permits shall be referred to the Conservation Commission for their advisory review.

3412. All slopes exceeding 15% from site grading shall either be covered with topsoil to a depth of 4" and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

3413. No area or areas totaling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6" or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter

rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible. Section 5330 shall not be applicable to such special permit applications.

3414. The Building Inspector shall require information of the applicant, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations at key locations, description of vegetative cover, and the nature of impoundment basins proposed, if any.

3415. Where resultant site grades will exceed 15%, the town shall require a performance bond to ensure compliance with these requirements.

3416. Hillside areas shall be retained with vegetative cover as follows:

Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 and above	85

3420. Disturbances. No use shall be allowed if it will cause sound, noise, vibration, odor or flashing (except for warning devices, temporary construction, or maintenance work, parades, recreational or agricultural activities, or other special circumstances) so as to create a nuisance.

3430. Landscaping.

3431. Parking lots for 8 or more cars shall contain, or be bordered (within 5 feet) by, at least one tree per 5 cars or fraction thereof, trees to be of 2" caliper or larger, and if within the parking area, to be planted in curbed soil plots allowing not less than 30 square feet of unpaved soil area per tree.

3432. All outdoor sales display areas, all commercial buildings or commercial outdoor recreation areas, parking areas with more than 8 spaces, all mobile homes, and all two-family structures shall be screened from any adjacent residential use or district by a wall, fence, or be equivalently obscured by natural vegetation. Contractor's yards, open storage, loading facilities, or service yards shall be similarly screened from any adjacent residential district or use and from any public way from which they would otherwise be visible, and shall not be located within any required front yard.

3440. Septic Regulations.

3441. All septic systems installed after May 1, 2002 shall be located entirely upon the Lot on which the dwelling, which is to be served, is located.

3442. The provisions of Section 3440 shall not apply to the repair, or replacement of any failed septic system, to the extent the application of such provisions would, as determined by the Board of Health of the Town of Leverett, unreasonably negatively impact such repair or replacement.

3500. Driveway Regulations.

3510. General. For the purpose of promoting the safety of the residents of the Town, an application for a building permit for a residential structure shall include a plan, at a scale of 1" = 100 ft., showing the driveway serving the premises, and showing existing and proposed topography at 10 ft. or 3 meter contour intervals. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles. The Building Inspector shall not issue a building permit for the principal structure on the premises unless all of the following conditions have been met:

3511. Except in access strips of less than fifty (50) feet width to rear lots, no driveway shall be located within ten (10) feet of any side or rear lot line without written approval by the appropriate abutter(s), or by special permit by the Board of Appeals after a determination that said driveway will provide safe and reasonable access for all vehicles (without applying Section 5330 to said application).

3512. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet, unless the Board of Appeals shall grant a special permit after a determination that said driveway will provide safe and reasonable access for all vehicles (without applying Section 5330 to said application).

3513. The grade of each driveway where it intersects with the public way shall not exceed eight percent (8%) for a distance of 20 feet from the travel surface of the public way unless the Board of Appeals shall grant a special permit after a determination that said driveway will provide safe and reasonable access for all vehicles (without applying Section 5330 to said application).

3514. Driveways serving the premises shall provide access through the required frontage of the serviced lot, except in the case of a "common driveway" under Section 3520, herein.

3520. Common driveways serving not more than two (2) lots may be allowed on special permit by the Board of Appeals, after consideration of the criteria set forth in Section 5330, herein; provided both lots meet the standards for "frontage" as set forth in Article VI.. A common driveway must satisfy all of the conditions in Sections 3511-3513, as well as all of the following conditions:

3521. The centerline intersection with the street centerline shall not be less than 54 degrees;

3522. A minimum width of 12 feet shall be maintained over its entire length;

3523. A roadway surface of a minimum of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed;

3524. The driveway shall be located entirely within the boundaries of the lots being served by the driveway;

3525. Proposed documents shall be submitted to the Board of Appeals demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

3526. The driveway shall provide access through the required frontage of one of the two serviced lots.

3600. Unregistered Motor Vehicles.

Unregistered motor vehicles (other than farm vehicles) which are unfit for use, permanently disabled, or otherwise inoperative shall not be stored, parked, or placed upon any land in the Town for more than thirty (30) days unless such vehicles are kept within a building or are otherwise screened or located so as not to be visible from a public way or from abutting properties. Vehicles which are kept in an area properly approved for such storage by a licensed dealer in motor vehicles are exempt from this by-law.

3700. Rate of Development.

3710. Purpose. The purpose of Section 3700, "Rate of Development," is to promote orderly growth in the Town of Leverett, consistent with the rate of residential growth over the last six (6) calendar years, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth into the Master Plan for the community, and to preserve and enhance existing community character and the value of property.

3720. General. Beginning on January 1, 2003, building permits for not more than 10 dwelling units shall be issued in each of the eight full calendar years following said date, for the construction of new residential dwellings. For the purposes of this Section 3700, a duplex or two-family structure shall constitute two dwelling units.

3730. Procedures. Any building permits issued shall be issued in accordance with the following procedures:

3731. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.

3732. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.

3733. Any Building Permits not issued in any calendar year shall not be available for issuance in any subsequent year.

3734. At the end of the calendar year in which this by-law is in effect, the Building Inspector shall retain all applications for which, as a result of this by-law, a building permit has not been issued, if any. Upon being informed in writing by the applicant before the first Monday in January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with Section 3732, above.

3735. Nothing contained in this Section 3700 shall be deemed to entitle an applicant to more building permits in any calendar year than such applicant would be entitled to under Section 3800, below.

3736. Building permits for not more than 3 dwelling units shall be created from a property, or set of contiguous properties (i) held in common ownership as of April 30, 2002 or (ii) joined to create a subdivision on or after April 30, 2002.

3740. Special Needs Housing. Upon a determination by the Planning Board under a special permit application that the proposed development will meet special needs in housing provision, the proposed development shall be exempt from this Section 3700 in its entirety. Such special permit exempting the applicant from Section 3700 shall be granted if the housing is proposed by a public or non-profit organization relying on committed state or federal subsidies and a majority of the units will initially be sold or leased at terms affordable to households or individuals with incomes not exceeding those defined as "moderate income" by the Massachusetts Executive Office of Communities & Development, or upon a showing that the housing, because of its type, affordability, or market, significantly diversifies the Leverett housing stock.

3750. Exemptions. The provisions of this Section 3700 shall not apply to, nor limit in any way, the granting of building or occupancy permits required for enlargement, restoration, or reconstruction of dwellings existing on lots as of the date of passage of this by-law, but shall apply to the conversion of single-family to two-family dwellings, but shall not apply to addition of an accessory apartment under Section 2400.

3760. Extension. This Section 3700 may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to May of 2010.

3770. Notwithstanding anything in this Section 3700 to the contrary, for the period between April 30, 2002 and December 31, 2002 no more than seven permits shall be issued for the construction of new residential dwellings.

3800. Subdivision Phasing.

3810. Purpose. The purpose of Section 3800, "Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, and so that it will be in keeping with the community's desired rate of growth.

3820. Applicability. Any division of land into more than

10 lots in any twelve month period shall be subject to the following regulations and conditions set forth herein.

3830. Requirements. Whenever a new lot or lots is or are formed from a part of any other lot or lots, the assembly or separation shall be effected in such a manner as to not impair any of the requirements of this by-law, and shall be in accordance with the Subdivision Regulations of the Town of Leverett.

3840. Division of Land Limitations. The division of a parcel or combined adjacent parcels of land in any zoning district shall not exceed ten (10) lots in any twelve month period. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of April 25, 1987. The foregoing provisions shall be applicable to all subdivision of land within the Town of Leverett even if approval under the Subdivision Control Law, G.L. c. 41, is not required.

3850. Exceptions. Division of land in excess of ten (10) lots as defined in Section 3840, above, may be allowed only if one of the following requirements are met:

3851. The owner of said land covenants with the Planning Board that she will not build upon more than ten (10) lots in any 12 month period. Said 12 month period shall commence on the date of endorsement by the Planning Board. The covenant shall identify the lots that may be built upon in each 12 month period. The covenant shall be recorded with all other pertinent documents with the Definitive Plan or the plan which has been endorsed "Approval Not Required;"

3852. The owner of said land applies for and receives a special permit from the Planning Board to create more than 10 lots in any 12 month period. The Planning Board may grant a special permit for such division only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and

housing for senior citizens and people of low or moderate income, as well as Master Plan or Growth Management Plans prepared by the Planning Board pursuant to M.G.L.A. ch. 41, s. 81D. Section 5330 shall not be applicable to such special permit applications.

3860. Zoning Change Protection. The protection against subsequent zoning change granted by M.G.L.A. ch. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this Section 3800, or subject to the covenant as provided in Section 3851, be extended to ten years.

3870. Relation to Real Estate Assessment. Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with M.G.L.A. ch. 59, s. 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

3900. Site Plan Review.

3910. Applicability and Procedure. Applications for building permits for Flexible Developments, duplexes, or for nonresidential or nonagricultural construction, including applications for extensions, alterations, or changes to duplexes, available as of right, shall be accompanied by an approved Site Plan in accordance with the criteria specified below. Such approval from the Planning Board shall be obtained prior to application for a building permit. An applicant shall file a completed application with the Town Clerk. The Town Clerk shall acknowledge receipt of the plans by signing and dating the application form. The application submitted to the Town Clerk shall include seven (7) copies each of an application form, the Site Plan and any narrative documents as outlined in the submittal requirements. Upon receipt of the application, the Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, Board of Health, Highway Superintendent, Fire Chief and the Police Chief. These Town Boards and municipal officials shall have 45 days from the date the completed application is

received by the Town Clerk to report to the Planning Board their findings and recommendations, and they can attend the public hearing(s). No building permits for projects requiring Site Plan Review shall be issued until the Planning Board has approved the Site Plan or unless the required time period for taking action on a Site Plan has lapsed without action from the Planning Board.

Public Hearing. The Planning Board shall hold a public hearing within 65 days after the filing of an application and shall take final action on an application for Site Plan approval within 90 days of the close of the public hearing. Notice and posting of the public hearing shall comply with the provisions of M.G.L. Chapter 40A, Section 11, regarding notice for public hearings. To the extent permitted by law, the public hearing should be coordinated with any other public hearing required for a definitive subdivision plan.

3920. Plans. Plans subject to this section shall show:

3921. Existing and proposed topography at 2 foot contour intervals;

3922. Water provision, including fire protection measures;

3923. Sanitary sewerage;

3924. Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in Sections 3000 and 4000 of the Planning Board's Subdivision Rules and Regulations;

3925. Parking, access, and egress provisions;

3926. Planting, landscaping, and screening;

3927. All boundary line information pertaining to the land sufficient to permit location of same on ground;

3928. Compliance with all applicable provisions of this Zoning By-Law.

3930. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer and a Registered Land Surveyor. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=200'.

3940. Decision. The Planning Board's action shall consist of either:

- a. Approval of the site plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in this By-law;
- b. Approval of the site plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or
- c. Denial of the site plan based upon specific findings such as a determination that there was insufficient information submitted with the proposal to adequately review it or that the project is inconsistent with the requirements of these Zoning By-laws.

Site Plan approval may be granted upon determination by the Planning Board that the following conditions have been satisfied. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the following conditions have been satisfied. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

3941. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation

displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

3942. Maximize pedestrian and vehicular safety both on the site and egressing from it;

3943. Minimize obstruction of scenic views from publicly accessible locations;

3944. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

3945. Minimize glare from headlights through plantings or other screening;

3946. Minimize lighting intrusion through use of such devices as cut-off luminaries confining direct rays to the site, with fixture mounting not higher than 20 feet;

3946. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways.

3947. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances.

The decision of the Planning Board shall be filed with the Town Clerk within 90 days of the close of the Public Hearing and the written record of the decision including any approved Site Plan shall be filed with the Town Clerk within 14 days of the final vote or sooner to meet the 90 day maximum time frame. A copy of any approved Site Plan and the decision of the Planning Board shall be sent by the Applicant to the Building Inspector and to the Registry of Deeds.

3950. Lapse. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such

approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

3960. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

ARTICLE IV. SPECIAL REGULATIONS.

4100. Campers and Campgrounds.

4110. Campers. Campers may be occupied either in campground, or by non-paying guests accessory to a residence for up to 30 days in any calendar year. Campers may be stored accessory to a residence.

4120. Campgrounds. Campgrounds are allowed only on special permit from the Board of Appeals, and following approval from the Board of Health, and shall conform to the following minimum requirements:

4121. Parcel minimum area to be twenty (20) acres.

4122. Each rental plot shall be at least 5,000 sq. ft., and not more than 50 plots shall be allowed per campground.

4123. Campers shall not be placed within 80 feet of a street or a lot line.

4124. Site plan approval shall be obtained from the Planning Board.

4200. Earth Removal. The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, loam, or similar materials within any twelve-month period shall be allowed only on special permit from the Board of Appeals, unless such removal is incidental to construction on the premises under a current building permit, or routine to farming operations and noncommercial. A special permit shall be granted subject to the following conditions, and subject to the special permit criteria of Section 5300, below.

4210. Plan. The application shall be accompanied by a plan or plans indicating existing topography, base grades below which no excavation will take place, existing and proposed cover vegetation, and proposed topography upon completion.

4220. Screening and Noise. Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise and dust shall be controlled to meet the requirements of Section 3420.

4230. Restoration. Following removal, all excavated areas shall be restored by grading to provide for drainage and for slopes not to exceed one foot vertical to two feet horizontal, and by covering with four inches of topsoil, and by planting with cover vegetation, all of which shall have been established prior to release of the bond.

4240. Bond. A performance bond shall be posted in an amount sufficient to assure satisfactory fulfillment of all of the above requirements.

4300. Aquifer Protection District.

4310. Purpose. The purpose of the Aquifer Protection District is to protect the public health by preventing contamination of the ground and surface water resources providing existing or potential public water supply, as may be contained within the aquifer recharge areas within the town.

4320. Establishment of Districts. The Aquifer Protection Districts are herein established as overlay districts. The Aquifer Protection Districts include aquifer recharge areas, as identified on the map entitled "Aquifer Protection District Overlay," Leverett, Mass., January 1987. The map is hereby made a part of this Zoning By-Law and is on file in the office of the Town Clerk.

4321. Where a portion of the lot is located partially within and partially without an Aquifer Protection District, site design shall, to the extent feasible, locate potential pollution sources outside the district boundaries. If any portion of a proposed

residential building lot lies within an Aquifer Protection District, the entire lot shall be subject to the dimensional requirements and restrictions of the Aquifer Protection District, unless a special permit is issued by the Board of Appeals in accordance with Section 4380, herein. Notwithstanding the foregoing dimensional requirements and restrictions of the Aquifer Protection District if (a) the portion of the lot that is entirely out of the Aquifer Protection District is shown on a record able plan as complying with the Dimensional Schedule for the underlying District and (b) it is indicated on the plan that no structure shall be erected in the portion of the lot in the Aquifer Protection District.

4322. Where the boundaries of the Aquifer Protection District are in doubt or dispute, the burden of proof shall be upon the owner of the land in question to show where the boundaries shall be properly located. Resolution of boundary disputes shall be through a finding made by the Planning Board. Any application for a finding under this subsection 4322 shall be accompanied by documentation prepared by a person who meets the following two requirements:

1. Is experienced in delineating hydrogeologic zones in Massachusetts, and
2. Has one of the following credentials:

TITLE	CONFERRING ENTITY

Registered Professional Hydrogeologist	American Institute of Hydrology
Certified Professional Geologic Scientist	American Institute of Professional Geological Scientists
Registered Professional Engineer, Sanitary	Commonwealth of Massachusetts
Certified Ground Water Professional	Association of Ground Water Scientists and Engineers

Certified Professional Soil Scientist American Registry of
 Certified
 Professionals in
 Agronomy, Crops,
 and Soils, Ltd.

The Planning Board may require the applicant, in making the determination of the location and extent of aquifer recharge areas (where such are in doubt or dispute), to conduct such field tests, at the applicant's expense, including core samples of the soil, as may be reasonably necessary.

4330. Use Regulations.

4331. Within an Aquifer Protection District, the requirements of the underlying districts continue to apply, except that uses are prohibited where indicated by "N" in the following schedule, and require a Special Permit where indicated by "SP", even where the underlying district requirements are more permissive. Uses permitted in the underlying districts are otherwise allowed in an Aquifer Protection District.

S C H E D U L E

 1. PRINCIPAL USES

- (a) Manufacture, use, storage, transport,
 or disposal of more than 5 gallons
 or 5 lbs. of hazardous materials
 per year N
- (b) Sanitary landfill, solid waste disposal
 (except stump and brush disposal) N
- (c) Septage lagoon N
- (d) Road salt stockpile N
- (e) Junkyard, salvage yard, truck terminal,
 or school bus parking facility with
 more than 10 parking spaces, railroad
 transfer station N

- (f) Gasoline station, car wash, auto repair or auto body shop N
 - (g) Residential, commercial, or industrial structure on a lot with less than 120,000 sq. ft., or with less than 300 ft. frontage (except rear lot) N
 - (h) Wood preserving and furniture stripping operations N
2. ACCESSORY USES
- (a) Underground storage or transmission of hazardous materials, including fuel oil and gasoline N
 - (b) Aboveground storage of hazardous materials in quantities greater than 5 lbs. or 5 gallons, except storage of fuel oil for residential accessory use SP
 - (c) Any use generating hazardous wastes in quantities greater than 5 gallons or 5 lbs. SP
 - (d) Animal feedlots, manure storage, pesticide storage SP
3. OTHER USES
- (a) Rendering impervious more than 20 percent of total lot area, regardless of size N
 - (b) Any use, regardless of lot size retaining less than 60 percent of lot area in its natural vegetative state SP
 - (c) Removal of earth, loam, sand, and gravel, or any other mineral, in excess of 10 yards, not incidental to construction of a building SP
 - (d) Any use having on-site disposal system for domestic wastes with a design capacity greater than 2500 gallons per day, as required by 310 CMR 15.00 SP

4340. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) shall be the Board of Appeals. Such Special Permit may be granted if the SPGA determines that the intent of this Section 4300, as well as the specific criteria of Section 4360 are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed. Any Special Permit required under this Section 4300 shall be in addition to, and separate from, any other Special Permit required under any section of this Zoning By-Law.

4350. Procedure. Applicants shall file six (6) copies of applications for Special Permits with the Board of Appeals. Whenever an application for a Special Permit is filed with the Board of Appeals under Section 4340, the Board of Appeals shall transmit within 10 working days of the filing of the completed application, copies of the application and other documentation, to the Board of Health, Planning Board, Conservation Commission, and the Building Inspector for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. Failure of these reviewing parties to make recommendations within 35 days after having received copies of all such required materials shall be deemed a lack of opposition thereto. The Decision/Findings of the Board of Appeals shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

4360. Special Permit Criteria. Special Permits hereunder shall be granted only if the SPGA determines (without application of Section 5330), after reviewing the recommendations of the reviewing parties delineated in Section 4350, that the proposed use:

4361. Is in harmony with the purpose and intent of this by-law and will promote the purpose of the Aquifer Protection District;

4362. Is appropriate to the existing topography, soils, and other natural characteristics of the site to be developed;

4363. Is adequately provided with sewage and water facilities or possesses suitable soils for on-site wastewater disposal and water systems;

4364. Will not have an adverse environmental impact on any watershed, watercourse, or water body in the district, during construction or thereafter;

4365. Will not result in groundwater quality below the more restrictive of federal or state standards for drinking water, or, if existing groundwater quality is already below those standards, on-site disposal or operations will result in no further deterioration.

4370. Submittals. In applying for a Special Permit hereunder, the SPGA shall require the information listed below, unless waived or modified by the SPGA, with reasons therefor. An application shall not be deemed filed until all required information is filed with the Board of Appeals.

4371. A description of soil erosion and sedimentation control measures; provisions to prevent soil compaction; provisions to prevent seepage from septic systems or from interior floor surfaces.

4372. A complete list of all chemicals, pesticides, fuels, or other potentially hazardous materials to be used or stored on the premises in quantities greater than 5 gallons or 5 lbs. accompanied by a description of the measures proposed to protect all storage containers from vandalism, corrosion, and leakage, and to provide for control of spills.

4373. A description of all potentially hazardous wastes to be generated in quantities greater than 5 gallons or 5 lbs., accompanied by a description of the measures proposed to protect all waste storage facilities from vandalism, corrosion, and leakage, and to provide for control of spills.

4374. For aboveground storage of hazardous materials or waste, certification by a Registered Professional Engineer that such storage facilities or containers are (i) in compliance with all applicable federal or state regulations, and (ii) in compliance with design

specifications, as prepared by a Registered Professional Engineer.

4375. For any proposed activity on a lot which will render more than 20 percent of the total lot area impervious, the application shall be accompanied by drainage calculations, prepared by a Registered Professional Engineer, demonstrating that any increase in the volume of runoff shall be recharged on-site and diverted towards areas with vegetation for surface infiltration to the maximum extent feasible. The plan shall be accompanied by a narrative statement explaining the use of any dry wells, which shall be allowed only upon a showing that other methods of drainage are infeasible, and that such dry wells are preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

4376. For any use retaining less than 60 percent of lot area in its natural vegetative state, the application shall be accompanied by evidence, prepared by a Registered Professional Engineer, to demonstrate that such removal of vegetative cover shall not result in decreased recharge of the groundwater deposit, or increased sedimentation of surface waters. The application shall also indicate proposed restoration plans, if any, or erosion control methods proposed for the premises.

4377. For any use with an on-site disposal system for domestic wastes with a design capacity of greater than 2,500 gpd, as required by 310 CMR 15.00, certification by a Registered Professional Engineer that the disposal system has been installed in compliance with design specifications, accompanied by a narrative statement assessing the impact, if any, of nitrates, coliform bacteria, and hazardous materials from the disposal system on any wells downgradient from the proposed disposal system.

4378. Applications for removal of earth, loam, sand, and gravel, or any other mineral in excess of ten cubic yards, shall be accompanied by a narrative statement, prepared by a Registered Professional Engineer, assessing the impact, if any, of the proposed activity on groundwater quality downgradient

to any well. No excavation or removal shall be conducted within ten (10) feet of the seasonal high water table on the property in question.

4379. Applications for animal feedlots or manure lots shall be accompanied by certification, prepared by the Soil Conservation Service, or the Agricultural Stabilization and Conservation Service, that the proposed use is in accordance with the Best Management Practices of that agency.

4380. Special Permits for Dimensional Restrictions for Residential Lots. Any residential building lot lying partially within and partially without the Aquifer Protection District may apply for a special permit to waive application of the more stringent dimensional requirements of this Section 4300. The SPGA may grant such special permit (without application of Section 5330), only upon a determination that the residential construction will not increase ground or surface water pollution. In making such determination, the SPGA shall consider the following factors:

4381. The use of the lot, the type and nature of proposed structure(s), pollution sources to be placed thereon (including wastewater disposal);

4382. The use of adjacent lots, type and nature of pollution sources thereon (including wastewater disposal);

4383. The location of any wells or other domestic water supplies on the lot or an adjacent lot;

4384. The percentage of the lot within the Aquifer Protection District;

4385. The density of the surrounding area;

4386. The topographical and geological features of the lot;

4387. The extent to which structures and potential pollution sources will be located on the lot without the Aquifer Protection District.

4390. Nonconforming Uses. Any nonconforming use may continue in the Aquifer Protection District, pursuant to G.L. c. 40A, s. 6, and may be extended, altered, or changed provided that the Board of Appeals, as a part of the finding or special permit decision required, determines that such extension, alteration, or change will not increase the danger of groundwater pollution from the premises.

4400. Flood Hazard District.

4410. Purpose. The Flood Hazard District is established to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve natural flood control characteristics and flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

4420. Establishment of Districts. The Flood Hazard District is herein established as an overlay district. The boundaries of the Flood Hazard District are defined as:

4421. All areas delineated on the Leverett Flood Insurance Rate Map (FIRM), dated June 4, 1980, as Zones A, A-1, A-2, and A-3 to indicate the 100 year flood plain. The boundary of the 100 year flood plain is further defined by the Flood Profiles contained in the Flood Insurance Study, dated November 1979, herein incorporated into this by-law by reference; and

4422. All areas delineated on the Leverett Flood Boundary Floodway Map (FBFM), dated June 4, 1980, and further defined by the Floodway Data Tables contained in the Flood Insurance Study.

4423. Within Zone A, where the 100 year flood elevation is not provided on the FIRM, the applicant shall obtain any existing flood elevation data and provide such data to the Board of Appeals for review. If the Board of Appeals deems such data to be accurate, it may be relied upon for purposes of this by-law and the State Building Code.

4430. Use Regulations.

4341. Within a Flood Hazard District, the requirements of the underlying districts continue to apply, except that uses are prohibited where indicated by "N" in the following schedule, and require a Special Permit where indicated by "SP", even where the underlying district requirements are more permissive. Uses permitted in the underlying districts are otherwise allowed in a Flood Hazard District.

S C H E D U L E

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- (a) Temporary non-residential structures used in connection with growing, harvesting, storage, or sale of crops raised on the premises Y
 - (b) Construction, reconstruction, or creation of any structure or building; dumping, filling, excavating, transferring, or altering (in any way) the natural topography of the land, except as provided in (d), below SP
 - (c) Expansion, alteration, or change to a lawfully existing nonconforming structure SP
 - (d) Agriculture, silviculture, viticulture, floriculture and horticulture, without construction of structures, placement of fill, or storage of equipment Y
 - (e) Outdoor public recreation areas, conservation areas, wildlife management, without construction of structures, placement of fill, or storage of equipment

4440. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) shall be the Board of Appeals. Such Special Permit may be granted if the SPGA determines that the intent of this Section 4400, as well as the specific criteria of Section 4460 are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control

measures proposed and the degree to which allowance of the use would increase flood levels during the occurrence of the 100 year flood. Any Special Permit required under this Section 4400 shall be in addition to, and separate from, any other Special Permit required under any section of this Zoning By-Law.

4450. Procedure. Applicants shall file six (6) copies of applications for Special Permits with the Board of Appeals. Whenever an application for a Special Permit is filed with the Board of Appeals under Section 4340, the Board of Appeals shall transmit within 10 working days of the filing of the completed application, copies of the application and other documentation, to the Board of Health, Planning Board, Conservation Commission, and the Building Inspector for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. Failure of these reviewing parties to make recommendations within 35 days after having received copies of all such required materials shall be deemed a lack of opposition thereto. The Decision/Findings of the Board of Appeals shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

4460. Special Permit Criteria. Special Permits hereunder shall be granted only if the SPGA determines (without application of Section 5330), after reviewing the recommendations of the reviewing parties delineated in Section 4450, that the proposed use:

4461. Complies in all respects with the requirements of the underlying district in which the land is located;

4462. Via encroachments, including fill, new construction, substantial extension, alteration or change to existing structures, and other activities will not result in any increase in flood levels during the occurrence of the 100 year flood.

4500. Stream and Lake Protection District.

4510. Purpose. This overlay district is established to ensure that lands near flowing streams and standing open

water bodies shall not be used in such a manner as to endanger the health or safety of Leverett residents.

4520. Applicability. The following areas shall be included in the Stream and Lake Protection District:

4521. Land lying within a horizontal distance of one hundred (100) feet on each side of the bank and/or edge of each and every "Major Stream" in the Town of Leverett, as shown on the "Stream and Lake Protection District Map, Town of Leverett, 1990", hereby appended to and made a part of this by-law.

4522. Land lying within a horizontal distance of fifty (50) feet on each side of the bank and/or edge of each and every "Minor Stream" in the Town of Leverett, as shown on the "Stream and Lake Protection District Map, Town of Leverett, 1990", hereby appended to and made a part of this by-law.

4523. All land that lies within a horizontal distance of one hundred (100) feet from the normal highwater line of all standing open bodies of water shown on the "Stream and Lake Protection District Map, Town of Leverett, 1990", hereby appended to and made a part of this by-law.

4524. "Major Streams" are those shown as bold lines on the aforesaid map. "Minor Streams" are all streams shown on the aforesaid map and not shown by a bold line.

4530. Restrictions. The Stream and Lake Protection District shall be considered an overlay district. Land lying within a Stream and Lake Protection District may be used for any purpose otherwise permitted in the underlying zoning district, with the following exceptions:

4531. No septic tank or septic tank leach field or other component of an individual wastewater disposal system shall be constructed within the district;

4532. No dumping, filling, dredging, excavation, transfer or removal of any material which will alter the natural flood water storage capacity of the land, interfere with the natural flow of the water over the

land, or increase stream bank erosion shall be permitted except by a written order of conditions from the Leverett Conservation Commission;

4533. No building or structure shall be erected in this district without the issuance of a special permit from the Board of Appeals.

4540. Special Permits. The Board of Appeals may grant a special permit for a building or structure provided that all of the following conditions have been satisfied. Section 5330 shall not be applicable to such special permit applications.

4541. The building or structure is not intended for and shall not be used for human residence;

4542. The construction of the building or structure will not:

a. substantially interfere with the natural flow of water off of the premises; and,

b. constitute a danger to the public safety or health.

4600. Scenic Roads Protection.

4610. Purpose and Applicability. Pursuant to G.L. c. 40, s. 15C, the Town of Leverett has designated all public ways as Scenic Roads. Designation as a Scenic Road allows the town to preserve the qualities and character of town ways. It is the intent of this by-law to further that purpose.

4620. Requirements. Any repair, maintenance, construction, reconstruction, or paving work done with respect to a Scenic Road shall not involve or include the cutting or removal of trees of more than 10" dbh (diameter/breast height), or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board. The Planning Board will hold a hearing pursuant to G.L. c. 40, s. 15C on such application.

4630. Decision. The Planning Board shall consider the following criteria in reviewing applications under this Section 4600:

4631. Public safety;

4632. Enhancement of scenic views along the roadway;

4633. Preservation of historic and other existing features;

4634. Preservation of the natural environment.

4640. Regulations. The Planning Board may adopt reasonable regulations for the administration of this by-law.

4700. Rattlesnake Gutter Overlay District.

4710. Purpose. It is the intent of this Section 4700 to protect the natural, geological and historic character of the Rattlesnake Gutter Overlay District, while providing for reasonable use of private land.

4720. Establishment of District. The Rattlesnake Gutter Overlay District is herein established as an overlay district. The Rattlesnake Gutter Overlay District includes all land set back one thousand feet on both the north and south sides of Rattlesnake Gutter Road, as measured from the centerline of the traveled portion of the way, situated between the Sawmill River on the east and the stone bridge running under Rattlesnake Gutter Road on the west, near the intersection of Old Cave Hill Road and Rattlesnake Gutter Road, all approximately as shown on a map entitled "Rattlesnake Gutter Overlay District, Town of Leverett, MA, 1998", hereby appended to and made a part of this By-Law.

4721. Where the boundaries of the Rattlesnake Gutter Overlay District are in doubt or dispute, the burden of proof shall be upon the owner of the land in question to show where the boundaries shall be properly located.

4730. Use Regulations. Within the Rattlesnake Gutter Overlay District, the requirements of the underlying districts continue to apply, except that the following regulations

shall supersede otherwise applicable requirements:

4731. Setbacks. No structure shall be permitted within 500 feet of the centerline of the traveled portion of Rattlesnake Gutter Road. Where a structure is proposed on a lot in existence as of March 2, 1998 which cannot meet this requirement because of size or shape, the structure shall be located at the most distant feasible development site from Rattlesnake Gutter Road, as determined by the Planning Board in accordance with section 4740, below.

4732. Buffer Zone. No live vegetation shall be removed, nor shall excavation occur, within 250 feet of the centerline of the traveled portion of Rattlesnake Gutter Road, or within two-thirds the distance between any structure and the front lot line on Rattlesnake Gutter Road, whichever is lesser. The provisions of the prior sentence shall not apply to (a) the cutting of cordwood for the personal use of the lot owner, or (b) the harvesting of trees in accordance with cutting plans in conformity with all applicable Massachusetts forestry regulations and also approved by the Planning Board prior to any such cutting or (c) the construction of a driveway or the installation of utilities. Notwithstanding the first sentence of this paragraph to the contrary, the owner of any lot existing as of March 18, 1998 which is at least five (5) acres and which is primarily devoted to the production of forest products for which a Forest Cutting Plan (M.G.L. Ch. 132 S40.-46) has been filed with and approved by the State Department of Environmental Management may harvest wood in accordance with such plan. Notwithstanding the foregoing to the contrary, in the event of a natural disaster or other even threatening public safety, cutting or removal of live vegetation within the Buffer Zone may occur, after determination of such emergency by the Selectboard, but only to the extent deemed necessary by the Selectboard or their agent.

4740. Site Plan Review. Applications for building permits or special permits within the Rattlesnake Gutter Overlay District shall be accompanied by four (4) copies of a site plan in accordance with the criteria specified below. The Building Inspector or the special permit granting authority shall forthwith forward such site plans to the Planning

Board. Where applicable, the requirements of Section 3900 remain in full force and effect, in addition to these requirements under Section 4700. The Planning Board shall consolidate site plan review in such cases.

4741. Procedure. Site plans accompanying applications for building permits or site plans accompanying applications for special permits shall be processed in accordance with the specifications of Section 3910, above.

4742. Plans. Plans subject to this section shall show:

- a. Existing and proposed topography at 10 foot or 3 meter contour intervals for the purposes of this subsection a USGS (United States Geological Services) Map with a 1:24,000 or 1:25,000 scale is acceptable;
- b. All boundary line information pertaining to the land sufficient to permit location of same on ground, including the location of the frontage for the lot;
- c. Location and height of the proposed structure(s); photographs or renderings of the elevation of the proposed structure(s) and any alterations;
- d. Parking, access, and egress provisions;
- e. Location of existing stonewalls, large trees, and wooded areas, and proposed removal or retention of same;
- f. Compliance with all applicable provisions of this Zoning By-Law.

Site plans shall be submitted on 24-inch by 36-inch sheets. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=200'.

4743. Decision. Site plan approval shall be granted upon determination by the Planning Board that the development complies, to the maximum extent feasible, with the following criteria and standards. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the criteria

and standards have been satisfied. Except where the applicant has removed, or caused to be removed, mature trees from the site, whether pursuant to 304 CMR 11.00 or not, the Planning Board shall not require the planting of mature trees as a condition of site plan approval. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

- a. Minimize the number of removed trees 6" caliper or larger and the length of removed stone walls;
- b. Minimize disruption of scenic views from publicly accessible locations;
- c. Minimize visual intrusion by controlling the visibility of the principal and accessory structures, parking, storage, or other outdoor service areas as viewed from public ways;

4744. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines.

4800. Flexible Development.

4810. Purpose. The purpose of this Section 4800, Flexible Development, is to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Leverett's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of housing affordable to low and moderate income families.

4820. Applicability. Any creation of two (2) or more lots, from a parcel or set of contiguous parcels held in common ownership, may proceed under this Section 4800, Flexible Development, and Section 4880 Residential Subdivision. Flexible Developments require an approved Site Plan in accordance with Section 3900. Applicants may also have the option of proceeding under Section 2300 Alternative Procedures Plan (APP) of Leverett's Rules and Regulations Governing the Subdivision of Land provided they are creating between 3 and 6 lots and can meet all other conditions of Section 2300.

4830. Procedures. Applicants for Flexible Development shall file with the Planning Board seven (7) copies of the following. The required submittals shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

4831. A Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall also indicate proposed topography, wetlands, and, unless the development is to be sewerred, the results of deep soil test pits and percolation tests at the rate of one per every two acres, but in no case fewer than two per Flexible Development. Where wetland delineation is in doubt or dispute, the Planning Board may require the applicant to submit a request for determination of wetlands to the Conservation Commission. The Planning Board shall refer data on wastewater disposal to the Board of Health for their review and recommendation.

4832. An Environmental Analysis, if required by the Subdivision Regulations.

4833. Any additional information required by the Planning Board to make the determinations and assessments cited in Sections 4840 and 4850, below.

4840. Modification of Lot Requirements. The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Flexible Development, subject to the following limitations:

4841. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.

4842. Each lot shall contain not less than 60,000 square feet and 200 feet of frontage for a single family home and 90,000 square feet and 300 feet of frontage for a two-family dwelling, except in the Aquifer Protection District where the Dimensional requirements specified in Section 2340 shall apply. Each lot shall have at least 50% of the required yards in the district in which it is located, and may exceed lot coverage requirements by 50%.

4843. Any proposed open land, shall be covered by a recorded restriction enforceable by the Town, providing that such land shall be kept in an open and undeveloped state, or that it shall be preserved for exclusively agricultural purposes. Any such land proposed as Protected Open Land shall be served by suitable access for purposes of passive recreational use, forest management, or agricultural cultivation. The area to be preserved as Protected Open Land shall be made subject to a perpetual restriction of the type described in M.G.L. Chapter 184 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town of Leverett. To ensure this, a Conservation Restriction in accordance with M.G.L. Chapter 184 or a comparable Conservation Restriction acceptable to the Planning Board and Town Counsel that assures permanent protection shall be imposed on the Protected Open Land. Such Conservation Restriction shall be recorded in the Registry of Deeds by the applicant at the time the approved Definitive Plan is submitted to the Registry of Deeds for recording unless an extension is granted in writing by the Planning Board. The Conservation Restriction placed on the Protected Open Land shall be held by the Conservation Commission of the Town of Leverett, a suitable State Agency, or by a non-profit conservation land trust the principal purpose of which is the conservation or preservation of open space. Any fees associated with the holding and enforcement of the Conservation Restriction by an entity such as a non-profit conservation land trust will be the responsibility of the Applicant or

Homeowners Association as agreed to in writing prior to the recording of the Conservation Restriction.

The applicant shall notify the Planning Board in writing within ten (10) days after the Conservation Restriction and the Definitive Plan, as approved and endorsed, have been recorded at the Franklin County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, of such recording, noting book, page number and date of recording. The purpose of the Conservation Restriction will be to clearly identify the uses and restrictions which apply to the Protected Open Land in order to protect the value of the property within the development.

4844. Such Protected Open Land shall be conveyed to one or more of the following entities:

- a. A corporation or trust owned or to be owned by the owners of lots within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity;
- b. A nonprofit land trust, the principal purpose of which is the conservation or preservation of open space;
- c. The Town, at no cost, provided that the Town accepts the land for a park or open space use and such conveyance shall be at the option of the Town and shall require the approval of the voters at a Town Meeting; and
- d. A private individual or a trust owned by private individuals provided that the interests of the residents of the Flexible Development will be protected as outlined in the requirements of the Conservation Restriction.

4850. Number of Dwelling Units.

4851. The Basic Maximum number of dwelling units allowed shall be limited to the number of single family dwelling units that could be constructed in a conventional subdivision on the site in full

conformance with all zoning, subdivision, and other applicable state and local regulations, and without the proposal of extraordinary engineering measures. Where the Basic Maximum Number is in doubt or dispute, the determination of the Planning Board (and its consulting engineer or landscape architect) shall be conclusive for all purposes.

4852. The Planning Board may approve a Flexible Development containing more than the Basic Maximum number of dwelling units, upon the condition that any increase shall meet the following requirements:

a. If a minimum of 10% of the dwelling units will be affordable and will be made available for a minimum of thirty (30) years via sale, lease, or deed restrictions to persons or families qualifying as low or moderate income as defined by the Executive Office of Communities & Development of the Commonwealth and such unit(s) count towards the 10% requirement of Chapter 40B then the developer may be eligible for bonus lots of up to 20% of the Basic Maximum number. Such bonus lots may provide for either affordable or market rate housing. For example, a ten lot subdivision that includes one (1) lot with an affordable dwelling unit that meets all the requirements of Chapter 40B is eligible for a two (2) lot density bonus provided that those two lots can meet the dimensional requirements of 4842.

b. The total number of additional units to be constructed under sections 4851 and 4852, above, shall not exceed 20% of the Basic Maximum number of dwelling units. Where a fraction of a dwelling unit results in the computation, any fraction larger than 0.5 dwelling unit shall be rounded to the higher figure.

c. No bonus development units shall be allowed in an Aquifer Protection District.

4860. Design of Development.

4861. Departure from the visual scale of single-family development shall be minimized through

including not more than 2 dwelling units in a single structure.

4862. Parking areas shall not be located within a required front yard or within ten feet of a lot line. Parking areas shall be screened from public ways by building location, grading, fencing, or plantings. No individual parking area shall contain more than 10 spaces.

4863. No building shall be floodlit. Drives and parking areas shall be illuminated only by shielded lights not higher than 15 feet.

4864. Protected Open Land: For the purposes of Section 4800, Protected Open Land is defined as Protected Open Space and Environmentally Sensitive Areas. Protected Open Space is defined as the land area which is at least 35% of the total parcel area that is set aside as permanently protected open space. To the maximum extent feasible such Protected Open Space shall be unfragmented. The area designated as Protected Open Space will be in addition to any portion of the parcel identified as Environmentally Sensitive Areas, such as wetlands, waterbodies, floodplains, slopes greater than twenty percent (20%), and other land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By-laws, applicable regulations of the Department of Environmental Protection, applicable requirements of the Board of Health, and the provisions of the Wetlands Protection Act. A Conservation Restriction pursuant to Section 4843 shall be placed upon the Protected Open Land which must be 50% or greater of the total parcel area unless the Protected Open Land is given to and accepted by the Town under the jurisdiction of the Conservation Commission.

4870. Decision. The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development in accordance with Section 3900 Site Plan Review of the Zoning By-Law.

4880. Residential Subdivision Development

4881. Purpose. The purpose of this section is to encourage alternate forms of residential development which shall help to protect open space, drinking water supplies and other natural and cultural resources of the town.

4882. Definition. Residential Subdivision Development shall be defined as any subdivision of land for residential purposes into two (2) or more lots. Applicants may also have the option of proceeding under Section 2300 Alternative Procedures Plan (APP) of Leverett's Rules and Regulations Governing the Subdivision of Land Subdivision provided they are creating between 3 and 6 lots and can meet all other conditions of Section 2300. Approval Not Required (ANR) lots do not constitute a Residential Subdivision Development.

4883. Procedures. An Applicant for a Residential Subdivision Development in the RO District that is not applying under Section 2300 Alternative Procedures Plan (APP) of Leverett's Rules and Regulations Governing the Subdivision of Land shall submit both of the following plans:

- a. a conventional subdivision plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable federal state and local requirements. The conventional plan shall be prepared in conformance with the requirements for a preliminary plan as set forth in Leverett's Subdivision Rules and Regulations, provided that in simple cases one or more of the requirements may be waived by the Planning Board. The conventional plan shall determine the number of Dwelling Units allowed under the Flexible Development Plan (see Section 4850); and
- b. a Flexible Development Plan in accordance with Section 4800 of these bylaws. Such Flexible Development Plan shall incorporate the following design process. When the Site Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

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

4884. Review. The Planning Board may engage a Landscape Architect and/or Professional Engineer, at the expense of the applicant, to review the conventional and alternate plan and make a recommendation to assist with the Planning Board's decision as set forth in Section 4886.

4885. Other Required Submittals. The Planning Board may require an applicant for a Residential Subdivision to submit one or more of the following materials:

- a. An economic impact analysis comparing the impact to town services and schools of the conventional and flexible development plan;

- b. Narrative and tabular materials describing the plans including the numbers of proposed dwelling units, proposed phasing and other special features of the development; and
- c. Other information as may be necessary to make a decision.

4886. The Planning Board shall approve or approve with conditions either the conventional subdivision plan or the Flexible Development plan, whichever best promotes the objectives of the town including:

- a. Traffic and pedestrian safety
- b. Impact on Municipal Services and Tax Revenues
- c. Preservation of open space, natural resources, cultural resources and recreational resources; and
- d. Recommendations of Leverett's Community Development Plan, Master Plan, or Open Space and Recreation Plan.

4887. Relation to Subdivision Control Law. Planning Board approval under this section shall not substitute for compliance with the Subdivision Control Act nor oblige the Planning Board to approve a related Definitive Plan for subdivision approval nor reduce any time periods for the Board consideration under that law. However, in order to facilitate processing, the Planning Board may, insofar as practical under law, adopt regulations establishing procedures to allow the applicant and Planning Board to agree on an application which shall satisfy this section and the Board's regulations under the Subdivision Control Act, if applicable. In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for the Flexible Development with the Public Hearing required for a Definitive Subdivision Plan.

4900. Telecommunication Facilities.

4910. Purpose. The town of Leverett seeks to allow telecommunication and wireless services with minimal effect to the public health, safety and general welfare and to minimize the visual impact of such facilities.

4920. General Provisions. Telecommunication Facilities may be allowed by Special Permit from the Board of Appeals

pursuant to Section 5300. Conditions shall maximize the shared use of any new or existing structures to minimize the required number of such facilities; and shall minimize adverse visual impacts through careful design, siting, and screening. No facility shall be located in the Residential/Village (RV), the Residential/Rural (RR) or the General Business (GB) districts.

4930. Conditions. The following conditions apply:

a. To the maximum extent possible, all service providers shall co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this condition is to reduce the number of towers located within the town.

b. No Facility, shall exceed 150 feet in height as measured from the mean finished grade at facility base. Exterior lighting of the tower and accessory structures shall be prohibited.

c. New towers shall be free-standing monopoles.

d. Facilities shall not be located within 1500 feet of the peak of a significant hill or located in such a way as to adversely impact the view of a significant hill in the Town.

e. Siting shall be such that the view of the Facility and tower shall be as limited as possible when viewed off site.

f. No tower, inclusive of any attachments, shall be erected nearer to any property line than a distance equal to 125% of its vertical height.

g. Facilities shall be suitably screened from abutters and residential neighborhoods.

h. Fencing shall be provided to control access to Telecommunication Facilities and shall be compatible with the scenic character of the neighborhood and landscape.

i. Existing on-site vegetation shall be preserved to the maximum extent possible.

j. All Facilities shall be painted, or otherwise colored, so that they will blend in with the surrounding landscape or the structure on which they are located. A different coloring scheme shall be used below and above the tree or building line.

k. There shall be no storage of vehicles on the site or exterior storage of equipment on the site.

l. To the extent feasible, all network connections and power lines, to and from the Facility, shall be via underground lines.

m. Any access road shall have a minimal impact on the environment and the visual landscape.

4940. Additional Permit Conditions. The Board of Appeals may require additional conditions or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Zoning By-laws.

All Facilities, attachment, accessory structures which have not been used for a period of one (1) year shall be dismantled and removed at the owner's expense. Such expense shall be secured with a performance guarantee in an amount determined by the Board of Appeals and posted in the name of the Town.

4950. Special Permit Submittal Requirements-
Telecommunication Facilities. The following materials shall be submitted with the Special Permit application.

a. Site Plan shall be prepared by a registered engineer. The plan shall include four (4) view lines and a one (1) mile radius from the proposed site, shown beginning at True North and continuing clockwise at ninety (90) degree intervals. In addition the applicant shall set a balloon at the location and height of proposed towers.

b. A report from a registered engineer shall:

1. demonstrate that the facility complies with all applicable standards of the State and Federal governments;

2. describe the capacity of the tower or facility including the number and type of transmitter/receivers that it can accommodate;
3. describes the planned layout of all facilities in Leverett and abutting Towns;
4. describes all accessory structures to be constructed on site.

c. A copy of the requests made by the applicant to the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission, including responses from those agencies, demonstrating compliance with applicable regulations related to the facility.

d. A locus map at an appropriate scale showing all buildings within 500 feet of the proposed facility.

e. A copy of the co-location agreements

f. Independent verification of any materials or data submitted as part of an application to the Zoning Board of Appeals shall be accomplished at the expense of the applicant.

4960. Upper Elevation Site Plan Review.

4961. Purpose. It is the intent of this Section 4960 to minimize visual intrusion of development on Leverett's remote hillsides, as may be visible from public ways in town. Upper Elevation Site Plan Review is therefore intended to allow development at higher elevations but subject to reasonable conditions as set forth herein.

4962. Applicability. Applications for building permits or special permits within a Residence District (excluding applications for extension, alteration, or change to nonconforming structures or uses, or applications for agricultural structures), for new principal structures, including conversion of existing principal structures, at an elevation higher than 50 feet vertical above any public way upon which the lot abuts, whether such constitutes frontage for the lot or not, or contained in a subdivision (subject to this zoning by-law pursuant to G.L. c. 40A, s. 6) and located at an elevation higher than 50 feet vertical above

any public way upon which any portion of the subdivided parcel(s) abuts, shall be accompanied by four (4) copies of a site plan in accordance with the criteria specified below, unless the application constitutes:

4962.1. Construction that will be minimally visible, because of location or other site attributes, from such ways. The burden of proof shall be upon the owner of the land in question to demonstrate to the Planning Board that reasonable conditions set forth by the Planning Board in Site Plan Review would not further minimize such visibility.

4962.2. Where applicable, the requirements of Section 3900 remain in full force and effect, in addition to these requirements under Section 4960. The Planning Board shall consolidate site plan review in such cases.

4963. Procedure. Site plans accompanying applications for building permits or site plans accompanying applications for special permits shall be processed in accordance with the specifications of Section 3910, above.

4964. Plans. Plans subject to this section shall show:

4964.1. Existing and proposed topography at 10 foot or 3 meter contour intervals;

4964.2. All boundary line information pertaining to the land sufficient to permit location of same on ground, including the location of the frontage for the lot;

4964.3. Location and height of the proposed structure(s); photographs or renderings of the elevation of the proposed structure(s) and any alterations;

4964.4. Parking, access, and egress provisions;

4964.5. Location of existing stonewalls, large trees, and wooded areas, and proposed removal or retention of same;

4964.6. Compliance with all applicable provisions of this Zoning By-Law.

Site plans shall be submitted on 24-inch by 36-inch sheets. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=200'.

4965. Decision. Site plan approval shall be granted upon determination by the Planning Board that the development complies, to the maximum extent feasible, with the following criteria and standards. The Planning Board may impose reasonable conditions, even at the expense of the applicant, to ensure that the criteria and standards have been satisfied. Except where the applicant has removed, or caused to be removed, mature trees from the site, whether pursuant to 304 CMR 11.00 or not, the Planning Board shall not require the planting of mature trees as a condition of site plan approval. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

4965.1. Minimize the number of removed trees 6" caliper or larger and the length of removed stone walls;

4965.2. Minimize disruption of scenic views from publicly accessible locations;

4965.3. Minimize visual intrusion by controlling the visibility of the principal and accessory structures, parking, storage, or other outdoor service areas as viewed from public ways;

4965.4. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways.

4965.5. Locate principal structures, to the extent feasible, downgrade from the ridgeline so that building silhouettes do not visibly intersect the ridgeline or exceed the elevation of the ridgeline as viewed from any public way.

4965.6. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines.

ARTICLE V. ADMINISTRATION.

5100. Administration.

5110. Permits. This By-Law shall be administered by the Building Inspector. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use without certification by the Building Inspector that such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.

5120. Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of non-compliance and request for legal action through the Selectmen to Town Counsel.

5130. Penalties. The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be One Hundred dollars (\$100.00) for each offense. Each day that each violation continues shall constitute a separate offense.

5200. Board of Appeals.

5210. Establishment. There is hereby established a Board of Appeals which shall consist of five members and three associate members, who shall be appointed and act in all

matters under this By-Law in the manner prescribed in M.G.L.A. ch. 40A.

5220. 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 By-Law. The Board's powers are as follows:

5221. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 5300, unless otherwise specified.

5222. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures. Such variance shall be granted, pursuant to M.G.L.A. ch. 40A, s. 10, as may be amended, only in cases where the Board of Appeals finds all of the following:

a. A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner or applicant.

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 By-Law.

d. The Board of Appeals shall not grant use variances in any residential district of the Town.

5223. To Hear and Decide Other 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 M.G.L.A. ch. 40A; or by

b. the Regional Planning Agency; or by

c. any person including any officer or Board of the Town of Leverett, 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 M.G.L.A. ch. 40A, or this By-Law.

5224. To Issue 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 or non-profit 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 under M.G.L.A. ch. 40B.

5225. To Issue Withheld Building Permits. Building Permits withheld by the Building Inspector acting under M.G.L.A. ch. 41, s. 81Y, as a means of enforcing the subdivision control law, may be issued by the Board of Appeals where the Board finds practical difficulty or 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.

5226. To hear and decide appeals under the Commonwealth of Massachusetts State Building Code, as provided under Section 126 of that Code.

5230. Public Hearings. The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws, with regard to all appeals and petitions brought before it.

5300. Special Permits.

5310. Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

5320. Public Hearings. Special permits shall only be issued following public hearings held within sixty-five (65) days after filing an application with the Special Permit Granting Authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.

5330. Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the proposed use will not have adverse effects on either the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

5331. Social, economic, or community needs which are served by the proposal;

5332. Traffic flow and safety;

5333. Adequacy of utilities and other public services;

5334. Neighborhood character and social structures;

5335. Impacts on the natural environment;

5336. Potential fiscal impact.

5340. 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 By-Law.

5350. Expiration. Special permits shall lapse 24 months following special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L.A. ch. 40A, s. 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

5400. Amendments. This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in M.G.L.A. ch. 40A, s.5, and any amendments thereto.

5500. Applicability.

5510. Other Laws. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

5520. Conformance. Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-Law 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.

5600. Separability. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

ARTICLE VI. DEFINITIONS.

In this By-Law, the following terms shall have the following meaning, unless other meaning is required by the context or is specifically prescribed.

Accessory Apartment shall mean a self-contained dwelling unit consisting of one or more rooms with separate kitchen facilities, at least one bathroom, and not more than two (2) bedrooms, incorporated within a single-family dwelling.

Accessory Building, Structure, or Use shall mean a building or structure not attached to any principal building or structure, or a use customarily incidental to and located on the same lot with the principal building, structure, or use.

Aquifer shall mean a geologic formation composed of sand and gravel that contains significant amounts of potentially recoverable groundwater.

Aquifer Recharge Area shall mean an area on the surface of the ground where infiltration from precipitation or groundwater flow directly recharge aquifers. The boundary of the aquifer recharge area shall be the contact point of the stratified drift deposit and surrounding till or bedrock materials.

Bed and Breakfast shall mean non-family accommodation for short periods (not to exceed two weeks) with breakfast provided and included with the fee and with the owner residing on the premises.

Building shall mean a structure adapted to permanent or continuous occupancy for assembly, business, professional, education, industrial, institutional, residential, or storage purposes, and the term "building" shall be construed as if followed by the words "or portion thereof".

Building Height shall mean the vertical distance from the mean finish grade of the ground adjoining the building at the street side to the highest point of the ridge.

Building Line shall mean a line indicating the approximate centerline of the proposed principal building, as it shall be actually laid out, extended in a straight line to the length of at least the required frontage in the district.

Building, Principal shall mean the building in which is conducted the principal use of the lot on which said building is located.

Campground shall mean premises used for travel trailers, campers, tenting, or for any temporary overnight facilities of any kind where a fee is charged.

Commercial Outdoor Recreation Area shall mean a drive-in theater, golf course/driving range, bathing beach, sports club, horseback riding stables, boathouse, game preserve, marina, or other commercial recreation carried on in whole or in part outdoors except those activities more specifically designated elsewhere in this by-law.

Dwelling shall mean any building containing one or more dwelling units.

Dwelling Single-Family shall mean a dwelling containing not more than one (1) dwelling unit, except where an accessory apartment has been authorized.

Dwelling, Two-Family shall mean a single building containing two (2) dwelling units, neither of which is an accessory apartment.

Dwelling, Multi-Family shall mean a single building containing three (3) or more dwelling units.

Dwelling Unit shall mean a building or part of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities.

Farm Stand shall mean a structure of semi-permanent or temporary type located in a district in which agricultural uses are allowed, from which raw products are offered for sale to the public.

Frontage shall mean the boundary of a lot coinciding with the street line, being an unbroken distance along a way currently maintained by the town, county, or state, or along ways shown on the Definitive Plans of approved subdivisions, through which actual access to the potential building site shall be required (except where a "common driveway" has been allowed per Section 3520, herein), and the street has been determined by the Planning Board to provide adequate access for fire, police, and emergency vehicles. Lot frontage shall 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 mid-point of the corner radius. Lots with interrupted or discontinuous frontage must demonstrate that the required length along the street may be obtained from one (1) continuous frontage section, without any totaling of discontinuous frontage sections.

Grade shall mean the rate of change in elevation on the surface of the land, as measured in feet of vertical change per one hundred (100) feet horizontal, or percent. (One foot vertical change per one hundred feet horizontal is equal to a one percent (1%) grade.)

Groundwater shall mean all waters found beneath the surface of the ground.

Hazardous Waste shall mean any waste material hazardous to human health or the environment as designated by the United States EPA under 40 CFR Part 261 and the regulations of the Massachusetts Dept. of Environmental Protection pursuant to G.L. c. 21C, both as may be amended.

Hotel or Motel shall mean a building or group of buildings providing accommodations on a transient basis for compensation, not meeting the definition of "Non-family Accommodations". Accommodations having individual kitchen facilities (sink, range, and refrigerator) shall be considered dwelling units.

Impervious Surface shall mean the impermeable or non-porous surface of roads, buildings, or other structures on or above the ground that do not allow precipitation to be absorbed into the underlying soil.

Junkyard shall mean the use of any area of any lot, whether inside or outside a structure, for the storage, salvage, keeping or abandonment of junk, scrap, or discarded materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kennel shall mean one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of more than three (3) dogs, three months old or older, owned or kept by a person on a single premises regardless of the purposes for which they are maintained or kept.

Leachable Waste shall mean waste materials, including but not limited to solid waste, septic and other sludge, and pesticide, herbicide, and fertilizer residues and wastes, capable of releasing water-borne or soluble contaminants into the environment by leaching.

Loading Facility shall mean an off-street space, berth, or dock on the same lot as the building it serves, for the temporary parking of vehicles while loading and unloading merchandise and material, and which has access to a street, alley or other appropriate means of ingress and egress.

Lot shall mean a single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or on a recorded plan.

Lot, Corner shall mean a lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Line shall mean a line which separates one or more lots or a lot and a street.

Lot Line, Front shall mean the lines separating a lot from the right-of-way of a street.

Lot, Rear any lot meeting the requirements of Section 2330.

Mobile Home shall mean a structure transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, but not including recreational vehicles or travel trailers.

Nonconforming Uses or Structures shall mean any structure or use of land lawfully existing at the effective date of this by-law or subsequent amendment which does not conform to one or provisions of the by-law.

Non-family Accommodations shall include boarding houses, lodging houses, guest houses, tourist homes, or similar accommodations not having cooking facilities and not shared as a single housekeeping unit. Accommodations having individual kitchen facilities (sink, range, and refrigerator) shall be considered dwelling units. This shall not include the renting of a single room as an accessory use, as set forth in Section 2246.

Office shall mean a place for the transaction of a professional service or business, not including the sale of articles at retail.

Open Space shall mean ground space other than that occupied by structures, walkways, drives, parking or other surfaces. Required yard setbacks may be included as open space if in conformance with the above specifications.

Overlay District shall mean a zoning district superimposed over an underlying district, superceding, where applicable, the less stringent requirements of the underlying district.

Principal Building, Use, or Structure shall mean any building or structure containing any principal use as indicated in Section 2230, except where such use is a home occupation. Where more than one principal use is conducted on a lot and such uses are in more than one building or structure, each building or structure shall be considered a principal building or structure.

Sawmill shall mean a mill or machine for sawing logs, but shall not include the operation of a sawmill not housed in a permanent structure and used solely for the sawing of logs originating on the premises.

Scenic Road shall mean any road designated by the town as such pursuant to G.L. c. 40, s. 15C.

Setback shall mean the minimum horizontal distance between the street or front lot line and the building nearest the street or front lot line, such distance measured at a right angle to the street or front lot line.

Sign shall mean any device displaying, or any display of, any letter, word, picture, symbol, or object designed to inform or attract the attention of persons not on the premises on which such device or display is located, including billboards and any other internally or decoratively illuminated building surface other than unobstructed window glass.

Sign Area shall mean the surface area within a single continuous perimeter enclosing all of the display area, but not including structural members not bearing advertising matter unless internally or decoratively lighted. One side only of flat, back to back signs shall be counted.

Street shall mean either (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the Town, having in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction in relation to the proposed use of 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 shall mean anything constructed or erected, the use of which requires fixed location on the ground, including swimming pools, satellite dishes, tennis courts, and animal enclosures.

Telecommunication Facilities shall include towers, antennas, buildings and accessory structures designed or modified to provide personal communications services, radio and television broadcast or reception, microwave communications, or similar communication services. Not included are antennas used for personal television and radio reception or radio facilities actively used under a FCC (Federal Communication Commission) amateur radio license.

Toxic or Hazardous Material shall mean any substance or mixture of such chemical, physical, or infectious characteristics that it could pose a significant actual or potential hazard to water supplies, or other hazard to human health if it were discharge onto the land, or into the air or waters of the town. Toxic or hazardous materials include but are not limited to: organic chemicals, petroleum products, heavy metals, radioactive infectious wastes, acids and alkalies, and include such products as pesticides, herbicides, solvents and thinners.

Watershed shall mean the area of land surrounding a water body that naturally or artificially drains into the water body or aquifer.

Yard shall mean an open space on a lot unoccupied and unobstructed by any building or structure, except the following: fences, walls, poles, posts, paving, and other customary yard accessories, ornaments, and furniture; or, in front yards only, eaves, steps, and non-covered porches.

Yard, Front shall mean a yard extending between lot side lines across the lot adjacent to the front lot line.

Yard, Rear shall mean a yard extending between lot side lines adjacent to the rear of the lot.

Yard, Side shall mean a yard extending along each side line of a lot between front and rear yards.