

# **TOWN OF CHESTERFIELD**



## **ZONING BY-LAW**

I hereby certify that the attached is a true copy of the Zoning By-law of the town of Chesterfield; adopted, approved and amended as follows:

<b>Zoning By-law</b>	<b>Adopted by Town Meeting</b>	<b>Approved by Attorney General</b>
Original By-law	February 7, 1966	April 13, 1966
Amendments:		
1. 2-Acre Zone	March 4, 1974	March 22, 1974
2. Multi-Family Moratorium	May 21, 1974	August 8, 1974
3. Zoning Revisions in accordance with Chapter 40-A, G.L., as amended	June 19, 1978	October 26, 1978
4. Zoning Revisions in accordance with Chapter 40-A, G.L., as amended	June 18, 1990	September 24, 1990
5. Definition – Setback	May 10, 1993	August 19, 1993
6. Zoning Revisions in accordance with Chapter 40-A, G.L., as amended	May 8, 1995	July 31, 1995
7. Wireless Communication By-law	May 10, 1999	August 17, 1999
8. Accessory Apartments	March 19, 2007	April 12, 2007
9. Mixed Residential and Non-Residential Uses	April 7, 2008	April 24, 2008
10. Small Wind Energy System	May 12, 2008	July 22, 2008
11. Accessory Apartments	June 14, 2011	June 22, 2011
12. Large-scale Ground-mounted Solar Photovoltaic Installation	October 25, 2011	January 31, 2012
13. Adult Use Marijuana Establishments (ME)	March 30, 2023	September 7, 2023

Attest: \_\_\_\_\_

Sandra L. Wickland

Town Clerk

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## **SECTION I – AUTHORITY AND PURPOSES**

### **1.0 AUTHORITY**

The Town of Chesterfield Zoning By-law is hereby adopted pursuant to the Zoning Act, Chapter 40A of the Massachusetts General Laws. The construction, alteration, location, use and extent of use of lands within the Town of Chesterfield are hereby regulated as provided in this By-law.

### **1.1 PURPOSE**

To promote the general welfare of the Town of Chesterfield, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land within the Town, to retain and improve the pleasant physical aspects of the community, to reduce the hazard from fire by regulating the location and use of buildings and the open spaces around them, and to protect, conserve and increase the value of property, the Town of Chesterfield, in accordance with the General Laws of the Commonwealth of Massachusetts, Chapter 40A, and any amendments thereof, does hereby enact this By-law to be known hereafter as the Zoning By-law of the Town of Chesterfield.

### **1.2 PRESENTLY EXISTING USES PERMITTED**

This By-law shall not apply to any existing building or structure, nor to the continuation of the existing lawful use of any building or structure, nor to any land or premises or part thereof, to the extent of the use existing at the time of adoption of this By-law.

## **SECTION II – ZONING DISTRICTS**

### **2.0 TYPES OF DISTRICTS**

For the purposes of this By-law, the Town of Chesterfield is hereby divided into the following types of use districts:

#### **2.01 TC – Town Center**

An area which reflects the historic character of the Town and serves as the focus for many municipal services.

#### **2.02 AR-I – Agricultural-Residential I**

Areas of town which are best suited for low-density residential development; land uses and activities in keeping with the Town's rural character, primarily but not limited to farm and forest uses.

#### **2.03 AR-II – Agricultural-Residential II**

Areas of town dominated by steep slopes, poorly-drained soils and wetlands. In order to meet the area's environmental constraints, the zone is best suited for low-density development that accommodates these fragile resources.

#### **2.04 WS – Water Supply Protection**

Areas of Town where the watershed area for the Northampton water supply is situated. Also includes potential primary aquifer locations for the development of a municipal water system for the Town.

#### **2.05 FP – Floodplain**

Areas subject to inundation from a 100-year flood.

## 2.06 WRP – Westfield River Protection District

Areas abutting the Westfield River encompassing floodplain areas or within 100 feet of the river bank.

## 2.1 DISTRICT LOCATIONS AND BOUNDARIES

The location and boundaries of districts, except for the Floodplain, Westfield River Protection District and the Water Supply Protection District, shall be as shown on the "Zoning Map," Town of Chesterfield, Massachusetts, dated June 5, 1978, and bearing the signatures of the members of the Planning Board, the original of which shall be on file in the office of the Town Clerk. Said Zoning Map, and such amendments thereto as shall be duly adopted, shall be considered an integral part of the By-law. The Zoning Map shall be certified by the signature of the Town Clerk and the Town Seal, together with the words: "This is to certify that this is the Zoning Map referred to in Section II of the Zoning By-law of the Town of Chesterfield Massachusetts." The Floodplain District and the Westfield River Protection District are defined on maps described in Section 4.0. The Water Supply Protection District is defined on a map described in Section 4.1.

For purposes of interpretation, it shall be assumed that;

- a. Where boundaries are indicated in the right-of-way streets or watercourses, such boundaries shall be the centerline of the right-of-way.
- b. Where boundaries appear to follow property lines and are not more than twenty-five (25) feet therefrom, the property line shall be the district boundary.
- c. Where boundaries are parallel to a street or road and fixed by dimensions on the Zoning Map, the distance shall be measured from the centerline of such ways.
- d. Where distances are not specified on the Zoning Map nor otherwise determined from the above provisions, the scale of the Zoning Map shall be used to determine the location of the district boundary.



- e. Where the location of a boundary line is uncertain, the Building Inspector shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the map.
- f. Where a district boundary shall include a numerical figure followed by the letters MSL, it is at the number of feet above mean sea level. The basic source for determining such a line shall be the U.S. Geological Survey or adequate field surveys, based on U.S.G.S. bench marks, or by Registered Land Surveyors.

## SECTION III – SCHEDULE OF USES

### 3.0 SCHEDULE OF USE REGULATIONS

- 3.00 Except as provided elsewhere in this By-law, no building or structure shall be erected or altered, and no building, structure or land shall be used for any purpose other than for one or more of the principal or accessory uses allowed under the Schedule of Use Regulations in this Section. (Revised May 8, 1995)

The restrictions and controls intended to regulate development in each district are set forth in Table 1, Chesterfield Schedule of Use Regulations. The following notations apply to the Schedule of Use Regulations.

- Y Yes – Use Permitted
- YSPA Yes – Use Permitted with Site Plan Approval from the Planning Board
- SP Use Allowed by Special Permit from the Planning Board
- SPA Use Allowed by Special Permit with Site Plan Approval from the Planning Board
- N No – Use Prohibited

#### 3.01 Prohibited Uses

Any use not specifically or generally listed herein or otherwise permitted in a district shall be deemed as prohibited. The following uses shall be prohibited in all districts.

- a. Billboards

##### 3.011 Use Variances

Use Variances shall be prohibited.

3.012 Uses for Federal Government or the Commonwealth, Not-for-Profit Educational Organizations and Religious Organizations.

In accordance with Massachusetts General Laws, Chapter 40A, any facilities or uses where owned/or operated by the Federal government or the Commonwealth, not-for-profit educational organizations or religious organizations are exempt from any Special Permit process.

**Table 1**

**SCHEDULE OF USE REGULATIONS**

Definitions of the terms in this section can be found in Section VIII.

By-law Number	Land Use Classification	Standards and Conditions	Zoning Districts					
			TC	AR-I	AR-II	FP	WRP	WS
<b>3.02</b>	<b>GENERAL USES</b>							
3.020	Agriculture, horticulture, floriculture, viticulture, aquaculture		Y	Y	Y	Y	Y	Y
3.021	Commercial livestock, dairy, poultry farms		Y	Y	Y	Y	Y	Y
3.022	Farm business, commercial		Y	Y	Y	N	N	Y

	greenhouse							
3.0225	Farm stand	For the sale and display of farm products. Before issuance of a building permit, a site plan shall be submitted, for review by the Planning Board, which addresses proposed parking, loading, vehicular access and waste disposal requirements of the project. The Planning Board may approve the site plan or issue conditions for its approval.	Y	Y	Y	Y	Y	Y
3.0226	Slaughterhouse, poultry processing, manufacturing of agricultural products		SPA	SPA	SPA	N	N	N
3.023	Forestry, wood harvesting, tree farm, nursery		Y	Y	Y	Y	Y	Y
3.0235	Conservation land		Y	Y	Y	Y	Y	Y

3.024	Commercial boarding stable, riding academy		Y	Y	Y	N	N	Y
3.0241	Veterinary hospital	All animals must be kept inside permanent buildings.	SPA	SPA	SPA	N	N	SPA
3.0242	Commercial kennel	All animals must be completely enclosed in pens or other structures. Parcel must be 5 acres or more in size.	N	SPA	SPA	N	N	SPA
3.025	Commercial and non-profit recreation development	Total area for a recreational development shall be a minimum of 10 acres (see Sec. 5.3).	N	SP	SP	SP	SP	SP
3.027	Commercial aviation field or heliport		N	SPA	SPA	N	N	SPA
<b>3.03</b>	<b>RESIDENTIAL USES</b>							

3.030	Single-family detached dwelling		Y	Y	Y	SP	SP	Y
3.031	Two- or three-family dwelling	Requires 2 acres minimum area per dwelling unit	SP	SP	SP	SP	SP	SP
3.032	Mobile home		N	N	N	N	N	N
3.0325	Manufactured housing		Y	Y	Y	SP	SP	Y
3.033	Room rental	Taking 4 boarders and/or roomers not to exceed 4 persons by a resident family. A Disposal Works Construction Permit from the Board of Health to ensure that the existing sewage disposal system is adequate for the use.	SP	SP	SP	N	N	SP
3.034	Bed and breakfast home	Before a Special Permit can be obtained the owner must obtain a Disposal Works Construction Permit from the Board of Health to	SP	SP	SP	N	N	SP

		ensure that the existing sewage disposal system is adequate for the proposed alteration to the existing building.						
3.0345	Bed and breakfast establishment	Before a Special Permit can be obtained, the owner must obtain a Disposal Works Construction Permit from the Board of Health to ensure that the existing sewage disposal system is adequate for the proposed alteration to the existing dwelling. Four, five or six rental rooms are permitted. Shall be permitted in any dwelling served by a common driveway only in accordance with the appropriate section of Creative Development/ Common Driveway By-law, Section 5.9.	N	SP	SP	N	N	SP
3.036	Congregate housing for elderly and handicapped persons	See Section 5.6.	SPA	SPA	SPA	N	N	SPA



3.0365	Cluster housing development		N	SP	N	N	N	SP
3.037	Creative development	See Section 5.9.	SPA	SPA	SPA	SPA	SPA	SPA
3.038	Mobile home villages or courts		N	N	N	N	N	N
<b>3.04</b>	<b>COMMUNITY AND PUBLIC SERVICE USES</b>							
3.041	Government buildings		SPA	SPA	SPA	N	N	SPA
3.042	Public utility, sub-station or similar building or facility		SPA	SPA	SPA	SP	SP	SPA
3.043	Public or non-profit educational institution		Y	Y	Y	N	N	Y
3.044	Church, parish house or other place of worship		Y	Y	Y	N	N	Y

3.045	Daycare home		Y	Y	Y	N	N	Y
3.046	Daycare center		SPA	SPA	SPA	N	N	SPA
3.048	Public park, playground or recreational area		Y	Y	Y	Y	Y	Y
3.049	Library or public museum		SPA	SPA	SPA	N	N	SPA
3.050	Hospital, sanitarium		SPA	SPA	SPA	N	N	SPA
3.051	Rest home, convalescent or nursing home, rehabilitation facility		SPA	SPA	SPA	N	N	SPA
3.052	Continuing care retirement community		SPA	SPA	SPA	N	N	SPA
3.053	Funeral establishment		SPA	SPA	SPA	N	N	SPA
3.054	Cemetery		SP	SP	SP	N	N	SP

3.055	Water supply use		Y	Y	Y	SP	SP	Y
3.057	Neighborhood or community clubhouse, headquarters of fraternal organization	Shall serve residents of Chesterfield	SPA	SPA	SPA	N	N	SPA
<b>3.06</b>	<b>COMMERCIAL USES</b>							
3.061	General retail store		SPA	SPA	SPA	N	N	SPA
3.062	Convenience store		SPA	SPA	SPA	N	N	SPA
3.063	Discount store, wholesale store		N	SPA	SPA	N	N	SPA
3.064	Office business or professional	For profit or non-profit	SPA	SPA	SPA	N	N	SPA
3.065	Repair shop	Such as appliance, electronic or jewelry repair	SPA	SPA	SPA	N	N	SP

3.066	Craft shop	Including on-premise retail or manufacture of craft such as jewelry, pottery, or leather goods	SPA	SPA	SPA	N	N	SP
3.0664	Antique shop		SPA	SPA	SPA	N	N	SP
3.0665	Private museum, art gallery, craft center		SPA	SPA	SPA	N	N	SPA
3.0668	Drive-in establishment		SPA	SPA	SPA	N	N	SPA
3.067	Restaurant, carry-out restaurant		SPA	SPA	SPA	N	N	SPA
3.0675	Drive-in, fast food restaurant		SPA	SPA	SPA	N	N	N
3.068	Filling station	Includes filling station/convenience store combinations	SPA	SPA	SPA	N	N	N
3.0685	Commercial garage		SPA	SPA	SPA	N	N	N

3.069	Automotive sales or motor vehicle sales		SPA	SPA	SPA	N	N	N
3.070	Newspaper or job printing		SPA	SPA	SPA	N	N	N
3.071	Commercial radio, television or communication stations		SPA	SPA	SPA	N	N	N
3.073	Automobile dismantling or used parts yard		N	SPA	SPA	N	N	N
3.074	Junkyards		N	SPA	SPA	N	N	N
3.0745	Junkyard (motor vehicle)		N	SPA	SPA	N	N	N
3.075	Warehouse (other than agriculture)		N	SPA	SPA	N	N	SPA
3.076	Large-scale Ground-mounted Solar Photovoltaic Installation with a minimum nameplate	See Section 6.3	N	YSPA	YSPA	N	N	N

	capacity of 250 kW							
<b>3.08</b>	<b>MANUFACTURING AND INDUSTRIAL USES</b>							
3.080	Removal of soil, loam, sand, gravel, rock, quarried stone or other earth products		N	SP	SP	SP	Note A	Note A
3.081	Lumbering		Y	Y	Y	Y	Note A	Y
3.082	Business, manufacturing or industrial uses which have open storage	Does not apply to Home Occupational Uses	N	SPA	SPA	N	N	SP/Note A
3.083	Manufacturing, packaging, testing		N	SPA	SPA	N	N	SP/Note A
3.084	Sawmill operations on site for up to one year		SP	SP	SP	N	N	SP/NoteA
3.085	Sawmill operations on site for		SPA	SPA	SPA	N	N	SP/Note A

	over one year							
3.086	Log concentration yard		SPA	SPA	SPA	SPA	N	SP/Note A
3.087	Research laboratory		SPA	SPA	SPA	N	N	SP/Note A
3.088.1	Craft Marijuana Cooperation	See Section 6.4	N	SPA	SPA	N	N	N
3.088.2	Marijuana Cultivator, Indoor/Outdoor	See Section 6.4	N	SPA	SPA	N	N	N
3.088.3	Marijuana Product Manufacturer	See Section 6.4	N	SPA	SPA	N	N	N
3.088.4	Marijuana Retailer	See Section 6.4	SPA	SPA	SPA	N	N	N
3.088.5	Marijuana Independent Testing Laboratory	See Section 6.4	N	SPA	SPA	N	N	N

3.088.6	Marijuana Microbusiness	See Section 6.4	N	SPA	SPA	N	N	N
3.088.7	Marijuana Research Facility	See Section 6.4	N	SPA	SPA	N	N	N
3.088.8	Marijuana Transporter	See Section 6.4	N	SPA	SPA	N	N	N
3.088.9	Marijuana Courier	See Section 6.4	N	SPA	SPA	N	N	N
3.088.10	Marijuana Delivery Operator	See Section 6.4	N	SPA	SPA	N	N	N
3.088.11	Medical Marijuana Treatment Ctr.	See Section 6.4	N	SPA	SPA	N	N	N
3.091	Private garage or tool shed for residential use		Y	Y	Y	SP	SP	Y
3.092	Private aviation field or heliport		N	SPA	SPA	N	N	N
3.093	Off-street parking		Y	Y	Y	SP	SP	Y



3.094	Antenna, satellite dish		Y	Y	Y	Y	Y	Y
3.095	Common driveway serving two to six residential dwellings	Deeds must reflect shared right-of-way and maintenance obligations. Must be in accordance with the common driveway provisions of the Creative Development/Common Driveway By-law – see Section 5.9.	SPA	SPA	SPA	SP/Note A	SP/Note A	SPA
3.096	Small Wind Energy System	Must be in accordance with Section 6.2	N	SP	SP/Note A	SP/Note A	SP/Note A	SP/Note A

Note A – All conditions and regulations in the overlay district must be met.

### 3.1 ADDITIONAL SCHEDULE OF USE REGULATIONS

- a. Every use permitted by right or authorized by special permit or site plan approval under the provisions of this By-law shall be subject to the State Building Code, State Sanitary Code and the Town of Chesterfield's Board of Health Regulations and all other applicable statutes, by-laws and regulations.
- b. Where a structure or use might be classified under more than one of the listed uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.
- c. Subject to the limitation contained in this By-law, a related minor use, building or structure which is customarily incidental and subordinate to any lawful principal use shall be permitted on the same lot with the building to which it is accessory, provided that it does not alter the character of the premises or is detrimental to the neighborhood.
- d. Farm buildings and structures used exclusively for agricultural purposes shall be deemed to be accessory buildings and structures for the purpose of this By-law. Such buildings and structures may be located on the same lot with the principal permitted use or on separate lots.
- e. Any use of land, buildings or structures which creates excessive and objectionable noise, fumes, odor, dust, electrical interference, or undue traffic shall be prohibited in all districts.
- f. Mixed non-residential uses – a lot may be developed and used for more than one principal, non-residential use otherwise allowed in the district in which the lot is located provided that such uses shall be contained entirely within one principal building or in one or more accessory buildings. (Added May 8, 1995)
- g. Mixed Residential and Non-Residential uses: by grant of a special permit, a lot may be developed and used for mixed residential and non-residential uses, provided that each use is otherwise allowed in the district in which the lot is located, whether by right, by Special Permit (SP) or by Special Permit with Site Plan Approval (SPA). No such mixed use Special Permit is required if the mixed use otherwise qualifies as a Home Occupation, since such is defined and regulated elsewhere in this By-law. Notwithstanding the first paragraph in Section 3.2, such Special Permit may specifically authorize one principal building

for residential use and one principal building for non-residential use on the lot in question. (Added April 7, 2008)

### 3.2 DIMENSIONAL AND DENSITY REGULATIONS

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table 2 below. No more than one principal building shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

**Table 2**

**DIMENSIONAL REGULATIONS**

Districts	Use	Minimum Lot Dimensions		Minimum setback Requirements			Max. Height of Buildings		Max. % Coverage Including Accessory Buildings	Max. No. of Dwelling Units per Structure
		Min. Lot Area (Sq. Ft.) or as Noted	Frontage in ft.	Front in ft.	Side in ft.	Rear in ft.	No. of stories	Feet		
TC	Congregate Housing for Elderly and Handicapped	40,000 per Dwelling unit	100 per dwelling unit	75	75	50	2	35	30%	6
	Any other permitted use**	87,120 (2 acres)	200	50	20	20	2.5	35	20%	
	Creative Development: See Table 3									

AR-I	Kennel	5 acres	200	100	50	50	2.0	35	30%	
	Cluster Development	10 acres – Min. Project Parcel 87,120 (2 Acres) per dwelling	125	50	20	20	2.5	35	20%	6
	Congregate Housing Elderly and Handicapped	40,000 per dwelling unit	100 per dwelling unit	75	75	50	2	35	30%	6
	Any other permitted use**	87,120 (2 acres)	200	50	20	20	2.5	35	20%	
	Creative Development – see Table 3									
	Large-scale Ground-mounted solar Photovoltaic	217,800 sf (5 ac.)	200	50	50	50	2.5	35	30%	

	Installation with a minimum nameplate capacity of 250 kW									
AR-II	Kennel	5 acres	200	100	50	50	2.5	3.5	30%	
	Congregate housing for elderly and handicapped	40,000 per dwelling unit	100 per dwelling unit	75	75	50	2	35	30%	6
	Any other permitted use**	87,120	200	50	20	20	2.5	35	20%	
	Creative Development – see Table 3									
	Large-scale Ground-mounted solar	217,800 sf (5 ac.)	200	50	50	50	2.5	35	30%	

	Photovoltaic Installation with a minimum nameplate capacity of 250 kW									
FP	Any permitted use	*	*	*	*	*	*	*	*	
WRP	Any permitted use	*	*	*	*	*	*	*	*	
WS	Any permitted use	*	*	*	*	*	*	*	*	

\*\* Unless otherwise specified in Table 1 – Schedule of Use Regulations.

\* Within the overlay district, the dimensional regulations of the underlying district shall remain in effect.

### 3.21 Additional Dimensional and Density Regulations

Accessory buildings are subject to the same setback requirements as are the principal buildings. A rear yard may contain detached or accessory buildings covering no more than 40% of the area of the back yard. Such buildings in the back or rear yard may be located as close as twenty (20) feet to a side or rear lot line.

## 3.3 GENERAL PROVISIONS FOR NEW BUILDINGS

### 3.31 Any building or structure hereafter erected, renovated or altered, and used for dwelling purposes, shall conform to the following:

- a. Uniform Building Code, Commonwealth of Massachusetts, January 1, 1975, as amended.
- b. Title V, Environmental Code, Commonwealth of Massachusetts.
- c. Town of Chesterfield, Board of Health Regulations and other applicable Town of Chesterfield and state requirements.

### 3.32 Occupancy of Dwelling During Construction

A dwelling may be occupied by the owner and his/her family during the construction thereof providing said dwelling conforms to the Board of Health regulations at the time of occupancy and to this By-law, as amended, within one (1) year from the date construction is commenced.

### 3.33 A temporary dwelling on the premises may be occupied by the owner and his/her family during the construction of a permanent residence provided the temporary dwelling conforms to Board of Health regulations and provided the construction of the permanent residence starts within six (6) months of the date of issuance of the building permit and is completed within two (2) years of the date of issuance of the building permit.



#### 3.34 Seasonal Dwellings or Camps

A privy or chemical toilet may be constructed or continued in use only as provided in the Commonwealth of Massachusetts' Environmental Code, Title V, as amended, and Town of Chesterfield, Board of Health Regulations, as amended.

### 3.4 NON-CONFORMING USES, STRUCTURES, AND LOTS

#### 3.40 Nonconformity by Initial Enactment or Amendment

The provisions of this section apply to actions in connection with nonconforming uses, structures, and lots as created by the initial enactment of this By-law or by any subsequent amendment thereto.

#### 3.41 Extension By-law and Alteration

Except as hereinafter provided, this Zoning By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this By-law, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure, and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alterations, reconstruction, extension or structural change to single or two-family residential structures does not increase the nonconforming nature of said structures.

#### 3.42 Pre-existing Nonconforming Structures or Uses May Be Changed, Extended or Altered

- a. Pre-existing nonconforming structures may be changed, extended or altered, provided:

1. Where said change, extension or alteration is with regard to the specific pre-existing nonconformity of the structure, that it first receive a finding from the Zoning Board of Appeals that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.
2. Where said change, extension or alteration will create a new violation of the present zoning requirements, that appropriate Variances be received.
3. Where all aspects of said change, extension or alteration conform, in all respects, to the present zoning requirements, no Variance or finding (as stated in 3.42-(a)-1 above) is required.
4. Where said change, extension or alteration involves any combination of the above, then each particular Variance or finding (as stated in 3.42(a)-1 above) must be received.

b. Pre-existing nonconforming uses

May be extended or altered provided that no such extension or alteration shall be permitted unless there is a finding by the Zoning Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and providing that if such change, extension or alteration results in all uses fully complying with the current zoning requirements, then such finding is not necessary.

c. Pre-existing nonconforming lot - conforming use

When a conforming use on a pre-existing nonconforming lot is changed, extended or altered to a use which requires a larger minimum lot area, minimum lot width or frontage and/or minimum lot depth than is required for the present use, then a variance must be received with regard to the pre-existing nonconformity of the lot. When a conforming use on a pre-existing nonconforming lot is changed, extended or altered to a conforming use which requires the same or less minimum lot area,

minimum lot width or frontage, and/or minimum lot depth than is required for the present use, then a finding (as stated in 3.42(b) above) would be required.

d. Pre-existing nonconforming lot – nonconforming use

Pre-existing nonconforming uses on pre-existing nonconforming lots may be extended or altered provided that no such extension or alteration shall be permitted unless there is a finding by the Zoning Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

e. Pre-existing nonconforming structures may be changed, extended, or altered only if there is a finding by the Zoning Board of Appeals that such change, extension or alteration is not substantially more detrimental than the existing use to the neighborhood.

3.43 Single Lot Exemption for Single and Two-Family Use

Any increase in area, frontage, width, yard or depth requirements of the Zoning By-law shall not apply to a vacant lot for single and two-family residential use, which:

- a. Has at least 5,000 square feet of area and fifty feet of frontage;
- b. Is in an area zoned for single or two-family use (a special permit must be obtained if one is required);
- c. Conformed to existing zoning requirements when the lot was legally created, if any;
- d. Is in separate ownership prior to the Zoning By-law adoption vote which made the lot nonconforming, and has maintained its separate identity.

#### 3.44 Abandonment

Any nonconforming use of a conforming structure and lot which has been abandoned for a continuous period of two (2) years or more shall not be used again except for a conforming use. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of sixty (60) or more consecutive days.

## **SECTION IV – OVERLAY DISTRICTS**

### **4.0 FLOODPLAIN AND WESTFIELD RIVER PROTECTION DISTRICTS**

#### **4.00 Purposes**

The purposes of the Floodplain and Westfield River Protection Districts are to:

- a. Protect life, public safety and property from flooding hazards;
- b. Preserve the natural flood control and flood storage characteristics of the floodplain;
- c. Prevent any alterations to the natural flow of the river;
- d. Protect fisheries and wildlife habitat within and along the river;
- e. Control erosion and siltation;
- f. Enhance and preserve existing scenic or environmentally sensitive areas along the shoreline;
- g. Conserve shore cover and encourage well-designed developments;
- h. Prevent water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and poorly sited waste disposal facilities.

#### **4.01 District Boundaries**

- a. The Floodplain District is herein established as an overlay district and includes all special flood hazard areas designated as Zone A on the Chesterfield Flood Insurance Rate Maps (FIRM) with an effective date of

August 15, 1988 (Panels 250158 0001-0020), on file with the Town Clerk and hereby made a part of this ordinance.

- b. The Westfield River Protection district is herein established as an overlay district. The area subject to the By-law shall be the entire length of the East Branch of the Westfield River within the Town of Chesterfield. The Westfield River Protection District shall encompass those floodplain areas designated as Zone A on the Town of Chesterfield Flood Insurance Rate Maps (FIRM) for the Westfield River, East Branch. Where the floodplain has not been delineated on the FIRM maps or where the delineation is less than 100 feet from the river bank (as defined by M.G.L. Chapter 131, Section 40), the River Protection District shall be defined as that area within 100 feet, measured horizontally, of the river bank as shown on the "Chesterfield Floodplain and Westfield River Protection District" map. The FIRM maps and the "Chesterfield Floodplain and Westfield River Protection District" map are hereby made a part of this ordinance, and are on file with the Town Clerk.

The Westfield River Protection District shall be comprised of a Scenic Section and a Wild Section as described below:

- (1) The section of the East Branch of the Westfield River defined as Wild, and protected by this By-law as such, extends from the Cummington-Chesterfield Town Line southward to Major Brook, also known as Tower Brook.
- (2) The section of the East Branch of the Westfield River defined as Scenic, and protected by this By-law as such, extends from Major or Tower Brook to the Chesterfield-Huntington Town Line.

#### 4.02 Definitions

- a. Scenic River: a river or section of a river that is free from impoundments with the shorelines or watersheds still largely primitive, but accessible in places by roads.

- b. Wild River: a river or section of river that is free from impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted.

#### 4.03 Permitted uses

- a. Agricultural production, including raising of crops, livestock, poultry, nurseries, orchards, hay;
- b. Passive recreational uses, including but not limited to hiking, hunting or nature study provided there is minimal disruption of wildlife habitat;
- c. Maintenance and repair usual and necessary for continuance of an existing use;
- d. Conservation of water, plants and wildlife, including the raising and management of wildlife;
- e. Reasonable emergency procedures necessary for safety or protection of property;
- f. Residential accessory uses including lawns, gardens, play areas and sealed water supplies.

#### 4.04 Restricted uses within the Westfield River Protection District

- a. No altering, dumping, filling or removal of river materials or dredging is permitted. Maintenance of the river, including stabilization or repair of eroded riverbanks or removal of flood debris may be done under requirements of M.G.L., Chapter 131, Section 40, and any other applicable laws, by-laws, and regulations.
- b. All forest cutting over 25,000 board feet at one time shall require the filing of a Forest Cutting Plan in accordance with the Mass. Forest Cutting Practices Act (M.G.L., Chapter 132, Sections 40-46). In addition, no cutting of forest or vegetation shall occur within 50 feet of the river

bank. In the area between 50 feet and 100 feet from the river bank, no more than 50% of existing forest shall be cut.

- c. No impoundments, dams or other obstructions may be located within the area subject to this By-law.
- d. All other uses not specifically permitted or allowed by special permit approval within the overlay zone are prohibited.

#### 4.05 Prohibited Uses Within the Wild Section of the Westfield River Protection District

In addition to the restricted uses in Section 4.04, the following uses are prohibited in the Wild section of the district:

- a. No public or paved vehicular roads, no public recreation facilities, and no other development that would be inconsistent with the designation of this section of river as wild shall be constructed. No public vehicular access is permitted.

#### 4.06 Uses By Special Permit in the Floodplain and Westfield River Protection Districts

The following uses may be permitted by Special Permit from the Planning Board, unless otherwise restricted by this By-law:

- a. Single-family residences, excluding mobile homes
- b. Residential accessory uses including garages, home occupations, driveways, private roads, utility rights-of-way, and on-site wastewater disposal systems.
- c. Commercial or non-profit recreational development, provided that no permanent structures are constructed.
- d. Public utility, substation, water supply use.



#### 4.07 Additional Special Permit Approval Requirements – Floodplain District

The following Special Permit requirements apply in the Floodplain District in addition to those specified in Section III:

- a. With Zone A, where base flood elevation is not provided on the FIRM maps, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- b. No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulations for the National Flood Insurance Program.
- c. The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.

#### 4.08 Additional Special Permit Requirements – Westfield River Protection District

The following Special Permit requirements apply in the Westfield River Protection District, in addition to those requirements specified in Sections 4.07 and 7.2:

- a. A buffer strip extending at least one hundred (100) feet in depth, to be measured landward from each bank of the Westfield River, shall be required for all lots within the River Protection District. If any lot, existing at the time of adoption of this By-law, does not contain sufficient depth, measured landward from the river bank, to provide a one hundred- foot buffer strip, the buffer strip may be reduced to 50% of the available lot depth, measured landward from the river bank. For purposes of this By-law, the riverbank shall be defined as the river's seasonal high water mark.

- (1) The buffer strip shall include trees and shall be kept in a natural or scenic condition.
- (2) No buildings nor structures shall be erected, enlarged, altered or moved within the buffer strip.
- (3) On-site wastewater disposal systems shall be located as far from the Westfield River as is feasible.

#### 4.09 Special Permit Criteria

In addition to the provisions of Section 7.2, the Planning Board may issue a special permit if it finds the proposed use is compliant with the following provisions:

a. In the Floodplain District, proposed uses must:

- (1) Not create increased flood hazards which are detrimental to the public health, safety and welfare.
- (2) Comply in all respects with the provisions of the underlying District or Districts within which the land is located.
- (3) Comply with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40).

b. In the Westfield River Protection District, proposed uses must also:

- (1) Be situated in a portion of the site that will most likely conserve shoreland vegetation and the integrity of the buffer strip;

- (2) Be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines;
- (3) Not result in erosion or sedimentation;
- (4) Not result in water pollution.

## 4.1 WATER SUPPLY PROTECTION DISTRICT

### 4.10 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality of its water resources.

### 4.11 Definitions

- a. Animal feed lot: A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.
- b. Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.
- c. Groundwater: All water found beneath the surface of the ground.
- d. Hazardous Waste: A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.
- e. Impervious Surfaces: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

- f. Leachable Wastes: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.
- g. Primary Aquifer Recharge Area: Areas which are underlain by surficial geologic deposits including glacialfluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.
- h. Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.
- i. Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

#### 4.12 Scope of Authority

The Water Supply Protection District is an overlay district and shall be superimposed on the other districts established by this By-law. All regulations of the Town of Chesterfield Zoning By-law applicable to such underlying districts shall remain in effect, except that where the Water Supply Protection District imposes additional regulations, such regulations shall prevail.

#### 4.13 District Delineation

4.131 The Water Supply Protection District is herein established to include all lands within the Town of Chesterfield lying within the primary recharge areas of groundwater aquifers and watershed areas of reservoirs which now or may in the future provide public water supply. The map entitled "Water Supply Protection District," Town of Chesterfield, on file with the Town Clerk, delineates the boundaries of the district.

4.132 Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s) the

Town may engage a professional hydrogeologist to determine more accurately the location and extent of an aquifer or primary recharge area, and may charge the owner(s) for all or part of the cost of the investigation.

#### 4.14 Prohibited Uses

- a. Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity or which involve on-site disposal of industrial process waste water, including but not limited to metal plating, fuel oil sales, leather tanning, plastics processing, degreasing operations, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair.
- b. Trucking terminals, motor vehicle gasoline sales, automotive service and repair shops.
- c. Solid waste landfills, dumps, auto recycling, junk and salvage yards, with the exception of the disposal of brush or stumps.
- d. Underground storage and/or transmission of petroleum products excluding liquefied petroleum gas.
- e. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- f. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous wastes.
- g. The rendering impervious of more than 20% of the area of any single lot.

#### 4.15 Restricted Uses

4.151 Excavation for removal of earth, sand, gravel and other soils shall not extend closer than five (5) feet above the annual high groundwater table. A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal. This section shall apply to all commercial earth removal operations, including expansions of existing operations.

a. Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.

4.152 The use of sodium chloride for ice control shall be minimized, consistent with the public highway safety requirements.

4.153 Salt storage areas shall be covered and be located on a paved surface, with berms to prevent run-off from leaving the site.

4.154 Commercial fertilizers, pesticides, herbicides, or other leachable materials shall be used with all necessary precautions to minimize adverse impacts on surface and groundwater, and shall not result in groundwater concentrations exceeding Massachusetts Drinking Water Standards.

4.155 Above-ground storage tanks for oil, gasoline or other petroleum products shall be placed in a building on a diked, impermeable surface to prevent spills or leaks from reaching groundwater. All such tanks shall comply with all applicable state and federal regulations.

4.156 All animal feed lots and manure storage areas shall be designed to restrict infiltration or other movement of livestock wastes to the aquifer.

#### 4.16 Drainage

All run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by owner.

#### 4.17 Uses by Special Permit

4.171 Commercial or industrial uses which are allowed in the underlying district may be allowed in the Water Supply Protection District by Special Permit, obtained from the Planning Board. Any enlargement, intensification, or alteration of an existing commercial or industrial use in the district shall also require a special permit under this section.

#### 4.172 Requirements for Special Permit in the Water Supply Protection District

The applicant shall file six (6) copies of a site plan with the Planning Board prepared by a qualified professional. The site plan shall at a minimum include the following information where pertinent.

- a. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
- b. Those businesses using or storing such hazardous materials shall file with the Planning Board and Board of Health a hazardous materials management plan which shall include:
  1. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
  2. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

3. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass. Department of Environmental Protection.
  - c. Drainage recharge features and provisions to prevent loss of recharge.
  - d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewage pipes.
- 4.173 Additional Procedures for Special Permit in the Water Supply Protection District
- a. The Planning Board shall follow all special permit procedures contained in Section 7.2.
  - b. The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section 7.2 of this By-law. The proposed use must:
    1. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;
    2. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
  - c. The Planning Board shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in Section 4.173(b).



#### 4.18 Non-conforming Use

Non-conforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this By-law may be continued. Such non-conforming uses may be extended or altered, as specified in M.G.L., Ch. 40a, Sec. 6, provided that there is a finding by the Board of Appeals that such change does not increase the danger of surface or groundwater pollution from such use.

### 4.2 WCO – WIRELESS COMMUNICATIONS OVERLAY DISTRICT (Added May 10, 1999)

#### 4.20 Scope

The Wireless Communications Overlay District is an overlay district and shall be superimposed on such other districts established by this By-law and as delineated on the Map of Zoning Districts of the Town of Chesterfield. All regulations of the Town of Chesterfield Zoning By-law applicable to such underlying districts shall remain in effect, except that where the Wireless Communications Overlay District imposes additional use regulations, such regulations shall prevail.

#### 4.21 Purpose

The purpose of the Wireless Communication Facility By-law is to:

- a. Minimize the adverse impact of any wireless communication structures, buildings and/or appurtenances on adjacent properties and residential neighborhoods;
- b. Limit the height of such facilities to only what is essential;
- c. Promote shared use of existing facilities and structures to reduce the need for new facilities; and

- d. Protect, to the maximum extent practicable, the historic and residential character of Chesterfield, the property values of the community and the health and safety of citizens.

#### 4.22 Definitions

- a. Co-locate: A term meaning that more than one wireless communications facility can be installed and operated on a single tower.
- b. Lattice Style: A style of tower characterized by a lattice-work type of construction wherein the structure is much larger at its base (ground level) and grows smaller as it increases in height. The lattice style is in direct contrast with the monopole.
- c. Monopole: A style of tower characterized by a single round pole having the general configuration of a flag pole. The monopole does not appear significantly larger at its base than at the point of maximum height.
- d. Telecommunications Tower: a monopole or lattice style structure with antennas, if any, designed to facilitate the following types of services: cellular telephone service, personal communications services, and/or enhanced specialized mobile radio service.
- e. Wireless Communication Facility: Any tower (including antennas, if any), or antenna placed on existing building or structure, or any device, wiring or equipment designed to facilitate or be utilized in connection with the provision of the following types of specialized mobile radio service as well as any structures, buildings and/or appurtenances utilized primarily for the installation and operation of equipment necessary for the provision of such services. This definition does not include an antenna used by a federally licensed amateur radio operator or television antennas or satellite dishes which are accessory to a residential use.

#### 4.23 District Delineation

The Wireless Communications Overlay District is herein established to include all lands within the Town of Chesterfield and delineated on the map entitled

“Wireless Communications Overlay District – Town of Chesterfield,” on file with the Town Clerk.

#### 4.24 Permitted Uses

All uses permitted by right in the underlying zoning district.

#### 4.25 Special Permit Uses

The following uses shall be allowed by Special Permit from the Planning Board and shall be subject to the Special Permit standards set forth in Sections 4.26, 4.261 and 4.262:

- a. Wireless communication facilities

#### 4.26 Special Permit Requirements

A wireless communications facility shall require a building permit in all cases and may be permitted as follows:

- a. All wireless communications facilities shall require a Special Permit from the Planning Board.
- b. No wireless communications facilities shall be erected or installed except in compliance with the provisions of this Section. Any proposed modification to an existing wireless communications facility including, but not limited to, extension in the height, addition of antennas or panels, or construction of a new or replacement of a facility shall be subject to these provisions and shall require a new application. The Planning Board may, at its discretion, waive any application requirements for modifications to existing facilities.
- c. Wireless communications facilities shall, if feasible, be located on pre-existing towers. If the applicant can demonstrate that there are no feasible pre-existing towers, then wireless communication facilities shall be located, if feasible, on public land. Public land shall be those lands

owned by the Town of Chesterfield or the Chesterfield-Goshen Regional School district. If the applicant can demonstrate that there are no feasible public lands, then wireless communications facilities shall be located on privately owned parcels.

- d. Lattice style towers and/or any tower requiring guy wires shall not be permitted except on public land. All towers shall be pre-engineered to fail at a pre-determined height enabling the structure to collapse upon itself in the event of a catastrophic failure.
- e. Providers of wireless communication service shall report to the Building Inspector, any cessation in the use or operation of any wireless communications facility that exceeds 30 days, and such facilities shall be removed at the owner's expense within one year of cessation of use or operation.
- f. A plan outlining the return of the site to pre-existing condition shall be submitted as part of the application. A bond, in an amount the applicant estimates will be required to recondition the site shall be required. The Planning Board must approve the amount of the bond and any terms and conditions of its release. Said bond shall be held by the Town and released at such time as the Planning Board determines that the conditions of the bond agreement have been satisfied.

#### 4.261 Siting and Construction Guidelines

The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities:

- a. To the extent feasible, all service providers shall co-locate on a single tower. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of towers which will be required within the community. New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot adequately fulfill the applicant's service requirements or accommodate the wireless communications equipment contemplated by the applicant.

- b. The setback of a tower from the property line of the lot on which it is located shall be at least equal to the height of the pre-engineered tower, as described in Section 4.26d above, measured at the finished grade of the tower base. No wireless communications facility shall be located within 200 feet of an existing residential building or within 750 feet of the district designated as Town Center (TC) on the Chesterfield Zoning Map.
- c. All towers shall be designed to be constructed to the minimum height necessary to accommodate the anticipated and future use. No wireless communications facility shall exceed 130 feet in height as measured from ground level at the base of the tower.
- d. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town shall be as limited as possible. All wireless communications facilities shall be painted, colored, and/or constructed of materials that minimize the visual impact of the wireless communications facilities on adjacent abutters, residential neighbors and other areas of Town. Owners of wireless communications facilities shall endeavor to install said facilities in a manner that blends in and does not contrast with the tower and/or landscape where it is located. The Planning Board may impose reasonable conditions to ensure this result, including painting and lighting standards.
- e. An applicant proposing a wireless communications facility shall demonstrate to the satisfaction of the Planning Board that the applicant has endeavored to minimize the visual and aesthetic impacts of the proposed facility on residential abutters and that the facility must be located at the proposed site due to technical, topographical, or other unique circumstances.
- f. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and of abutting properties. Fencing shall not be constructed of barbed or razor wire. A landscape buffer of evergreen shrubs or trees shall be provided at the time of installation on the outside of the fenced area. The shrub or tree planting shall mature to a height greater than

the fence height and be planted at a height of at least four feet. At maturity, the landscape plantings must form a dense visual barrier throughout the year. All landscape plantings must be continually maintained.

- g. There shall be no signs associated with a wireless communications facility except: a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis; a no trespassing sign; a sign displaying the FCC registration number; and any signs required to warn of danger. All signs shall comply with the requirements of the Chesterfield Zoning By-law.
- h. Night lighting of towers shall be prohibited. Tower lighting shall be limited to that needed for emergencies. Lighting of buildings and the ground may be provided to ensure a safe and secure facility. All lighting shall be shielded to prevent undue impact on surrounding properties.
- i. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.
- j. To the extent feasible, all network interconnections from the communications site shall be via land lines.
- k. Existing on-site vegetation shall be preserved to the maximum extent practicable. Clearing of land shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources and which will minimize marring and scarring of the landscape or silting of streams or wetlands.
- l. Regular traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

- m. Applicants proposing to erect wireless communications facilities on public land or structures shall provide evidence of contractual authorization from the Town of Chesterfield (or Chesterfield-Goshen Regional School District, when applicable) to conduct wireless communications services on public property.

#### 4.262 Application Requirements

For an application to be considered complete, the following information must be submitted:

- a. A color photograph or rendition of the proposed wireless communication facilities including, but not limited to, the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the proposed wireless communication facilities from the nearest street or streets.
- b. A landscape plan showing the proposed site before and after development including topography and screening proposed to protect abutters.
- c. A description of the wireless communication facilities including, but not limited to, the height of any towers and antennas, access roads and power supplies, the type, size and number of transmitters and a technical report which demonstrates that the maximum height of the installation is the minimum feasible to provide the intended service.
- d. The technical and other reasons for the proposed location, height and design including, but not limited to, a survey of all sites which are feasible for providing the intended services both within and directly adjacent to the Town of Chesterfield and the reason(s) the proposed site was selected over at least one alternative site.
- e. A survey of all pre-existing structures, buildings or towers which are capable of supporting the equipment necessary to provide

the intended service and a technical report which demonstrates why any such structure, building or tower cannot be used by the applicant.

- f. A map of existing wireless communications facilities within Chesterfield and within one (1) mile of the Town boundary.
- g. A map illustrating the service provider's existing and planned wireless communications facilities plan for the service area(s) including the Town of Chesterfield.
- h. A description of the capacity of the tower including the number and type of panels, antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.
- i. A statement that the sound levels under normal operating conditions, whether emanating directly from, or as a result of natural wind blowing through the wireless communications facility, measured at the boundary of the lot on which it is sited, shall not be greater than would otherwise exist in the absence of such facility.
- j. A statement of the services to be supported by the proposed wireless communication facilities and a delineation on the Zoning District Map of all areas in Chesterfield which will not be served by the proposed installation for the primary site and an alternate site.
- k. A description of the special design features utilized to minimize the visual impact of the proposed wireless communication facilities in accordance with Sections 4.261.d, 4.261.e, and 4.261.f.
- l. A certification that the applicant possesses all necessary licenses to operate such a facility and has complied with all federal and state requirements to provide the proposed service.



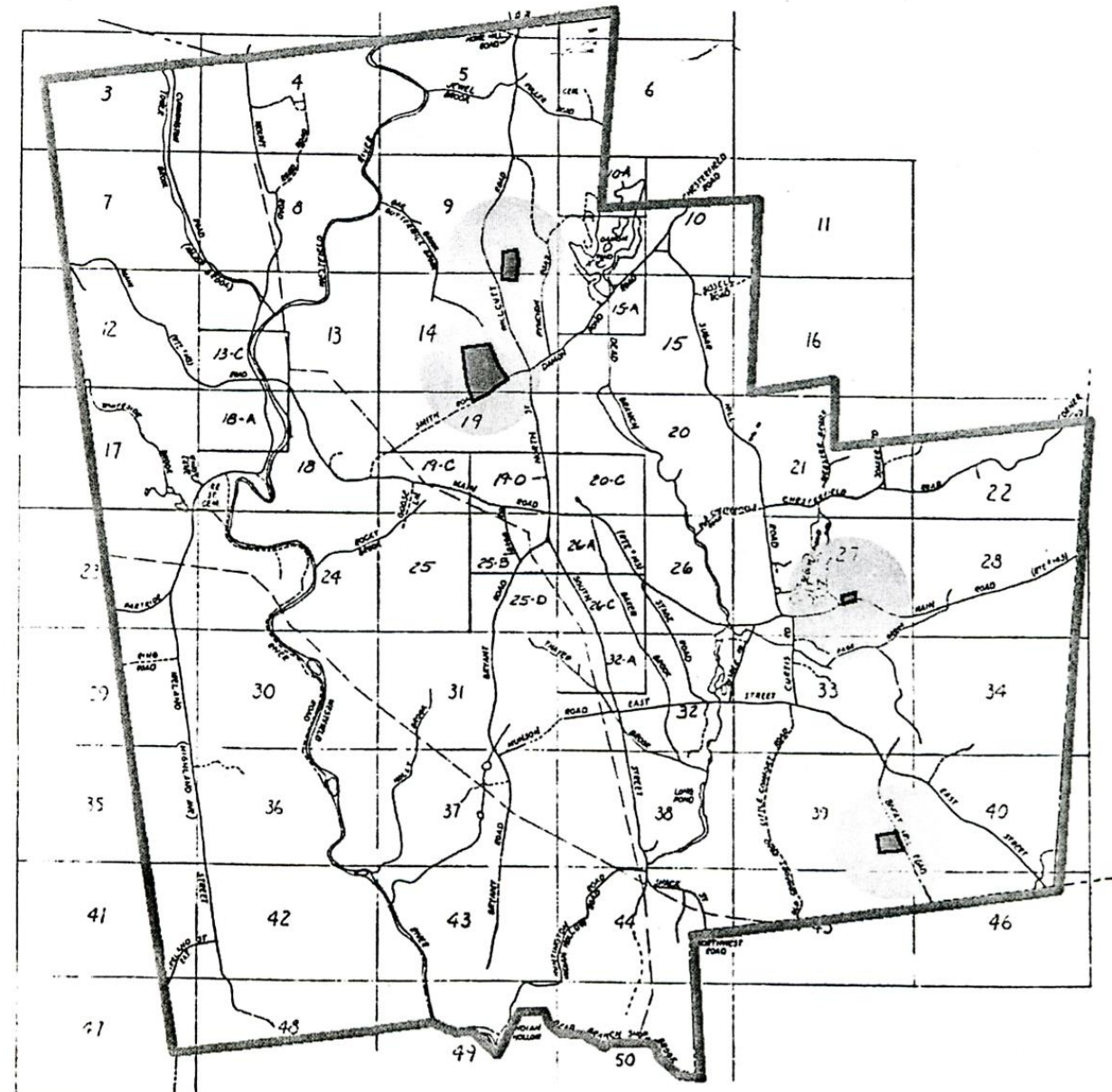
- m. The applicant must demonstrate full compliance with the Massachusetts Wetlands Protection Act.
- n. Within thirty days after filing the application for any new tower or extension in height thereto, the applicant shall arrange to fly a balloon at the primary and an alternate site at the maximum height of the proposed installation on a weekend day between the hours of noon and 3 p.m. The balloon shall be of size and color that can be seen from every direction for a distance of one mile. The applicant shall be responsible for posting the date and location of the balloon(s) as a legal advertisement at least 14 days, but not more than 21 days, before the flights in at least two different issues of a newspaper with a general circulation in the Town of Chesterfield.

#### 4.27 Severability

The invalidity, unconstitutionality, or illegality of any provision of this By-law shall not have any effect upon the validity, constitutionality, or legality of any other provision of this By-law.

# Proposed Locations for **Wireless Communications Overlay District** Town of Chesterfield, Massachusetts

May 1999



Pioneer Valley Planning Commission

## **SECTION V – SPECIAL USE REGULATIONS**

### **5.0 HOME OCCUPATIONS**

5.00 Home occupations which are incidental to a residential use on the same premises include, but are not limited to, the following:

- a. Antique or gift shop, art studio, dressmaker, hairdresser, handicraft, insurance or real estate broker, milliner, musical instruction.
- b. Professional offices.
- c. Use of premises or a building thereon in connection with their trade by a resident carpenter, electrician, painter, plumber, mason or other artisan.

5.01 A Home Occupation shall not be interpreted to include those uses which require a Special Permit: Site Plan Approval from Planning Board as listed in Section 3.0, Table 1.

5.02 The Home Occupation must conform to the following conditions:

- a. The occupation must be carried on wholly within the building(s), provided that no more than 25% of the area of the residence is used for the purpose above.
- b. Adequate off-street parking must be provided to prevent interference with traffic flow.
- c. The use is pursued by a member(s) of the family residing in the dwelling with not more than the full time equivalent of one non-resident employee.
- d. The use shall not significantly change the character of the dwelling and is characterized by outward manifestations (such as traffic generation, noise, public service and utility demand, etc.) not unlike those of similar residences in the particular neighborhood in which the dwelling is located.

1. The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories, and the use is not a serious hazard to abutters, vehicles or pedestrians.
- e. No external change is permitted which alters the residential appearance of the building on the lot.
- f. All operations, including incidental storage, are carried on primarily within the principal or accessory building(s).
- g. See Section 5.1 Signs for regulations regarding signs for home occupations.

## 5.1 SIGNS

### 5.10 Signs Allowed by Right

- a. Personal residence – one sign not exceeding an area of one square foot, indicating the name of the owner or occupant.
- b. Accessory use or home occupation – of not more than two signs: a single sign shall not exceed an area of four (4) square feet; if two signs, an area not exceeding (2) square feet each. Two signs back-to-back shall be considered one sign.
- c. Sale, lease or rental of a building or lot – not more than two signs: a single sign not exceeding an area of six (6) square feet; if two signs, an area not exceeding (4) square feet each. Two signs back-to-back shall be considered one sign.
- d. “Sold” building or lot – temporary sign used to indicate a completed sale of property. Such signs shall be removed no later than fifteen (15) days after the real estate closing.
- e. Hazard, warning and property posting.

- f. Special event – temporary sign used in connection with a circumstance or event (e.g. church fair) that is expected to be completely over within a fairly short or definite period of time. Such signs shall be removed no later than ten (10) days after the event.
- g. Political – temporary sign used in connection with a political campaign. Such signs shall be removed no later than ten (10) days after the election.
- h. Construction – signs advertising the architect, engineer or contractor, erected during the period when, and on the premises where, work is in progress. Such signs must be removed when the work is completed.

#### 5.11 Signs Allowed by Special Permit

- a. Stores, farms, orchards, or other uses involving sales or services rendered on the premises, as shown under Section 3.0, Table 1, one or more signs with a combined area not exceeding thirty (30) square feet.
- b. Gasoline stations and garages – one permanent oil company trademark sign in addition to name sign; customary lubrication, greasing and other service signs displayed in the positions to which they apply; and one “A Frame” or easel-type sign at the property frontage. So-called specialty signs may be permitted on the sides or heads of gasoline pumps subject to the approval of the Planning Board.
- c. Off-premises – not more than two signs promoting a business activity, as described in Section 5.11(a) above, subject to the standards of Section 5.10(b) above.

#### 5.12 Prohibited Sign Use

- a. Flashing animated, noise-making or intermittently illuminated signs.
- b. Companion signs, advertising successively or repetitively.
- c. Reflectors which are parts of letters of a sign.

- d. Exposed neon or gas-filled tube type signs.
- e. Streamers, “Whirligigs” or other similar advertising devices.
- f. Any signs tacked, painted, posted or otherwise attached to utility pole.
- g. Pylon signs, or special ground signs supported by tall mast-like members, or pyramidal tower supports.
- h. Exposed, permanent lighting which outlines any part of a building or structure, such as a gable roof, side wall or corner, except temporary holiday lighting in use of a period no longer than six (6) weeks in any calendar year.
- i. Unshielded sign illumination, including floodlighting which results in high intensity light shining onto any street or adjoining property.

#### 5.13 Maintenance of Signs

Any sign which is dangerous, unsafe, unsightly or abandoned shall be repaired or made safe, or be removed by the owner, lessor, agent of occupant of the building, land or property upon which it is located. (An abandoned sign shall be one pertaining to an event, time or purpose which no longer applies.)

#### 5.14 Enforcement

Enforcement of this section of the By-law shall be by the Building Inspector and shall be subject to the penalties outlined in Section 7.0.

### 5.2 MOBILE HOMES/RECREATION VEHICLES

- 5.20 Mobile Homes/Recreation Vehicles designed or used for human occupation as dwellings shall not be kept within the boundaries of the Town of Chesterfield unless they are in bona fide storage or unless they are being used as temporary dwellings. The use of

recreational vehicles as seasonal camping shelters shall not exceed one hundred thirty (130) days in any calendar year.

5.21 This prohibition does not apply to Temporary Dwellings as established in Section 3.33 (See General Provisions for New Buildings), wherein a temporary dwelling on the premises may be occupied by the owner and his family during the construction of a permanent residence.

5.22 This prohibition does not apply to mobile homes used for living purposes at the time of the effective date of this By-law which may be replaced by a mobile home of the same or greater value.

### 5.3 COMMERCIAL RECREATION AND NON-PROFIT DEVELOPMENT

#### 5.30 Commercial and Non-Profit Recreation Development

Commercial Recreation Developments shall be permitted in the Agricultural-Residential District I and the Agricultural-Residential District II upon Site Plan Approval of the Planning Board, as specified in Section 7.4 of this By-law, and in accordance with the additional requirements specified herein.

#### 5.31 Purpose

The purpose of this By-law is to provide minimum regulations for areas developed for:

1. Rental of sites for tents, campers, camping units, or recreational vehicles (including sanitary, cooking, recreational and parking facilities for patrons).
2. Boys' camps, girls' camps, outdoor athletic activities, commercial golf courses, tennis courts, parks, picnic areas, ski tows or swimming pools for patrons.

#### 5.32 Application

Each application for Site Plan Approval for Commercial and Non-profit Recreation Development shall be accompanied by nine (9) copies of a site plan. An application fee

to cover expenses connected with a public hearing and review of plans will be required upon filing. The site plan should be on standard 24" x 36" sheets and shall be prepared at sufficient scale to show:

- a. The location and boundaries of the commercial recreational development, all streets, ways and buildings within 300 feet of the property, and the names of all abutters as they appear on the most recent tax list.
- b. Existing and proposed structures and camp sites and the limits of proposed activities, together with a specific list of the proposed use or uses, including daytime and nighttime activities.
- c. The location of proposed and existing ways, parking areas, driveways, walkways, and access and egress points.
- d. The location and descriptions of all proposed septic systems, water supply, storm drainage systems, lighting and other utility installations, and refuse and other waste disposal systems.
- e. Existing and proposed topography including contours, the location of wetlands, streams, water bodies, drainage swales, area subject to flooding and unique natural land features.

#### 5.33 Permitted Uses

Commercial and Non-Profit Recreational Development shall include only the following permitted uses and approved combination thereof:

- a. Boys' Camp; Girls' Camp.
- b. Outdoor athletic activities, including facilities for skating, skiing, sledding, swimming, squash and tennis and related activities.
- c. A commercial golf course.



- d. Outdoor picnic facilities including appropriate sheds, barbecue pits, outdoor fireplaces as an accessory to a major recreational facility.
- e. The rental of campsites as a part of commercial recreation operation.
- f. Activities similar to those listed above, that are commonly provided by such organizations as day camps, swimming and tennis clubs and other recreational enterprises and that are listed in the application and shown on the site plan, may be approved by the Planning Board subject to such additional safeguards as the Planning Board may require.
- g. Except as above, any residential use within the development shall be limited to existing dwellings.
- h. Accessory uses and structures customarily incidental to a permitted use.

#### 5.34 Additional General Requirements

The following standards shall be used as additional requirements to the Site Plan Approval process for Commercial Recreation Development.

##### 5.341 Additional Dimensional and Density Requirements for Commercial and Non-Profit Recreation Developments.

- a. The total area of the site for the proposed commercial recreation development shall be a minimum of ten (10) acres.
- b. No building or structure shall be located within fifty (50) feet of any property line.
- c. No driveway for access and egress for such use shall be located a minimum of fifty (50) feet from any lot line.
- d. Camping sites, parking spaces, and unenclosed recreational facilities shall be located not less than one hundred (100) feet from any property

line. These uses shall be screened from view by neighboring properties in residential or institutional use.

5.342 Additional Dimensional and Density Requirements for Campsites

- a. Each campsite shall contain not less than 2,500 square feet of area for the exclusive use of each site occupant, provided that there shall not be more than 10 campsites per gross acre, exclusive of all public open spaces.
- b. Each recreation vehicle or tenting campsite shall not have less than 50 feet frontage on an access driveway or way connected ultimately to a public street, and an average width of not less than 50 feet, and a minimum depth of 50 feet.

5.343 Parking Spaces

Parking spaces adequate to accommodate, under normal conditions, the vehicles of employees, members, patrons, and persons using the facilities shall be determined by the Planning Board.

5.344 Lighting

- a. Lighting shall be so shielded so to cast no light upon adjacent properties or public ways.
- b. Where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished no later than 11:00 p.m.

5.345 Occupancy Requirements

When involving campsites, the use is to be temporary in nature for short term occupancy not to exceed one hundred thirty (130) days in the calendar year.

5.346 Roads, Access Ways and Interior Circulation

- a. Roads, driveways and access ways shall conform to the standards of Sec. 5.955.
- b. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.

5.347 Noise

- a. No public address system shall be permitted except where such system is inaudible at any property line.
- b. The commercial recreational development owner shall post noise warnings throughout the development stating that no person shall engage in or use very loud construction activities on a site abutting residential use between the hours of 10 p.m. of one day and 7 a.m. of the following day.

5.348 Signs

Signs must conform to rules and regulations of signage in Section 5.1 of this By-law.

5.349 Utility Requirements

- a. Provision shall be made for furnishing adequate potable water, sanitary sewage disposal and collection and disposal of garbage and waste materials in conformance with the state and local laws.
- b. Approval of the plans by the Chesterfield Board of Health and the Massachusetts Department of Environmental Protection is required before approval of a permit, and certification of sanitary facilities in accordance with the approved plans is required before issuance of a certificate of occupancy.

- c. Sanitary sewage disposal shall be under the supervision of the Chesterfield Board of Health and conform to Title V, Environmental Code, Commonwealth of Massachusetts. Plans are to be approved by the Massachusetts Department of Environmental Protection.

#### 5.350 Other Requirements

- a. The Commercial and Non-Profit Recreation Development shall be consistent with the Land Use Study of Chesterfield.
- b. The development will cause no hazards to health, safety, and property from fire, accident, sanitary and drainage conditions, excessive traffic, noise, vibrations, odors or other nuisance.
- c. The development shall not interfere with any public water supply system.
- d. The development shall comply with all other applicable laws, regulations, and codes set forth by the Commonwealth of Massachusetts, and the Town of Chesterfield.

#### 5.36 Additional Requirements for Campsites in a Campground

- a. Campsites may be occupied by campers, travel trailers or unenclosed recreational facilities, but not by any type of permanent building or mobile home.
- b. The sale of campsites shall not be permitted.
- c. Electrical outlets may be provided at each site in the campground.
- d. Potable water shall be furnished by a piped pressure system, with one outlet on each camp site, or one outlet for not more than ten contiguous campsites.

- e. Community toilet facilities consisting of enclosed shower(s) stalls, lavatories, and sinks, separate for each sex, suitably screened with plant material and architectural screening shall be provided in accordance with Title V Environmental Code, Commonwealth of Massachusetts.
- f. Garbage and waste collection stations shall be located so as to serve not more than ten campsites, and shall be substantially screened with vegetation to reduce the visual nuisance.
- g. The location, materials of construction and storage of fuels for outdoor cooking facilities of any kind, shall be subject to the approval of the fire marshall and no outdoor cooking shall be allowed except at approved locations.

#### 5.37 Site Plan Approval Application Amendments

The applicant may submit, and the Planning Board may approve amendments to the approved site plan, provided that any amendments that extend the limits or numbers of kinds of activities or building or the scope of lighting or major modifications shall not be approved until after a public hearing.

#### 5.38 Building Permits

- a. Commercial and Non-Profit Recreation Development areas shall be subjected to the State Building Code, effective January 1, 1975, as amended.
- b. No building permit shall be issued for construction except in accordance with an approved site plan. No certificate of occupancy shall be issued until the protective requirements and public improvements shown on the approved site plan have been completed.

### 5.4 PARKING AND LOADING STANDARDS

#### 5.40 General Parking Standards

- a. In granting a special permit or site plan approval for any use, the Special Permit Granting Authority may require off-street parking spaces, standards, or

conditions in addition to those set forth in this By-law, if it deems necessary for the use.

#### 5.41 Parking Areas Design and Location

All new structures and additions or extensions on existing structures shall be provided with off-street parking spaces in accordance with the following:

##### 5.411 Definitions:

- a. Driveway – A space, located on a lot, which is not more than twenty feet in width for residential uses nor more than twenty-four feet in width for commercial or industrial uses at the lot line, built for access to a garage or off-street parking or loading space.
- b. Parking Spaces for Commercial, Institutional or Industrial Uses – An off-street space at least nine feet in width and twenty feet in length, excluding the portion of the driveway to such space.

##### 5.412 Location

Required parking shall be provided on the same lot with the main use it is to serve. To the extent feasible parking areas for commercial, institutional, or industrial uses shall be located to the side or rear of the structure.

##### 5.413 Drainage

Drainage facilities for each parking area should be designed and constructed to contain stormwater run-off on the premises.

##### 5.414 Lighting

Drives and parking areas shall be illuminated in such a way that there shall be no glare for motorists, pedestrians or adjoining premises.

## 5.42 Additional Parking Area Standards for Areas with Ten (10) or More Parking Spaces

### 5.421 Screening

- a. For ten (10) or more vehicles, parking spaces shall be effectively screened with planting or fencing which adjoins or faces the side or rear lot. Screening may consist of decorative elements such as building wall extensions, plantings, berms or other means; must be maintained in good condition; and no advertising shall be placed thereon. The screening shall be designed so that vehicle sight distance shall not be affected at entrances, exits, or street intersections.
- b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, earthed berms, or wall or tight fence complemented by evergreen plantings.

### 5.422 Driveway Location

Any two driveways leading to or from the same street and from the same lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot.

## 5.43 Required Minimum Parking Spaces

- a. Off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, or the development of a new land use.
- b. All uses shall provide parking spaces adequate to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients, residents, and visitors to the premises as determined by the Planning Board.

## 5.44 Parking Guidelines

The following guidelines may be used by the Planning Board when determining adequate parking:

<b>USES</b>	<b>REQUIRED MINIMUM SPACES</b>
<b>RESIDENTIAL</b>	
Single-Family Dwelling	2 spaces per dwelling unit
Two-Family and Three-Family Dwelling	2 spaces per dwelling unit
Home Occupation	Parking spaces adequate to accommodate, under normal conditions, the vehicles of occupants, employees, members, customers, clients and visitors to the premises
Room Rental	1 space of each room rented in addition to dwelling unit requirements
Bed and Breakfast Home and Establishment	2 spaces, plus 1 additional space for each rooming unit
Congregate Housing for Elderly and Handicapped	1.5 spaces for each sleeping room
<b>BUSINESS, COMMERCIAL, AND INDUSTRIAL USES</b>	
Motor vehicle retail and service establishment, and other retail and service establishments involving usually extensive display areas, either indoor or outdoor in relation to customer traffic.	1 space per 800 square feet of gross floor space. In the case of outdoor display areas, one for each 1,000 square feet of lot area in such use.
Commercial, retail and personal service establishments	1 space per each 500 feet of gross floor space
Miscellaneous professional and business office, including banks, insurance, and real estate offices	1 space per each 300 feet of gross floor area
Veterinary Establishments	Parking spaces adequate to accommodate, under normal conditions, the vehicles of occupants, employees, customers, clients and visitors to the premises.
Filling Station	3 spaces/service bay, but not less than 1 space/100 square feet of gross floor areas
Restaurants	1 space for each 4 seats, 1 space additional for each



	2 employees on largest shift
Manufacturing or Industrial Establishment	1 space for each person employed on the largest shift
Funeral Establishment	10 spaces for each repose room
<b>GOVERNMENT, INSTITUTIONAL, AND PUBLIC SPACE</b>	
Places of assembly and recreation including libraries, museums, theaters, auditoriums, churches, government buildings and the like.	1 space for every 4 seats or, where benches are used, 1 space for each 8 linear feet of bench. Where no fixed seats are used (as in a museum), for each 80 sq. feet of public floor area, there shall be 1 parking space.
Day Care Nursery School	1 space per 2 employees
Elementary and Junior High School	1 space for each teacher and employee, including space for the gymnasium or the auditorium, whichever has the larger capacity
High School	1 space for each teacher and employee, plus 1 space per 4 students, including space for the gymnasium or the auditorium, whichever has the larger capacity
Hospital	1.5 spaces per bed at design capacity
Rest, convalescent and nursing homes	1 space for each 4 beds
Any use permitted by this By-law not interpreted to be covered by this schedule	Closest similar use as shall be determined by the Planning Board

Note 1: Gross floor area shall mean the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Note 2: When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction of one-half or more shall require one space.

#### 5.45 Off-Street Loading and Unloading Requirements

- a. Adequate off-street loading and unloading space with proper access from a street, highway, common service driveway, or alley shall be provided whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development.
- b. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development proposed. The following table indicates the number and size of spaces that generally satisfy the standard set forth in this subsection. However, the Planning Board may require more or less loading and unloading area if it deems such increases or decreases reasonably necessary to satisfy the foregoing standard.

Gross Leasable Area of Building	Number of Spaces*
1,000 – 19,999	1
20,000-79,999	2
80,000-127,999	3
128,000-191,999	4

\* Minimum dimensions of 12 x 55 ft. and overhead clearance of 14 ft. from street grade required.

- c. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking lot aisle.
- d. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

- e. Off-street loading and unloading areas shall be screened.

## 5.5 MANUFACTURED HOUSING

Manufactured housing within the Town of Chesterfield shall be permitted in accordance with the following requirements specified herein.

### 5.50 Purpose

It is the purpose and intent of these regulations to allow for the provision of housing at a lower cost than is possible through conventional means of construction by permitting the use of manufactured housing, as defined and limited herein, in all districts. Such use shall be subject to the requirements set forth herein in order to assure that such manufactured home shall be the functional equivalent of a home built by conventional construction methods, and to assure acceptable similarity in exterior appearance between such manufactured home and dwellings that have been or might be constructed under these and other lawful regulations on adjacent lots in the same districts.

### 5.51 Standards

Manufactured homes shall be permitted in all districts only if determined by the Building Inspector to be functionally equivalent to a home built by conventional construction methods and acceptably similar in exterior appearance to conventional housing construction. The Building Inspector shall make such determination for a manufactured home only if such home conforms to all of the following standards:

- a. The structure shall be affixed to a permanent foundation; the exterior walls of the structure shall rest upon said foundation.
- b. The structure shall meet the requirements and standards of all Massachusetts building codes in existence at the time of application, and shall be so certified by the manufacturer.
- c. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than 24 feet as measured across the narrowest portion.

- d. The pitch of the main roof shall be not less than one foot of the rise for each four feet of horizontal run. Minimum distance from eaves to ridge shall be 12 feet.
- e. Any materials that are generally acceptable for housing built on the site may be used for exterior finish or roofing on a manufactured home, provided, however, that reflection from such exterior shall not be greater than from siding coated with white gloss exterior enamel paint.
- f. No manufactured home shall have fenestration or any other features, or use colors or color combinations, that would be incompatible with other structures in a residential neighborhood in which most residences are site-built.

Said determination by the Building Inspector shall be made prior to, and shall be required as a necessary precondition for, approval of a certificate of occupancy.

## 5.6 ELDERLY AND HANDICAPPED CONGREGATE HOUSING

### 5.60 Elderly and Handicapped Congregate Housing by Special Permit

Congregate elderly or handicapped dwelling units shall be permitted in the Town Center District, Agricultural-Residential District I and Agricultural-Residential District II only upon issuance of a Special Permit with Site Plan Approval from the Planning Board, as specified in Section 7.2 and Section 7.4 of this By-law, and in accordance with the additional requirements specified herein.

### 5.61 Definitions

Congregate Elderly and Handicapped Housing - A structure or structures arranged or used for the residence of persons age fifty-five (55) or older, or for handicapped persons, as defined in Chapter 121B of the M.G.L., with some shared facilities and services.

### 5.62 Dimensional Requirements

All congregate dwelling units which shall be connected to on-site sewerage disposal and water systems shall conform to the following dimensional requirements:

Min. Lot Size Per Dwelling: Unit 40,000 sq. ft.

Max. No. of Dwelling Units Per Structure: 6

Min. Frontage Per Dwelling Unit: 100 ft.

Min. Front Yard Per Structure: 75 ft.

Min. Side Yard Per Structure: 75 ft.

Min. Rear Yard Per Structure: 50 ft.

Max. Height: 35 ft.

Max. No. of Stories: 2

Max. Lot coverage: 30%

For a structure with 6 dwelling units, a total of 240,000 square feet (approximately 5.51 acres) is necessary for the development. For a structure with 5 dwelling units, a total of 200,000 square feet (approximately 4.59 acres) is necessary for development. For a structure with 4 dwelling units, a total of 160,000 square feet (approximately 3.67 acres) is necessary for the development. For a structure with 3 dwelling units, a total of 120,000 square feet (approximately 2.75 acres) is necessary for the development.

## 5.63 Additional Requirements

The following standards shall be used as additional requirements in the special permit/site plan approval process for all congregate dwelling units:

### 5.631 Siting and Layout Requirements

- a. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible: (1) minimize use of wetlands, steep slopes, floodplains, hilltops; (2) minimize obstruction of scenic views from publicly accessible locations; (3) preserve unique natural or historical features; (4) minimize tree, vegetation and soil removal and grade changes; (5) maximize open space retention and (6) screen objectionable features from neighboring properties and roadways.

- b. More than one structure may be placed on a lot, but no residential structures shall be placed closer to each other than 50 feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.

#### 5.632 Design Requirements

- a. Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.

#### 5.633 Vehicular and Pedestrian Access Requirements

- a. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
- b. Congregate structures shall have access on roads having sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the site.
- c. Connecting walkways with tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Chesterfield Subdivision Regulations.

#### 5.634 Open Space and Buffer Area Requirements

- a. All land not devoted to dwellings, accessory uses, roads, or other development shall be permanently reserved as open space. All open space lands shall be permanently protected by the donation of a conservation restriction to the Town of Chesterfield duly recorded on

the property deed. A minimum of 50% of land reserved as open space shall be grassed or landscape land available for active and passive recreation and shall be grassed or landscaped by the developer/applicant.

- b. Congregate structures shall be separated from adjacent properties by buffer strips consisting of trees and/or fencing sufficient to minimize the visual and noise impacts of the development.

#### 5.635 Parking, Loading, and Lighting Requirements

- a. To the extent feasible, parking areas shall not be located within a required front yard and shall be screened from public ways and adjacent or abutting properties by building location, fencing, or planting. No individual parking area shall contain more than fourteen (14) spaces. Two parking spaces shall be provided for each dwelling unit. One additional space for visitor parking shall be provided for every ten resident parking spaces. No parking shall be allowed on interior streets.
- b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.
- c. No building shall be floodlit. Drives, parking areas, walkways, and entrance ways shall be illuminated only by shielded lights not higher than fifteen (15) feet.

#### 5.636 Water Supply and Sewerage Requirements

- a. The development shall be served with adequate water supply and waste disposal systems provided by the developer/applicant and shall not place excessive demands on municipal infrastructure.
- b. The following additional utility requirements shall apply to all elderly and handicapped congregate dwelling units which are served by on-site sewerage or water supply systems:

1. For dwellings to be served by on-site water and waste disposal systems, the applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health, and a plan illustrating the location of water supply wells with the special permit application. No septic system serving the project shall exceed 2,000 gallons per day sewage flow. More than one septic system may serve the site in order to meet this requirement.
2. Dwellings with on-site waste disposal systems shall be allowed only upon demonstration by the applicant that the groundwater quality of the boundaries of the lot will not fall below the standards established by the Massachusetts Department of Environmental Protection in "Drinking Water Standards of Massachusetts," or by the U.S. Environmental Protection Agency in "National Interim Primary Drinking Water Regulations," or where groundwater quality is already below these standards, upon determination that the activity will result in no further degradation. Where compliance is in doubt, the Planning Board may hire a Professional Engineer to analyze and certify groundwater quality impacts, and may charge the applicant for the cost of such analysis.

#### 5.637 Drainage Requirements

Drainage shall be designed so that run-off shall not be increased, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

#### 5.638 Utility Requirements

Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible at the developer's expense.

#### 5.64 Community Association

- 5.641 If an elderly and handicapped congregate development is owned by more than one person or converted to ownership of more than one person, a non-profit, incorporated community association shall be established, requiring membership



of each property owner in the development. The community association shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, recreational and thoroughfare facilities. A community association agreement of covenant shall be submitted with the special permit/site plan approval application guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board.

- 5.642 Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

## 5.7 VIEW OBSTRUCTION AND CORNER CLEARANCE

No wall or other structure shall be erected, and no hedge, tree or other obstruction exceeding a vertical height of 3 ½ feet from the road level shall be maintained on a lot which may cause danger to traffic on a public street by obscuring a view.

## 5.8 CLUSTER DEVELOPMENT

- 5.80 Cluster development shall be permitted in the AR-I district only upon issuance of a Special Permit from the Planning Board, as specified in section 7.2 of this By-law, and in accordance with the additional requirements specified herein.

### 5.81 General Description

A “cluster development” shall mean a subdivision to be developed as an entity by a landowner, or association of adjacent landowners, in which an alternative pattern of development may be permitted by which the following benefits are likely to be gained:

- a. Economical and efficient street, utility, and public facility installation, construction and maintenance.

- b. Efficient allocation, distribution and maintenance of common open space.
- c. Land use harmonious with natural features.
- d. Compatibility with the character of surrounding residential areas.

A one-family detached dwelling or other lawful accessory building may be constructed on certain lots in a "cluster development" (as hereinafter defined and limited) although such lots have less area and/or frontage and/or rear/side yard than normally required. For the purpose of this exception, a "cluster development" is a division of land into lots for use or available for use as building sites, where said lots are clustered together into one or more groups, separated from adjacent property, major streets, and other groups of lots within the same unified development by intervening "common land".

#### 5.82 Additional General Requirements

- a. The total area of land included within the development shall be 10 acres or more. This requirement may be modified as a special exception by the Planning Board.
- b. The Dimensional Regulations of Table 2 are complied with.
- c. The frontage of lots shall be on proposed minor or proposed secondary streets only.
- d. The total area of "common land" within the development shall equal or exceed the sum of the following:
  - 1. The area by which all single-family dwelling lots are reduced below the basic minimum lot area normally required in the zoning district.
  - 2. All "common land" hereunder shall be either dedicated to the Town of Chesterfield for recreational and/or conservation use in a location, size and shape approved by the Planning Board or held in corporate

ownership by the owners of lots within the development (or adjacent thereto, if admitted to the corporation). In the case of corporate ownership, the developer shall include in deed to the owners, beneficial rights in said "common land", and an easement shall be conveyed to the Town of Chesterfield against development of said land and the erection thereon of any structures other than for neighborhood non-commercial recreational use.

#### 5.83 Procedures

- a. Each application form when submitted for a special permit hereunder shall be accompanied by a plan, in triplicate, or the entire tract under consideration as a "cluster development", prepared in accordance with the specifications of the Subdivision Rules and Regulations of the Planning Board for Preliminary Subdivision plans (whether or not all of the development constitutes a "subdivision"). Within 10 days after receipt of the plan, the Planning Board may, in its discretion, investigate the proposed layout.
- b. Each application for a "cluster development" containing land zoned as conservation shall be accompanied by an additional set of plans. Within ten (10) days after receipt of the plan, the Planning Board shall transmit a copy thereof to the Conservation Commission, which said Commission may, in its discretion, investigate the proposed development and report in writing its recommendations to the Planning Board. The Special Permit Granting Authority (Planning Board) shall not take final action on such approval until it has received a report thereon from the Conservation Commission or until said Conservation Commission has allowed 45 days to elapse after receipt of such plan without submission of a report.
- c. A special permit for a "cluster development" issued hereunder by the Special Permit Granting Authority (Planning Board) is primarily an authorization for the use of lots which have less than the normal minimum area, rear yard, side yard and/or frontage. Subsequent approval by the Planning Board of such portions of the development as constitute a subdivision will be required as set forth in the Subdivision Control Law, including approval of the street and utility systems. Issuance by the Special Permit Granting Authority (Planning Board) of a Special Permit for a cluster development shall not, therefore, be deemed to either constitute subdivision approval under the Subdivision Control Law or the Subdivision Rules and Regulations or imply that such approval will be given.

#### 5.9 CREATIVE DEVELOPMENT/COMMON DRIVEWAY

#### 5.90 Creative Development Allowed

Creative Development in accordance with this By-law shall be allowed by Special Permit with Site Plan Approval in all zoning districts except the Floodplain, Westfield River Protection and Water Supply Protection Districts. Any person creating two or more lots available for residential use, whether or not by subdivision may apply for a special permit under this section. Creative Development shall be encouraged within the Town, and shall be the preferred method of development wherever the following purposes would be served.

#### 5.91 Purpose

The purpose of this By-law is to encourage creative and innovative development patterns which promote the following:

- a. Preservation or enhancement of rural town character, including scenic roads and town centers;
- b. Provision for alternative to strip residential development lining roadsides in the town, and encouragement of development out of view from the road;
- c. Protection of natural resources, historic or archeological structures or sites, or scenic views;
- d. Protection of open space of use as farmland, woodlot or forestry, recreation, or wildlife habitat;
- e. Provision of affordable housing, or housing for the elderly, handicapped, or others with special needs.

#### 5.92 Criteria for Evaluation

No special permit for Creative Development shall be issued unless the application therefor complies substantially with the following criteria:

- 5.921 All dwellings shall, to the greatest extent possible, be located out of view from any road unless valuable natural resources or farmland located to the rear of the property render building in view of the road more desirable.
- 5.922 The Creative Development shall create permanent open space. All land within the Creative Development not in use for building lots shall be placed in permanent open space.
- 5.923 The portion of a parcel placed in open space shall, to the greatest extent possible, be that which is most valuable or productive as a natural resource, wildlife habitat, farmland, or forestry land.
- 5.924 The Creative Development shall result in the creation of less curb cuts or vehicular access points to a public way than would reasonably be expected to occur under Standard ANR or Subdivision Development.
- 5.925 The Creative Development shall result in no net increase in density of dwellings on the parcel over the density which could reasonably be expected to occur on the parcel under Standard ANR or Subdivision Development.
- 5.926 Affordable Housing, Housing for the Elderly, Housing for Handicapped Persons, or other Housing for Persons with Special Needs, may be created in a Creative Development. The Special Permit Granting Authority may waive, in whole or in part, any of the above criteria where the applicant assures the creation of housing under this provision by means of covenants, easements, or such other method as may be deemed acceptable, and in such numbers and locations as may be deemed acceptable, by the Special Permit Granting Authority.

#### 5.93 Terms of Special Permit

Any Special Permit for Creative Development shall state clearly the terms by which the development shall meet the above-listed criteria. The Special Permit granted shall state the acreage and location of open space provided under Section 5.922; shall identify the natural resources or farmland to be protected under Section 5.923 and any specific measures to be taken for their protection; shall specify the number and location of dwellings under Section 5.921 and curb cuts under Section 5.924; and shall state the number of units, if any, to be constructed under Section 5.926, including their location

and the method by which their creation shall be assured, such as by covenant or easement.

#### 5.94 Definitions

- a. Creative Development shall mean a form of residential development allowed in all districts by special permit, whereby the options of common driveways and flexible area and frontage requirements are utilized to create permanent open space and avoid standard ANR and subdivision development.
- b. Common Driveway shall mean a vehicular access from a road to more than one but no more than six residential units, built in accordance with the common driveway standards stated below, where allowed by special permit.

#### 5.95 Common Driveways

- 5.951 Common Driveways Allowed – Common Driveways shall be allowed by Special Permit in accordance with the provisions of this section. Where applicable, under the Subdivision Regulations, common driveways may be allowed in place of a subdivision road.
- 5.952 Up to Six Lots Served – No more than six lots shall be served by a common driveway. The driveway shall lie entirely within the lots being served
- 5.953 Driveway Not to be Used as Frontage – Frontage along the length of any common driveway shall in no way be used to satisfy frontage requirements as specified in the Zoning By-law; furthermore, no common driveway shall be accepted as a public road; nor shall the town under any circumstances be held liable for construction, reconstruction, maintenance, or snow removal on any common driveway, unless by contract duly entered into by the town and all landowners served by the common driveway.
- 5.954 Driveway Right-of-Way – The landowners of all residences served by a common driveway shall be granted a Right-of-Way for the use of the common driveway. Such Right-of-Way shall be recorded in the Hampshire County Registry of Deeds, together with a statement of covenants as follows:

- a. The common driveway shall at no time be used to satisfy frontage requirements under the Zoning By-law; and
- b. The common driveway shall at no time become the responsibility or liability of the Town; and
- c. Each landowner served by the common driveway shall be liable and responsible in whole for the repair and maintenance of any portion of the common driveway to which they have the exclusive Right-of-Way (such as a spur serving solely one parcel); and
- d. Each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner holds a Right-of-Way.

#### 5.955 Common Driveway Standards

- a. Alignment and Dimensions
  - 1. The width of the right of way shall be 40 ft.
  - 2. The width of the common driveway surface shall be 18 ft.
  - 3. The common drive shall have 3 ft. gravel shoulders on each side.
  - 4. The slope or grade of a common drive shall in no place exceed 8% if unpaved; or 12% if paved.
  - 5. The common drive shall intersect a public way at an angle of not less than 80 degrees.
  - 6. The minimum curvature of a common driveway shall be sufficient for a fire engine to negotiate, generally no less than a radius of 50 ft.

7. There shall be a turnaround area at the resident end of the driveway; such turnaround shall accommodate safe and convenient turning by fire trucks and other emergency vehicles.
8. Other standards may be set based on site configurations, including requirements for drainage.
9. These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning By-law.

b. Construction

1. The common driveway shall be constructed of a minimum 15" gravel base with an oil and stone top layer of ½" consisting of three successive layers of ¾" crushed traprock stone, ½" crushed traprock stone and ¼" crushed traprock stone, with a crown sufficient for drainage.
2. Drainage shall be adequate to dispose of surface runoff. Culverts shall be installed if deemed necessary by the Planning Board.
3. These construction standards may be waived if, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning By-law.

c. Alignment and Dimensions

1. The common driveway, at its intersection with the street, must provide a leveling-off area with a slope no greater than 1% for the first 20 feet and a slope no greater than 5% for the next 30 feet.



- 5.956 Street Numbers and Identification – Each residence served by a common driveway shall be assigned one street number. All common driveways shall be clearly marked at the intersection of the driveway and the frontage road by a sign stating the house numbers, sufficiently readable from the road to serve the purpose of emergency identification. The fire chief, police chief, and/or highway superintendent may make more specific requirements for driveway marking. (Revised May 8, 1995)
- 5.957 Home offices, home occupations, bed and breakfasts, and other home business uses may be permitted in any dwelling served by a common driveway where the dwelling containing such home business has at least 200 foot frontage on an approved road, and is otherwise shown not to cause nuisance to adjoining landowners and other landowners sharing the common driveway.
- 5.958 There shall be a minimum of 1,000 feet between the entrances of any two common driveways onto any road.
- 5.959 Common Driveway design shall to the greatest extent possible minimize adverse impact to wetlands, farmland, or other natural resources; allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of number of access ways; and retention of existing vegetation and topography.

5.96 Creative Development Using Flexible Area and Frontage Standards

- 5.961 Creative Developments shall utilize the flexible area and frontage provisions of this By-law, in coordination with Section 5.95 regarding Common Driveways, for the purpose of minimizing the destruction of natural resources while maximizing availability of open space, farmland, and rural character.

5.962 Flexible Frontage in Creative Developments

- a. The frontage of the parcel from which the lots of a creative development are created (whether or not by subdivision) shall equal or exceed one half the total frontage length otherwise required for the sum of all lots created as shown in the Table of Creative Development Dimensional Requirements (Table 3). For example, to create a six-lot creative development in a zone where there is a 200 foot frontage

requirement, the parcel must have a minimum of 600 foot contiguous frontage along one road.

- b. Provided that all other requirements of this By-law are met, there shall be no frontage required for individual lots within a Creative development, with the exception described in Section 5.962(c) below.
- c. Any building lot which fronts on an existing public road shall have 200 foot frontage. This provision shall not apply to protected open space.

#### 5.963 Flexible Area in Creative Developments

- a. Individual lot areas may be as little as one acre, as shown in Table 3, provided that the average size for all lots created, including any land reserved as open space, shall be no smaller than 87,120 square feet, as shown in Table 3.
- b. The total number of building lots which can be created from any parcel shall be determined by subtracting the area of all wetlands (as defined by the Conservation Commission) and slopes of greater than 15% from the total parcel area, and dividing the resulting area by the required average lot size of 87,120 square feet, shown in Table 3.
- c. All land not used for building lots shall be placed in permanent open space in accordance with Section 5.99 of this By-law, but not less than 25% of the total land area.
- d. Estate or Flag Lots shall not be permitted in a Creative Development.

#### 5.964 Other Dimensional Requirements

- a. All lots within a Creative Development shall meet the front, rear and side yard requirements specified in Table 3.

#### 5.965 Site Design Standards

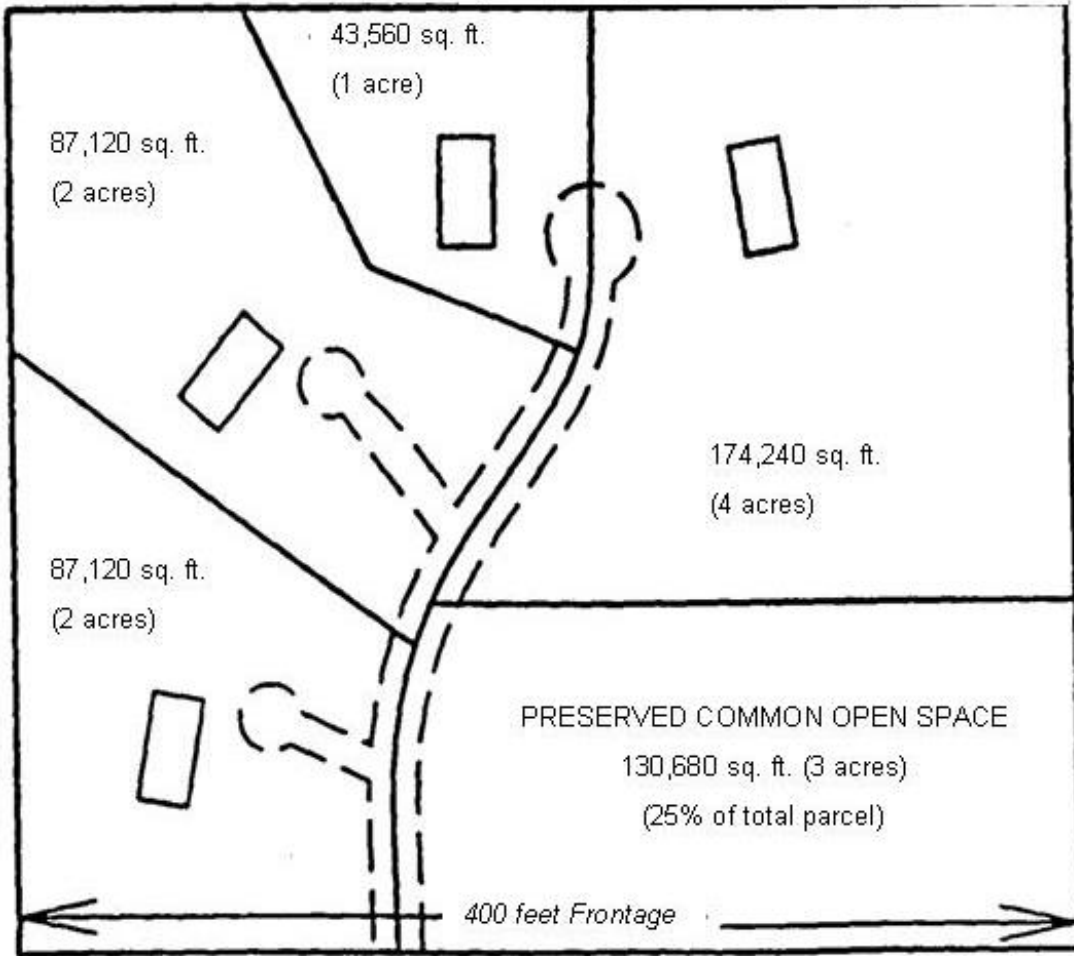
- a. Each structure shall be integrated into the existing landscape on the property so as to minimize its visual impact through use of vegetative and structural screening, landscaping, grading, and placement on or into the surface of the lot.

#### 5.966 Street Numbers and Identification

Each creative development shall be clearly marked at the intersection of the driveway and the public way by a sign stating the name of the development sufficiently readable from the road to serve the purpose of emergency identification. Each dwelling in the Creative Development shall be assigned a street number based upon the layout of the development. The fire chief, police chief and/or the highway superintendent may make more specific requirements for driveway marking. (Added May 8, 1995)

EXAMPLE OF CREATIVE DEVELOPMENT

(twelve acre parcel – 522,720 sq. ft.)



PUBLIC WAY

**Table 3**

**CREATIVE DEVELOPMENT DIMENSIONAL REQUIREMENTS**

<b>Development type</b>	<b>Lot Size**</b>	<b>Required Open Space</b>	<b>Total Parcel Frontage Required</b>	<b>Front Yard</b>	<b>Rear and Side Yard</b>
Standard Subdivision or ANR Development	87,120 sq. ft.	None	200 ft. per lot	50 ft.	20 ft.
Creative Development Using Flexible Area	43,560 sq. ft. minimum*, 87,120 sq. ft. average	All land not used for building lots; minimum 25% of the parcel	100 ft. per lot	25 ft. from a common driveway, 150 ft. from a public way	50 ft.
Creative Development Using Farmland Preservation Standards	43,560 sq. ft.	Minimum 50% of the parcel	100 ft. per lot	25 ft. from a common driveway, 150 ft. from a public way	50 ft.

\* Provided that average lot size requirements for Creative Development are met after wetlands and slopes greater than 15% have been excluded. Provided that open space requirements are met.

\*\* Per dwelling unit.

## 5.97 Creative Development Using Farmland Preservation Standards

5.971 Where a parcel for which a special permit under this By-law is sought is presently used for agriculture, the preferred method of residential development shall be as follows:

- a. All lots to be used for residential development shall be of the minimum area permitted under this By-law as shown in Table 3. All land not used for residential building lots shall be permanently preserved as open space in accordance with Section 5.99. At least one-half of the total parcel shall be so preserved.
- b. The total parcel frontage required shall be determined in accordance with the flexible frontage standards described in Section 5.962 and Table 3.
- c. All buildings, roads and driveways shall be located away from soils which are most suitable for agriculture (based on U.S. Soil Conservation Service classifications for prime farmland soils and soils of state and local importance) to the maximum practical extent. This provision does not apply to the location of on-site septic disposal facilities which must be placed in soils meeting the Massachusetts Environmental Code.
- d. All roads, driveways, drainage systems and utilities shall be laid out in a manner so as to have the least possible impact on agricultural lands and used.
- e. All buildings, homes, and structures shall be located a minimum of 100 feet from agricultural land and shall be separated from agricultural uses by a 75-foot wide buffer strip of trees and fencing sufficient to minimize conflicts between farming operations and residences.
- f. All Creative Developments under this section shall comply with the dimensional standards in Section 5.964 and site design standards in Section 5.965.

## 5.98 On-site Sewage Disposal

The following standards shall apply to developments requiring on-site sewage disposal:

- a. The applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the special permit application. Septic systems shall be placed in the development to maximize the distance between systems and may be placed within common areas or on individual lots.
- b. No Creative Development shall be approved unless the applicant can demonstrate to the satisfaction of the Planning Board that the potential for groundwater pollution is no greater from the proposed Creative Development than would be expected from a conventional subdivision with single-family houses on lots meeting the normal size requirements located on the same parcel. Where necessary, the Planning Board may hire a Professional Engineer to analyze and certify groundwater quality impacts and may charge the applicant for the cost of such analysis.

#### 5.99 Protection of Open Land

5.991 The following standards shall apply to open land to be protected as part of a Creative Development:

- a. All remaining open land shall be permanently protected by one of the following methods:
  - 1. A permanent conservation easement or deed restriction conveyed to the Town of Chesterfield with Town approval or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space. At a minimum, such an easement or restriction shall entail the use of management practices that ensure existing fields or pastures, if any, will be plowed or mowed at least once every year.
  - 2. Ownership in fee simple conveyed to the Town of Chesterfield with Town approval or to a non-profit farm trust, open space or conservation organization as a gift or for consideration.
  - 3. If the protected open space is farmland, farmland owners are not required to sell the part of their property which is to become permanent agricultural open space, provided that they

do convey the development rights of that open space in a conservation easement prohibiting future development of this property to Town of Chesterfield with Town approval or to a non-profit trust or conservation restriction.

- b. A non-profit, homeowner's association shall be established, requiring membership of each lot owner in the Creative Development. The association shall be responsible for the permanent maintenance of all community water systems, common open space, recreational and thoroughfare facilities. A homeowner's association agreement or covenant shall be submitted with the special permit application guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board.

## 6.0 EARTH REMOVAL

6.01 The removal for sale of sod, loam, clay, sand, gravel, except when incidental to and in connection with, the construction of a structure, or incidental to the grading and developing of contiguous property, shall be permitted only after issuance of a Special Permit by the Planning Board after a public hearing. The Board, in each instance, shall impose such conditions as will protect the neighborhood and Town against permanent and temporary hazards because of conditions which may be left after operations are completed or because of the methods of handling such materials at the site or of transporting such materials through the Town.

6.02 The Planning Board shall include the following as the minimum conditions to be complied with when issuing a permit:

- a. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 50 feet to such road.
- b. No excavation below the natural grade of any property boundary shall be permitted nearer than 25 feet to such boundary.
- c. No slope created by the removal operation shall be finished at a grade in excess of 1:1 ½, that is, one (1) foot vertical for each foot and one and one-half (1 ½) horizontal.



- d. Within the Agricultural-Residential II district (AR-II), excavation of earth products shall be prohibited in such cases where it is anticipated that such excavation will lower the level of the water table or will interfere with the natural flow patterns or reduce the flood storage capacity of a stream.
- e. No permit for earth products removal shall be issued if such removal will: (1) endanger the general public health or safety, or, (2) constitute a nuisance, or, (3) result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration, or, (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways.
- f. In approving the issuance of a permit, the Board shall impose reasonable requirements which shall constitute a part of the permit and which may include: grading, seeding and planting, fencing necessary for public safety, methods of removal, location and use to structures, hours of operation, routes of transportation of materials removed, control of drainage and disposition of waste incident to the operation.
- g. The Planning Board may require suitable bond or other security adequate to assure compliance with the provisions of this section.

#### 6.02 Additional Requirements

No Special Permit shall be required for the following:

- a. Moving earth products within the limits of an individual property or series of contiguous properties of land in single ownership.
- b. Removal of earth products from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of same.
- c. The moving and removal of earth products for any municipal purpose by, or on behalf of, any department of the Town of Chesterfield.

#### 6.03 Contents

The application to the Planning Board for a Special Permit for the removal of earth products shall include the following specific information:

- a. The location of the proposed excavation.
- b. The legal name and address of the owner of the property.
- c. The legal name and address of the petitioner.
- d. Names and addresses of all abutting property owners including those on the opposite side of any streets.
- e. A plan of the land involved showing all man-made features, property lines, and existing topography by ten-foot contours, plus proposed contours at ten-foot intervals showing the finish grade of the site after the completion of the proposed excavation project.
- f. The estimated quantity of material to be removed.

## 6.1 ACCESSORY APARTMENTS

### 6.1.1 General Description

An accessory apartment is a complete, separate, housekeeping unit. It can be incorporated into, or be an addition to, a dwelling, residential accessory building, commercial building, or a commercial accessory building.

### 6.1.2 Purpose

The purpose of the accessory apartment by-law is to:

- 1. Add rental units to existing housing supply to meet the needs of smaller households.
- 2. Create a greater range of housing accommodations.
- 3. Encourage a more economic and energy-efficient use of the town's housing and land supply, while maintaining the appearance and character of the town.

### 6.1.3 Accessory Apartment Standards

Accessory apartments within a dwelling shall be allowed by right in the following zoning districts: Town Center, Agricultural Residential I and Agricultural Residential II. A Special Permit is required for an accessory apartment in the following overlay districts: Floodplain, Westfield River Protection District, and Water Supply Protection District. A Special Permit is required in all districts for an accessory apartment in a commercial building or in an accessory building to a dwelling or a commercial building.

1. The accessory apartment shall be a complete, separate, housekeeping unit, including its own kitchen and bath, that functions separately from the original unit, having at least one of its means of egress separate from that of the original building.
2. Only one accessory apartment with a maximum of two bedrooms shall be allowed on a lot.
3. At least two additional off-street parking spaces shall be provided for the accessory apartment. Parking spaces shall be located on the side or rear of the building to the extent feasible.
4. An accessory apartment shall be designed so that its appearance maintains the character of the original building. Any new entrances shall be located on the side or rear of the building to the extent feasible.
5. An accessory apartment shall comprise a subordinate part of either the dwelling or the commercial building. The apartment shall not be more than 33% of the existing total residential living space (excluding unfinished attic and basement, garage, porch, patio) or of the square footage of the existing commercial work space, or 800 square feet, whichever is less. In the case of an existing small dwelling or commercial building, an apartment not to exceed 300 square feet may be permitted, even though it exceeds the 33% limitation.
6. The construction of any accessory apartment must be in conformity with the Board of Health Rules and Regulations and the State Building Code requirements.

6.1.4 Accessory Apartments in Existence Before the Adoption of an Accessory Apartment Bylaw

Accessory apartments which were illegal under any prior Bylaw shall be considered in violation of this Bylaw until said apartment(s) meet the above criteria and are approved by the Building Inspector and Board of Health.

6.1.5 Administration and Enforcement

It shall be the duty of the Zoning Enforcement Officer to administer and enforce the provisions of this Bylaw. No building shall be constructed, or changed in use or configuration, until the Building Inspector has issued a permit. No accessory apartment shall be occupied until a certificate of occupancy has been issued by the Building Inspector.

#### 6.16 Conflict with Other Laws

The provisions of this Bylaw shall be considered supplemental to existing Zoning Bylaws. To the extent that a conflict exists between this Bylaw and others, the more restrictive Bylaw, or provisions therein, shall apply.

#### 6.1.7 Severability

If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected thereby. The invalidity of a section or sections or parts of any section or sections of this Bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw. (revised June 14, 2007)

### 6.2 SMALL WIND ENERGY SYSTEM

#### 6.2.1 Purpose

The purpose of this By-law is to allow Chesterfield residents an opportunity to install and operate a small wind energy turbine as an alternative energy source.

This By-law provides standards for the placement, monitoring, and removal of wind facilities. It addresses public safety and impacts on scenic, natural and historic resources of the town. This By-law will allow for wind energy systems to be built above the current limitation of 35 ft. height of structures.

Residential wind turbines shall be permitted in all districts except Town Center, only upon issuance of a Special Permit from the Planning Board as specified in section 7.2 of the Zoning By-law, and in accordance with the additional requirements specified herein.

##### 6.2.1.1 Applicability

This By-law applies to small wind systems no greater than 60 kilowatts of rated nameplate capacity proposed to be constructed after the effective date of this section. This By-law is not intended to cover roof-mounted, building-integrated, building-mounted or architectural wind systems; this By-law only covers stand-alone tower, or pole mounted systems over 35 ft.

#### 6.2.2 Definitions

Small Wind Energy System (SWES): All equipment, machinery and structures utilized in connection with the conversion of wind to electricity for residential use or combined residence and home business use. This includes, but is not limited to, storage, electrical

collection and supply equipment, transformers, and one or more wind turbines, which have a rated nameplate capacity of 60 kW or less.

**Rated Nameplate Capacity:** The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

**Height:** The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

**Special Permit Granting Authority:** The special permit granting authority for permission to install a SWES shall be the Planning Board utilizing the process outlined in the Town Zoning By-law section 7.2.

**Wind turbine:** device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

**Meteorological tower (Met tower):** a tower having equipment to test wind speeds; generally used to ascertain a site’s potential for wind energy.

### 6.2.3 General Requirements

#### 6.2.3.1 Building Inspector-Issued Permit

After the applicant has obtained a Special Permit from the Planning Board he/she must apply for a Building Permit from the Building Inspector. The construction and operation of all proposed small wind energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.

#### 6.2.3.2 Utility Notification

No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an

interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

#### 6.2.3.3 Temporary Meteorological Towers (Met Towers)

Met towers shall be permitted under the same standards as a small wind system, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of 3 years after which an extension may be granted.

### 6.2.4 General Siting Standards

#### 6.2.4.1 Height

Site topography, average wind speed, vegetation, and locations of structures all have an effect on the needed tower height to generate energy for residential use. The maximum height allowed under this By-law shall be 130 feet.

#### 6.2.4.2 Zoning Districts

Non-commercial ground based small wind energy systems shall not be allowed in the Town Center district. They shall be allowed as an accessory use in Agricultural Residential I, Agricultural Residential II and in the following overlay districts: Floodplain, Westfield River Protection District and Water Supply Protection District. The lot on which the SWES is located must meet the minimum lot size zoning requirements.

#### 6.2.4.3 Set backs for ground-based small wind energy systems

6.2.4.3.1 No part of the SWES support structure, including guy wire anchors, may extend closer to the property boundaries than setbacks stated in the Chesterfield Zoning By-Law.

6.2.4.3.2 Wind turbines shall be set back a distance equal to the total height of the wind turbine from all residential structures,

overhead public utility lines, public roads or right of ways and lot lines.

- 6.2.4.3.3 Set back waiver: A setback from a lot line shall not be required when the abutting owner(s) grants an easement to the owner of the SWES. In a case where the applicant is also the owner of the abutting property, the setback shall be measured from the furthest lot line of the abutting property. The Special Permit granting authority may reduce the minimum set back distance, if written permission is granted by the owner.

## 6.2.5 Design Standards

### 6.2.5.1 Appearance, Color and Finish

The wind generator and tower shall have a non-reflective finish of a neutral color.

### 6.2.5.2 Lighting and Signage

#### 6.2.5.2.1 Lighting

Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the small wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

#### 6.2.5.2.2 Signage and Advertising

Signs and advertising shall be restricted to reasonable identification of the manufacturer or operator of the small wind energy facility and shall conform to Signs, section 5.1 in Chesterfield Zoning By-law.

## 6.2.6 Safety, Aesthetic and Environmental Standards

#### 6.2.6.1 Unauthorized Access

Climbing access to the tower shall be limited by one of the following methods: by placing climbing apparatus no lower than eight feet from the ground, or by placing shielding over climbing apparatus or access, or by installation of a fence, including the tower, base, and footings.

#### 6.2.6.2 Structural Safety

An engineering analysis of the tower showing compliance with the State Building Code and certified by a licensed professional engineer shall be submitted, or a manufacturers warrantee or analysis shall be supplied.

#### 6.2.6.3 Noise

Except during short-term events such as high windstorms or utility outages, the ambient noise from the proposed wind turbine shall not exceed 60 dBA, as measured from the nearest property line.

#### 6.2.6.4 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and is otherwise prescribed by the applicable laws, regulations, and ordinances.

### 6.2.7 Monitoring and Maintenance

#### 6.2.7.1 System Conditions

The applicant shall maintain the small wind energy system in good condition. Maintenance shall include, but not be limited to, painting as necessary, structural repairs, and security measures.



## 6.2.8 Abandonment or Decommissioning

### 6.2.8.1 Removal Requirements

Any small wind energy system which has reached the end of its useful life or has been abandoned shall be removed within 1 year.

6.2.8.1.1 A small wind energy system shall be considered abandoned when it fails to operate for one year. Upon a Notice of Abandonment issued by the Code Enforcement Officer, the small wind energy system owner will have 60 days to provide sufficient evidence that the system has not been abandoned.

6.2.8.1.2 The owner shall have one year to remove all above ground SWES apparatus. After that time, or if deemed unsafe, the Town shall have the authority to enter the owner's property and remove the system at the owner's expense.

## 6.2.9 Permit Process, Requirements and Enforcement

### 6.2.9.1.1 Documents

The Special Permit application shall be submitted in accordance with Section 7.22 and shall have the following documentation:

- a. A site plan showing:
  - 1. Property lines and physical dimensions of the subject property, within a distance equal to 2 times the total height from the tower location
  - 2. Location, dimensions, and types of existing major structures on the property, and the location of well and septic system

3. Location of the proposed wind system tower, foundations, guy anchors, and associated equipment
  4. The right-of-way of any public road that is contiguous with the property
  5. Any overhead public utility lines
  6. The location and owners' names of all adjacent properties
- b. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)
  - c. Any available manufacturers warranties, specifications or engineers drawings that apply to the tower structure, installation, system machinery or related equipment.

#### 6.2.9.1.2 Fees

The application for a Special Permit for a small wind energy system must be accompanied by the fee required by the Planning Board.

#### 6.2.9.1.3 Expiration

A Special Permit issued pursuant to this By-law shall expire if:

- a. The small wind energy system is not installed and functioning within 2 years from the date the Special Permit is issued; or,
- b. The small wind energy system is abandoned.

#### 6.2.9.2 Violations

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this By-law or with any condition contained in a Special Permit issued pursuant to this By-law. Small wind energy systems installed prior to the adoption of this By-law shall be grandfathered.

#### 6.2.9.3 Administration and Enforcement

6.2.9.3.1 The Planning Board shall be the Special Permit granting authority.

6.2.9.3.2 The Zoning Enforcement Officer is charged with enforcing all zoning by-laws as outlined in Section 7. All Special Permits issued under this By-law shall state that any property, for which a Special Permit has been issued under this By-law, may be entered to conduct an inspection to determine whether the conditions stated in the permit have been met.

#### 6.2.9.4 Penalties

Any person who fails to comply with any provision of this By-law shall be subject to enforcement and penalties as allowed by applicable law.

#### 6.2.10 Severability

If any provision of this By-law is held invalid by a court of competent jurisdiction, the remainder of the By-law shall not be affected thereby. The invalidity of any section or sections or parts of any sections of this By-law shall not affect the validity of the remainder of the Town's Zoning By-law (Added May 12, 2008).

### 6.3 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS (LSGMSPI)

#### 6.3.1 Purpose

The purpose of this bylaw is to promote the creation of large-scale ground-mounted solar photovoltaic installations with a minimum nameplate capacity of 250kW DC (hereinafter abbreviated as LSGMSPI) by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of LSGMSPI.

#### 6.3.2 Applicability

This section applies to LSGMSPI proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

#### 6.3.3 Definitions

**As-of-Right Siting:** As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right siting is subject to site plan review to determine conformance with local zoning ordinances or bylaws.

**Designated Location:** The locations designated in this By-law, in accordance with Massachusetts General Laws Chapter 40A, section 5, where LSGMSPI may be sited as-of right.

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

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**Prime Farmland:** Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service Soil Survey classification.

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

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

Wetlands: as defined in the Wetlands Protection Act, 310 CMR 10.02 (1) (a)-(f).

#### 6.3.4 General Requirements for all LSGMSPI

The following requirements are common to all LSGMSPI to be sited in designated locations.

##### 6.3.4.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all LSGMSPI shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a LSGMSPI shall be constructed in accordance with the State Building Code.

##### 6.3.4.2 Building Permit and Building Inspection

No LSGMSPI shall be constructed, installed, or modified as provided in this section without first obtaining a building permit.

##### 6.3.4.3 Fees

The application for a Site Plan Review for a LSGMSPI must be accompanied by the fee as determined by the Planning Board.

##### 6.3.4.4 Site Plan Review

LSGMSPIs shall undergo Site Plan Review (see Section 7.4) by the Planning Board prior to construction, installation or modification as provided in this section.

##### 6.3.4.5 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

##### 6.3.4.6 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- a. A site plan showing:

1. Property lines and physical features, including roads, lot areas, setbacks, open space, parking, and structure coverage for the project site;
  2. Proposed changes to the landscape of the site, grading, drainage, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  3. Blueprints or drawings of the LSGMSPI and appurtenant structures signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system, lighting, signage, utility connections, transformers, and any potential shading from nearby structures or natural features or vegetation;
  4. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  5. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;
  6. Name, address, license verification, and contact information for proposed system installer;
  7. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  8. The name, contact information and signature of any agents representing the project proponent;
  9. The delineation of any wetlands on or near the specific portion of the parcel proposed for the LSGMSPI.
- b. Documentation of actual or prospective access and control of the project site (see also Section 6.3.4.7);
  - c. An operation and maintenance plan (see also Section 6.3.4.8);
  - d. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);

- e. Natural Resources Conservation Service soil survey classification map(s) for the proposed site;
- f. Proof of liability insurance; and
- g. Description of financial surety that satisfies Section 6.3.4.14.3.

The Planning Board may waive documentary requirements as it deems appropriate.

#### 6.3.4.7 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed LSGMSPI.

#### 6.3.4.8 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the LSGMSPI, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

#### 6.3.4.9 Utility Notification

No LSGMSPI shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator.

#### 6.3.4.10 Dimension and Density Requirements

##### 6.3.4.10.1 Setbacks

For LSGMSPIs, front, side and rear setbacks shall be as follows:

- a. Front yard: The front yard depth shall be at least 50 feet.
- b. Side yard. Each side yard shall have a depth at least 50 feet.
- c. Rear yard. The rear yard depth shall be at least 50 feet.
- d. Access roads or driveways shall be set back at least 25 feet from side and rear lot lines.

#### 6.3.4.10.2 Appurtenant Structures

All appurtenant structures to LSGMSPIs shall be subject to the Chesterfield Zoning By-laws. Whenever reasonable, structures should be shielded from view by vegetation and/or joined or clustered to avoid adverse visual impacts. Vegetation shall be of varieties native to New England. Said vegetative screening shall reach a mature form to effectively screen the installation within five years of installation. Planting of the vegetative screening shall be completed prior to final approval of the photovoltaic installation by the Building Inspector.

#### 6.3.4.10.3 Size

The area covered by the LSGMSPI shall not exceed five acres, in aggregate, of all arrays, structures and buildings and shall not include wetlands.

#### 6.3.4.11 Design Standards

##### 6.3.4.11.1 Lighting

Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

##### 6.3.4.11.2 Signage

Signs on LSGMSPIs shall comply with the Chesterfield sign By-law (Section 5.1). A sign consistent with the Chesterfield sign By-law shall be required to identify the owner and provide a 24-hour emergency contact phone number.

LSGMSPIs shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

##### 6.3.4.11.3 Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the



site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

#### 6.3.4.11.4 Height

Other than accessory buildings and appurtenant structures, no component of a LSGMSPI shall exceed 15 feet in height.

### 6.3.4.12 Safety and Environmental Standards

#### 6.3.4.12.1 Emergency Services

The LSGMSPI owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked and approved by the Town fire chief. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

#### 6.3.4.12.2 Land Clearing, Soil Erosion, Drainage and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LSGMSPI or otherwise prescribed by applicable laws, regulations, and bylaws. LSGMSPIs shall be installed on water permeable surfaces as approved by the Planning Board during site plan review.

#### 6.3.4.12.3 Landscape Maintenance

When possible, a diversity of plant species shall be used, with a preference for species native to New England. Use of plants identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited. Herbicides shall only be applied by properly licensed personnel, as enforced by the Massachusetts Department of Agricultural Resources.

#### 6.3.4.12.4 Sound Levels

The sound levels under normal operating conditions, measured at the boundary of the lot on which the installation is sited, shall not be more than 10 decibels

greater than would otherwise exist in the absence of such a facility.

#### 6.3.4.12.5 Location

No LSGMSPI shall be installed on Prime Farmland. Maps depicting the location of such soils, published by the Natural Resources Conservation Service, U.S. Department of Agriculture, as "Soil Survey of Hampden and Hampshire Counties, Western Part, Massachusetts," are on file with the Town Clerk.

### 6.3.4.13 Monitoring and Maintenance

#### 6.3.4.13.1 Solar Photovoltaic Installation Conditions

The LSGMSPI owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Town Fire Chief and Police Chief. The owner or operator shall be responsible for the cost of maintaining the LSGMSPI and any access road(s), unless accepted as a public way.

#### 6.3.4.13.2 Modifications

All material modifications to a LSGMSPI made after issuance of the required building permit shall require approval by the Planning Board.

### 6.3.4.14 Abandonment or Decommissioning

#### 6.3.4.14.1 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the LSGMSPI shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the LSGMSPI fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned LSGMSPI. As a condition of site plan approval, a property owner shall agree to allow the Town entry to remove an abandoned or

decommissioned installation. The cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

#### 6.3.4.14.2 Removal Requirements

Any LSGMSPI which has reached the end of its useful life or has been discontinued or has been abandoned consistent with Section 6.3.4.14.1 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

#### 6.3.4.14.3 Financial Surety

Proponents of LSGMSPI projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, during site plan review stage of application. The

amount shall include a mechanism for calculating increased removal costs due to inflation.

#### 6.3.4.15 Independent Engineer

Upon request from the Planning Board, the proponent shall pay for a third-party Independent Engineer to review the site plan.

## **6.4 ADULT USE Marijuana Establishments (ME)**

### **6.4.1 Purpose**

It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of recreational and medical marijuana in accordance with state law and regulations (935 CMR 500.000 et.seq.) and (935 CMR 501.000 et. seq.). This bylaw contains regulations regarding the location and site development of MEs in order to maintain property values, protect and preserve the quality of residential neighborhoods, and protect the safety of children and young people in the vicinity of schools, public parks and other areas where children regularly congregate.

Marijuana Establishments are subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 105 CMR 725.000.

### **6.4.2 Applicability**

Nothing in this section shall be construed to supersede any state laws governing the sale and distribution of marijuana. This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

### **6.4.3 Definitions**

Where the definitions in this section differ from 935 CMR 500, the State definitions will control in the event of a conflict.

Cannabis Cultivation – The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, or other entity licensed by the Commission for cannabis cultivation.

Cannabis or Marijuana or Marihuana – All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

- (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- (b) hemp; or
- (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Cannabis or Marijuana Products – Cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Ceases to Operate – Marijuana Establishment closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen; the exception being growing operations that are idle during certain seasons as defined in their Special Permit application. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Commission – The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55,

M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement – An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Marijuana Establishment and a municipality setting forth additional conditions for the operation of a Marijuana Establishment, including stipulations of responsibility between the parties. The Select Board may limit the number of Community Host Agreements that are entered into. Note this term is not defined in 935 CMR 500.

Craft Marijuana Cooperative – A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and

brand cannabis or marijuana products for transport to Marijuana Establishments, but not to consumers and is subject to the cultivation tier and other limits of this bylaw.

Cultivation Tiers: Levels of cannabis canopy allowed as defined in 935 CMR 500 and as further modified in this bylaw.

Delivery Endorsement – Means authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to consumers.

Hemp – The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Host Community – A municipality in which a Marijuana Establishment is located or in which an Applicant has proposed locating an establishment.

Licensee – A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Marijuana Courier – Means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from a Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): Control Limitations.

Marijuana Cultivator – An entity licensed to cultivate, process and package marijuana, either indoor or outdoor, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Cultivator, Indoor – An indoor cultivator means one that cultivates the growth of marijuana plants within a building primarily through use of artificial light. An indoor marijuana cultivator shall be entirely enclosed in a building and activity therein shall not be visible to a public way or adjacent properties. All indoor cultivators shall use artificial ventilation and filtering equipment to minimize the impact of odors on surrounding properties. Growing in greenhouses with solid walls and a roof is considered indoor growing.

Marijuana Cultivator, Outdoor – An outdoor cultivator means one that cultivates the growth of cannabis without the use of artificial lighting in the canopy area at any point in time. Artificial lighting used indoors is permissible only to maintain immature or vegetative mother plants. This aspect of outdoor growing must occur in a fully enclosed building without light being emitted if artificial lighting is used and should address the other appropriate design standards of this section related to indoor growing. Growing using hoop houses or other temporary structures is considered outdoor growing and must follow the requirements for outdoor growing.

Marijuana Delivery Operator – Means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license. A Delivery Operator is an additional license type under G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): Control Limitations.

Marijuana Establishment – A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Courier, Marijuana Delivery Operator, Marijuana Microbusiness, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana Establishments permitted in accordance with these regulations are not considered subject to any agricultural exemptions under zoning.

Marijuana Independent Testing Laboratory – A laboratory that is licensed by the Commission and is:

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- (b) independent financially from any Medical Marijuana Treatment Center (RMD),  
Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Microbusiness – A colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Marijuana Process or Processing – To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

Marijuana Product Manufacturer – An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility – An entity licensed to engage in research projects by the Commission.

Marijuana Retailer – An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers.

Marijuana Transporter – An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter in conformance with 935 CMR 500.

Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD) - A use operated by an entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. An RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

Propagation – The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License – A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.



#### **6.4.2 Additional Requirements and Conditions**

In addition to the standard requirements for uses permitted by-right or requiring a Special Permit, as established in Sections 7.2 and 7.4, the following shall also apply to all Marijuana Establishments:

##### **6.4.2.1 Uses:**

- a. Marijuana Establishments of all types are required to submit to the Planning Board an application for a Special Permit with Site Plan approval that contains all the required information of a standard Special Permit and the additional requirements of this Section.
- b. Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
- c. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- d. The hours of operation shall be set by the Planning Board consistent with the purposes of this bylaw.
- e. No Marijuana Establishment may commence operation prior to its receipt of all required permits and approvals including, but not limited, to its Final License from the Cannabis Control Commission.
- f. The number of adult use marijuana retail establishments permitted shall not exceed 20% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number. If the number is zero, one (1) adult use retail Marijuana Establishment is permitted.
- g. Delivery Operator: Any application for a Special Permit under this Section shall include the anticipated number of vehicles operating from the location, number of employees for all operations including fulfillment, administration, and vehicle drivers shall be identified and may be conditioned as such.

h. Use Limitations:

1. The number of Special Permits issued for each type of ME other than retail establishments addressed by Section 6.4.4.1.f. shall not exceed two indoor cultivator licenses (Marijuana Cultivator, Indoor; Craft Marijuana Cooperative, or Marijuana Microbusiness) and two outdoor cultivator licenses (Marijuana Cultivator, Outdoor; Craft Marijuana Cooperative, or Marijuana Microbusiness)
2. The number of Special Permits issued for each type of ME other than retail establishments addressed by Section 6.4.4.1.f. shall not exceed one of each of the following types:
  1. Marijuana Product Manufacturer
  2. Marijuana Independent Testing Laboratory
  3. Marijuana Research Facility
  4. Marijuana Transporter
  5. Marijuana Courier
  6. Marijuana Delivery Operator
  7. Marijuana Medical Treatment Center

- i. License Limitations: Each licensee (except a craft marijuana cooperative which is limited to one license) may have up to three licenses, as allowed by state law, but the total canopy coverage (growing space) authorized by the licenses within the Town of Chesterfield added together may not exceed Tier 5 or 40,000 square feet of canopy for outdoor growing and Tier 3 or 20,000 square feet of canopy for indoor growing.

#### **6.4.2.2 Physical Requirements**

- a. All aspects of any Marijuana Establishment, except for the transportation of product or materials and outdoor cultivation growing beds, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the buildings.

Marijuana Establishments may not be permitted to be located in or operated from a trailer, storage freight container, motor vehicle or other similar type potentially movable or transitory enclosure, except as permitted for delivery operator and courier licensees in accordance with 935 CMR 500.

- b. Marijuana Establishments shall abide by the following development standards: where these standards conflict with those in Section 7.2, the provisions herein shall apply.

1. Lot area requirement: All outdoor marijuana cultivators shall be located on ten (10) or more acres of land. All indoor marijuana cultivators shall be located on five (5) or more acres of land.
2. Facility setback requirements: Unless the Planning Board approves a Special Permit so authorizing narrower distances so doing will result in increased buffering elsewhere.
  - a. No part of any Marijuana Establishment shall be located less than 300 feet from the closest point of any property line of properties not owned by the Applicant.
  - b. No part of any physical structure or growing area shall be located less than 500 feet from an existing off-site residential structure.
3. Screening: Cannabis plants, products,

and paraphernalia shall not be visible from the outside and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way or adjacent property shall also provide a vegetative screen and the Planning Board shall consider the surrounding landscape to determine if an artificial screen would be out of character with the neighborhood. All secure area fencing as required by the Massachusetts Cannabis Control Commission shall be supplemented with site appropriate native vegetation. Vegetation shall be designed to create 90% opacity and equal to the height of fencing within three years of planting. Any razor or barbed wire on required security fencing shall not be visible from the public way or abutting property.

4.                   Lighting: All MEs shall meet the security requirements of 935 CMR 500 without the use of visible outdoor lighting between dusk and dawn. Outdoor lighting on-site shall be limited to that necessary to provide safe egress from buildings and parking as required by the Massachusetts State Building Code and/or the Cannabis Control Commission, and shall be compliant with the site plan criteria as established in Section 7.2. The lighting shall be shielded and down-facing utilizing full cut-off optics to reduce light spill-over in conformance with dark sky principles. If an application is proposing greenhouses, lighting at night, whether originating from the interior or exterior of the structure, shall not result in any illumination or glow visible on the outside of the structure.
5.                   Odor dispersal plan: All Marijuana Cultivators, growing outdoors shall utilize best available technology and design methods which may include vegetative buffers or additional setbacks to mitigate potential cannabis plant odors. All Marijuana Cultivators growing indoors shall  
  
use the best available technology for reducing odor dispersion.
6. Ground and surface water protections: Applicants shall

demonstrate protection of ground and surface water sources and the methods they are employing to minimize water usage and ensure safe disposal. Marijuana Establishments are required to prepare and submit a plan for water use, management, and efficiency. Applicants shall provide expected water usage amounts and will address whether such amounts may impact nearby public or private drinking water supplies or other water resources in the area. No contamination of soils is permitted.

7. Waste water disposal: Applicants shall provide information on estimated quantities of wastewater to be disposed of,  
  
the proposed method of disposal, and any potential contaminants or hazardous materials that may be contained in the wastewater.
8. Indoor ventilation: All indoor marijuana cultivation operations shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere.
9. Signs: The following sign shall be placed on the exterior of  
  
the Marijuana Establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text at least two inches in height. All other signs must comply with all other applicable sign regulations in this Zoning Bylaw and 935 CMR 500.
10. Noise restrictions: During operational hours as determined by the Planning Board as part of the Special Permit approval, noise levels attributable to the ME should be managed and reduced where possible especially near property lines where residential or other noise sensitive uses are adjacent. During non-operational hours' noise at the property lines adjacent to residential or other noise sensitive uses shall not exceed 10 decibels (averaged) during nighttime hours above the sustained background noise levels.

11. Energy Efficiency: Marijuana Establishments are required to prepare and submit an energy efficiency plan. The use of renewable energy sources such as on-site solar should be considered.
12. Hazardous materials: Submission of a complete list all inorganic and organic chemicals, pesticides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

Depending on the quantities proposed to be used or stored on site, the Planning Board may request that a Hazardous Materials Management Plan be prepared to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism. The plan should include spill containment and clean-up procedures, and provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

- c. No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.
- d. No Marijuana Establishment is permitted to utilize or provide a drive-through service.
- e. Marijuana Establishments are encouraged to utilize existing buildings where possible.

- **Location**

- a) Marijuana Establishments may be located only within the Town Center, Agricultural-Residential (AR-I) or Agricultural-Residential (AR-II) Zoning Districts with an approved Special Permit with Site Plan approval and as shown in Table 1, Schedule of Use Regulations.

## TABLE 1 SCHEDULE OF USE REGULATIONS

Definitions of the terms used in this table can be found in Section 6.4.3.

- b) No Marijuana Establishment shall be located on a parcel which is within one-half mile of a parcel occupied by a pre-existing public or private school (existing at the time the Applicant's license application was received by the Cannabis Control Commission) providing education in kindergarten or any of grades 1-12 or within 500 feet of any public park or public recreation area. The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet, in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance.
- c) When a Marijuana Establishment applies for a Special Permit application and its proposed location is within one-quarter mile, measured in a straight line from property line to property line, of an existing Marijuana Establishment, the new application must consider the potential cumulative impacts of transportation, odor, noise, water use, groundwater impacts or any other design standard where the Planning Board must find conformance with this Section.

#### **6.4.4.4 Reporting Requirements**

(a) .Prior to the commencement of the operation or services provided by a Marijuana Establishment, it shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Planning Board with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

(b) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Planning Board shall be notified in writing by the Marijuana Establishment facility owner/operator/ manager:

i. A minimum of 30 days prior to any change in ownership or management of that establishment.

ii.A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.

(c) Permitted Marijuana Establishments shall file an annual written report to, and appear before, the Planning Board no later than one year from the initial Special Permit approval or no later than one year from their last appearance to demonstrate continued compliance with the conditions of the Special Permit.

(d) The owner or manager of a Marijuana Establishment is required to respond by phone or email within twenty-four hours of contact by a town official concerning their Marijuana Establishment at the phone number or email address provided to the town as the contact for the business.



(e) All reports defined as public records sent to the state in any capacity by ME Special Permit holders shall be sent to the Select Board for distribution to appropriate town boards and commissions.

**6.4.4.5 Issuance, Transfer, or Discontinuance of Use**

- a) Special Permits shall be issued to the Marijuana
- b) Special Permits shall be issued for a specific type of Marijuana Establishment on a specific site or parcel.
- c. Special Permits shall be non-transferable to either another Marijuana Establishment owner or another site or parcel.
- d. Special Permits shall have a term limited to the duration of the Applicant's ownership or control of the premises as a Marijuana Establishment, and shall lapse or expire if:
  - i. the Marijuana Establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or
  - ii. the Marijuana Establishment's registration or license by the Cannabis Control Commission expires or is terminated.
- e. The Marijuana Establishment shall notify the Building Inspector and Planning Board in writing within 48 hours of such lapse, cessation, discontinuance, expiration or revocation.
- f. Marijuana Establishments shall be required to remove all material, plants, equipment, and other paraphernalia prior to surrendering its state registration/license or ceasing its

- operation.
- g. Prior to the issuance of a Building Permit for a Marijuana Establishment the Applicant is required to post a minimum bond of \$5,000 with the Town Treasurer or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the Applicant fails to do so. The Building Inspector shall give the Applicant 45 days' written notice in advance of taking such action. Should the Applicant remove all materials, plants, equipment, and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days' written notice, said bond shall be returned to the Applicant. The security deposited with the Treasurer shall be held and expended in accordance with G.L. c.44, s.53G1/2 and investment earnings on the deposit, if any, shall be added to and treated as part of the security for all purposes.

#### **6.4.5 Application Requirements**

Applications for Special Permits with Site Plan Approvals for Marijuana Establishments will be processed in the order that complete applications are received by the Planning Board. The approval of a Special Permit for any Marijuana Establishment is up to the discretion of the Planning Board who will be making its determination based on each application's adherence to the standards stated in this bylaw and in other applicable sections of Section 7.0. Applicants are required to attend a duly advertised Planning Board meeting prior to submitting an application for a Special Permit to review the submission requirements for a complete application.

Applicants for permits for Marijuana Establishments shall provide, at their own expense, written documentation with supporting research to allow the Planning Board to make the required findings of a Special Permit application.

Documentation must be provided by qualified professionals with minimum qualifications that shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field with expertise in the areas. The Planning Board may retain a technical expert or consultant to verify information presented by the Applicant. The cost for such a technical expert or consultant will be at the expense of the Applicant. To provide for such assistance, the Board may require the Applicant to deposit a sum of money with the Town, in an amount to be determined by the Board, to retain and utilize the services of such consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits. Funds received by the Board pursuant to this rule shall be deposited with the Town Treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c.44, §53G. Expenditures from this special account may be made at the direction of the Board without further appropriation.

In addition to the standard application requirements for Special Permits, applications for a Marijuana Establishment shall submit a Special Permit with Site Plan approval package that includes the following items. The Planning Board, may waive or modify submission requirements for certain items for specific applications, if requested by an Applicant.

- 6.4.5.1** The name and address of each owner and operator of the Marijuana Establishment facility/operation.
- 6.4.5.2** A copy of an approved Host Community Agreement.
- 6.4.5.3** A copy of its Provisional License application from the Cannabis Control Commission pursuant to 935 CMR 500.
- 6.4.5.4** If a Special Permit application is for a state approved Medical Marijuana Treatment Center (RMD), a copy of its registration as an RMD from the

Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

- 6.4.5.5** Proof of application for Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
- 6.4.5.6** Evidence that the Applicant has site control and right to use the site for a Marijuana Establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
- 6.4.5.7** A notarized statement signed by the Marijuana Establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
- 6.4.5.8** In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the Marijuana Establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- 6.4.5.9** A detailed floor plan identifying the areas available and functional uses (including square footage).
- 6.4.5.10** A copy of the Application of Intent and Management and Operations Profile for Delivery Operators.
- 6.4.5.11** All signage being proposed for the facility.
- 6.4.5.12** A pedestrian and vehicular traffic impact study to establish the Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but

not limited to, along the public rights-of-way will not be unreasonably obstructed.

- 6.4.5.13** An odor control plan that demonstrates conformance with Section 6.4.4.2.b.5. and detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor controls including maintenance of such controls.
- 6.4.5.14** A screening plan that demonstrates conformance with Section 6.4.4.2.b.3.
- 6.4.5.15** A lighting plan that demonstrates conformance with Section 6.4.4.2.b.4.
- 6.4.5.16** Information regarding proposed water use and source(s) and impacts on ground and surface waters which demonstrates conformance with Section 6.4.4.2.b.6
- 6.4.5.17** A study or statement demonstrating that noise levels meet the standards in Section 6.4.4.2.b.10.
- 6.4.5.18** A plan for the use of renewable energy sources which demonstrates conformance with Section 6.4.4.2.b.11.
- 6.4.5.19** A Management Plan including a description of all activities to occur on-site, including all provisions for the delivery of marijuana and related products to the Marijuana Establishment or off-site direct delivery.
- 6.4.5.20** Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the Marijuana Establishment's:
  - a. Operating procedures
  - b. Marketing and advertising
  - c. Waste disposal
  - d. Transportation and delivery of marijuana or marijuana products
  - e. Energy efficiency and conservation
  - f. Security and Alarms
  - g. Decommissioning of the Marijuana Establishment including a cost estimate reflecting the town's cost to undertake the decommissioning of the site if abandoned.

#### **6.4.6 Required Findings**

In addition to the standard Findings for a Special Permit, the Planning Board must also find that the following conditions are met:

- 6.4.6.1 That the application is consistent with and meets the purposes and intent of this Section and the Zoning Bylaw.
- 6.4.6.2 That the Marijuana Establishment is designed to minimize any adverse impacts on abutters and the community.
- 6.4.6.3 That the application demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and it is or will be in compliance with all applicable state laws and regulations.
- 6.4.6.4 That the application has satisfied all of the conditions and requirements of this Section and other applicable Sections of this bylaw.
- 6.4.6.5 That the application provides adequate security measures to ensure that the application will not pose a direct threat to the health or safety of other individuals and that the storage and/or location of cultivation is adequately secured.
- 6.4.6.6 That the application adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

#### **6.4.7 Planning Board Obligations**

While the Planning Board is authorized to approve Special Permits for retail Marijuana Establishments under certain circumstances (See Section 6.4.4.1.f), the Planning Board is not obligated to approve an application for a Marijuana Establishment of any kind that it does not find meets the standards stated in this bylaw and in other applicable sections of Section 7.0

#### **6.4.8 Enforcement**

Complaints of failures to meet the requirements of the approved Special Permit shall be investigated by the Zoning Enforcement Officer.

## **SECTION VII – ADMINISTRATION AND ENFORCEMENT**

### **7.0 ENFORCEMENT OF ZONING BY-LAW**

- 7.01 This By-law shall be enforced by a Zoning Enforcement Officer appointed by the Board of Selectmen. The Board of Selectmen and the Police Department shall assist the Zoning Enforcement Officer where necessary and appropriate.
- 7.02 No building shall be constructed or changed, or the use changed until a permit has been issued by the Building Inspector. No permit for new construction shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health, the applicant has filed for determination by the Conservation Commission under the Wetlands Protection Act and the proposed building and location thereof conform with the Town's laws and By-laws. Any new building or structure shall conform to all adopted State and Town laws, By-laws, codes, ordinances and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Inspector where required.
- 7.03 The Building Inspector shall refuse to issue any permit which would result in a violation of any provision of this By-law or in a violation of the conditions or terms of any special permit or variance granted by the Board of Appeals or the Planning Board.
- 7.04 The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this By-law.
- 7.05 Construction or operation 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 not more than six (6) months after issuance of the permit, and in the uses involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- 7.06 Buildings in Course of Construction



Nothing contained herein shall require any change in plans of construction size and use of building, structure or part thereof, which shall have a foundation built upon the date of the adoption of this By-law.

#### 7.07 Penalties

##### a. Non-criminal Disposition/Violations

Any violation of the provisions of this By-law, the conditions of a permit granted under this By-law, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this By-law, shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. Each day such violation continues shall be deemed a separate offense.

In addition to the procedures for enforcement as described above, the provisions of this By-law, the conditions of a permit granted under this By-law, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this By-law, may be enforced, by the Building Inspector, by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense.

##### b. Criminal Disposition/Violations

Persons violating any of the provisions of this By-law shall be fined not less than twenty-five (25) dollars or more than three hundred (300) dollars for each offense. Each day that such violation continues shall constitute a separate offense.

If the Zoning Enforcement Officer shall be informed or have reason to believe that any provision of this By-law or any permit or decision thereunder has been, is being, or is about to be criminally violated, he shall make an investigation of the facts, including the inspection of the premises where the violations may exist. Where written complaint is made to the Zoning Enforcement Officer, he shall take action upon such

complaint within 14 days of receipt thereof and shall report such action in writing to the complainant and Planning Board.

If the Zoning Enforcement Officer finds no criminal violation or criminal prospective violation, any person aggrieved by his decision, or any officer or Board of the Town may within 30 days appeal to the Board of Appeals.

If after such order, such criminal violation continues and no appeal to the Board of Appeals is taken within 30 days, the Selectmen shall, upon notice from the Zoning Enforcement Officer forthwith make applications to the Superior Court for an injunction or order restraining the violation and shall take such other action as is necessary to enforce the provision of this By-law.

If after action by the Zoning Enforcement Officer appeal is taken to the Board of Appeals, and after a hearing, the Board of Appeals finds that there has been a criminal violation or prospective criminal violation, the Zoning Enforcement Officer shall issue an order to cease and desist and refrain from such violation unless such order has been previously issued. If such then continues, the Selectmen shall upon notice from the Zoning Enforcement Officer forthwith make application to the Superior Court for an injunction or order restraining the violation and shall take such other action as may be necessary to enforce this By-law.

#### 7.08 Appeals on Special Permit Decision

Any persons, municipal officers or municipal boards, aggrieved by any of the following may appeal to Superior Court or to the Hampshire County division of the district court department under the provisions of M.G.L., Chapter 40A, Section 17, as amended: a decision of the Board of Appeals or any Special Permit Granting Authority; the failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time; or by the failure of the Special Permit Granting Authority to take final action concerning any application for a special permit within the required time. Any such appeal must be taken within twenty (20) days after the decision is filed with the Town Clerk.

### 7.1 BOARD OF APPEALS

#### 7.10 Membership

The Board of Appeals shall consist of three (3) members. The Board of Selectmen shall appoint members of the Board of Appeals pursuant to Section 12 of Chapter 40A of the Massachusetts General Laws. The Board of Selectmen shall also appoint three (3) associate members of the Board of Appeals as provided in Section 12 of Chapter 40A of the Massachusetts General Laws. The members of the Board shall be appointed for terms of one, two, and three years, the term of one member expiring each year. Thereafter, appointments are to be for three (3) years. Vacancies shall be filled by the selectmen for the balance of any unexpired term. No member shall act in any case in which he may have a personal or financial interest. An associate member shall be designated by the Chairman of the Board of Appeals to serve in such cases, and in the case of the absence of, or the inability to act by, a member.

- 7.11 The Board is authorized to hear and decide an appeal, as provided in General Laws, Chapter 40A, Section 8, taken by any person aggrieved by reason of his (her) inability to obtain a permit for enforcement action from any administrative officer under the provisions of Chapter 40A, General Laws, or by any person including an officer or board of the Town of Chesterfield, or of an abutting Town, aggrieved by an order or decision of the Building Inspector, or other administrative official, in violation of any provision of Chapter 40A, General Laws, or of this By-law. Any such appeal must be taken within thirty (30) days from the date of the order or decision which is being appealed by filing a notice of appeal with the Town Clerk, as provided in Section 15, Chapter 40A, General Laws, as amended.

#### 7.12 Variances

- 7.120 The Board of Appeals shall hear and decide requests for variance from the terms of this By-law in accordance with the provisions of Section 10 of Chapter 40A of the General Laws, as may be from time to time amended. The variance may be granted only if the Board finds that owing to circumstances relating to the soil conditions, shape, or topography of land or structures and especially affecting such land or structures but not generally affecting the zoning district in which they are located, a literal enforcement of the provisions of the By-law would involve substantial hardship, financial or otherwise, to the Petitioner and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-law, but not otherwise. Land use variances will not be allowed.

- 7.121 Upon receipt of a petition for a variance, the Board of Appeals shall ask the Planning Board for an advisory report on said petition. The Board of Appeals shall not grant a variance which would constitute an amendment of this By-law.
- 7.122 The following findings must be made by the Board of Appeals before a variance can be issued:
- a. The variance must be with respect to a particular parcel of land or to an existing building on the land.
  - b. There must be circumstances relating to the soil conditions, shape, or topography especially affecting such land or structure, but not affecting generally the zoning district in which it is located.
  - c. Literal enforcement of the ordinance of By-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
  - d. Desirable relief may be granted if there will not be substantial detriment to the public good, or nullification or substantial derogation from the intent and purpose of this By-law.
- 7.123 The Board of Appeals shall make a finding that the granting of the variance will be in harmony with the general purpose and intent of this By-law and will not be injurious to the neighborhood or Town, or otherwise detrimental to the public welfare.
- 7.124 The Board of Appeals may impose limitations both of time and use, and prescribe appropriate conditions and safeguards, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter. Violation of such limitations, conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this By-law.

### 7.13 Restrictions

In carrying out the provisions above, the Board may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this By-law. Such restriction shall be stated in writing by the Board and made a part of the permit or variance. No variance shall be conditioned on the continued ownership of the land or structures by the petitioner to whom the variance was issued.

### 7.14 Meetings and Procedures

The meeting and procedure of the Board of Appeals shall be governed by the provisions of Chapter 40A of the General Laws, as amended. The Board shall adopt rules and regulations, not inconsistent with law or the provisions of this By-law, governing its procedure and the transaction of its business. A copy of such rules shall be filed with the Town Clerk.

7.140 The Board of Appeals shall not act on any matter unless, and until, a written petition is submitted to such Board, indicating the section of this By-law under which it is requested to act and stating the grounds on which the request is based.

7.141 Each petition for a variance shall be filed in duplicate with the Board of Appeals together with two sets of plans and information. The Board of Appeals shall submit a copy of the petition with a set of the plans and information to the Planning Board for review and advisory opinion prior to holding a public hearing thereon.

7.142 Before exercising any of its powers, the Board of Appeals shall hold a public hearing on the matter referred to it. Notice of the public hearing shall be:

- a. Published in a newspaper of general circulation in the Town of Chesterfield once in each of two successive weeks. The first publication may not be less than fourteen days before the day of the hearing. (The day of the public hearing should not be counted in the fourteen days);

- b. Posted in a conspicuous place in the Town Office building and other public places for a period of not less than fourteen days before the day of the hearing;
- c. Mailed to “parties of interest” who shall include: The petitioner, abutters, owners of land directly opposite on any public or private street or way, and landowners within three hundred (300) feet of the property line of the petitioner as they appear on the most applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board of Chesterfield, and the Planning Board of every abutting town. (The assessors shall certify the names and addresses of “parties in interest”.)
- d. Mailed to other individuals, Boards or agencies if required by the Zoning By-law.
- e. Such notice must identify the subject matter of the hearing and the following information must be printed in boldface type:
  - (1) Name of the petitioner;
  - (2) The location of the area or the premises which are the subject of the petition including a street address, if any;
  - (3) The time and place of the public hearing; and
  - (4) The nature of the action requested.
- f. The cost of publication and mailing notices shall be paid by the applicant.

7.143 The decision of the Board of Appeals shall be made within one hundred (100) days after the date of the public hearing and the Board shall keep a detailed record of its proceedings showing the vote of each member

of each question, or, if absent or failing to vote, indicating such fact, and setting forth clearly the reasons for its decisions, and of its other official actions. Copies of all such records shall be filed within twenty (20) days in the office of Town Clerk and in the office of the Planning Board, and notice of decisions shall be mailed forthwith to the parties of interest, to the Planning Board, the Selectmen, and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent.

7.144 Upon the granting of a limited or conditional variance, the Board of Appeals shall issue to the land owner a notice, certified by the Chairman or Clerk, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance has been granted which is set forth in the decision of the Board on file in the office of the Town Clerk. No such variance shall take effect until such notice is recorded in the Registry of Deeds.

#### 7.15 Two Years Before Next Appeal

No petition considered under Sections 7.12 and 7.13 which has been unfavorably acted upon by the Board of Appeals shall be again considered on its merits by said Board within two years after the date of such unfavorable action unless the Board of Appeals and Planning Board consent thereto under the provisions of Section 16 of chapter 40A as amended.

## 7.2 SPECIAL PERMITS

Special permits are requested for certain uses, structures or conditions as specified in Section 3.0, Schedule of Use Regulations.

#### 7.20 Purpose

Special permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic, utility systems, and the character of the Town, among other things. The Special Permit review process is intended to insure a harmonious relationship between proposed development and its surroundings, and insure the proposals are consistent with the purpose and intent of this By-law.

## 7.21 Special Permit Granting Authority

As specified in Section 3.0 Schedule of Use Regulations, the Planning Board shall be the special permit granting authority for all uses requiring a special permit. The Planning Board is specifically authorized to act under this By-law in accordance with the provisions of Section 9, Chapter 40A of the Massachusetts General Laws, as amended.

7.210 The Planning Board, when acting as the Authority, shall have two (2) Associate Members. The Associate Members shall be appointed by the Moderator for a term of three (3) years. The Chair of the Planning Board shall designate an Associate Member to act in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board. (Section Added May 8, 1995)

## 7.22 Actions by the Applicant

7.220 The applicant shall file a Special Permit Application, a filing fee, a list of abutters, and two (2) copies of the required site plan with the Special Permit Granting Authority. Applications are available from the Planning Board and the Town Clerk.

7.221 The applicant is responsible for filing one (1) copy of the Special Permit Application with the Town Clerk. The effective date of filing is the date the application is filed with the Special Permit Granting Authority.

7.222 Filing fee to cover the expense of legal notices and administration costs shall be set by the Special Permit Granting Authority. The fee shall be delivered to the Planning Board with the application and made payable to: Planning Board, Town of Chesterfield.

7.223 The applicant shall file with the application a list of abutters with their addresses as they appear on the most recent applicable tax list. Abutters include all landowners within three hundred (300) feet of the property line of the petitioner, notwithstanding that the land of any such owner is located in another city or town, as defined by Section 11, Chapter 40A, General Laws, as amended.



7.224 The applicant shall file with the application a plan(s) of any proposed sign(s) showing location and design. Such signs shall not have a combined total area of more than 30 sq. ft. and shall conform to all other provisions of Section 5.1 of this By-law.

7.23 Actions by the Special Permit Granting Authority

7.230 After receipt of an application for a Special Permit which fulfills the requirements of Section 7.22, the Special Permit Granting Authority shall schedule a public hearing, public notice of which shall appear in a local newspaper and be posted in the Town Office Building and public places in the Town of Chesterfield at least fourteen (14) days prior to the date of the hearing.

7.231 Notice of the public hearing shall include: (1) name of the applicant; (2) a description of the area or premises including a street address, if any; (3) the date, time and place of the public hearing; (4) the subject matter of the hearing; and (5) the nature of the action or relief requested.

7.232 In addition, the Special Permit Granting Authority shall insure that notice of public hearings on special permits is sent to "parties of interest" as required by Section 11, Chapter 40A of the Massachusetts General Laws, as amended.

7.233 The Special Permit Granting Authority shall conduct the public hearing no later than sixty-five (65) days after the effective date of the filing of the special permit application, and shall take action on the application within ninety (90) days of the public hearing.

7.234 The Special Permit Granting Authority shall, within ten (10) days after receipt of an application for special permit, transmit a copy thereof for review to the Board of Health, the Board of Selectmen, the Conservation Commission, Historical Commission and any other municipal board or agency at the discretion of the Special Permit Granting Authority. Any board or agency to which such applications are referred for review shall make such recommendations as they deem appropriate in writing, provided, however, that failure to make recommendations within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

7.235 The Special Permit Granting Authority may, in the review of the special permit application, in its discretion, investigate the site covered in the application.

#### 7.24 Criteria

Where a special permit may be authorized by the Special Permit Granting Authority under this By-law, said Authority may grant, upon written application, such special permit if it finds among other things:

1. That the proposed use would be suitably located in the neighborhood in which it is proposed and/or the total Town.
2. That the use will be reasonably compatible with the character and scale of other uses permitted as of right in the same district.
3. That the use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories.
4. That adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation.
5. The proposed use shall comply with any and all additional special permit criteria or special use regulations imposed on individual uses in Section V of this By-law.
6. The proposal will not create traffic congestion or impair pedestrian safety. Provision shall be made for convenient and safe vehicular and pedestrian circulation with the site and in relation to adjacent streets, property or improvements.

7. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for maximizing groundwater recharge.
8. The design of the project shall provide for adequate methods of disposal of sewage, refuse or other wastes generated by the proposed use.
9. The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses through the use of screening or vegetated buffer zones.
10. The proposed project shall offer protection from flood hazards, considering such factors as: elevation of buildings; drainage; adequacy of sewerage disposal; construction methods; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant material; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances.

#### 7.25 Site Plan Requirements

In all instances where a special permit is required for the proposed uses as specified in Table 1, Schedule of Use Requirements, no building or structure shall be erected or externally enlarged, or operation conducted, and no area for parking, loading or vehicular service (including driveways giving access thereto) shall be established or changed, except in conformity with a site plan bearing the endorsement of approval of the Special Permit Granting Authority. Said site plan shall show, among other things, all existing and proposed buildings and structures and their uses, parking areas, loading areas, driveways, service areas and all other open space areas, all facilities for sewer, refuse and other waste disposal and for surface water drainage, zoning district boundaries, and all landscape features (such as walks, planting areas, trees, fences, and signs) on the lot. Said plan shall be subject to such rules relating to scale, dimensions, legend, form and preparation as may from time to time be promulgated by the Special Permit Granting Authority.

#### 7.26 Conditions, Safeguards, Limitations

In granting a special permit, the Special Permit Granting Authority may, in accordance with MGL Chapter 40A, impose conditions, safeguards, and limitations to be enforced in accordance with Section 7.2. Such conditions, safeguards, and limitations shall be in writing and may include but are not limited to the following:

1. Front, side and rear yards greater than the minimum required by this By-law; screening buffers or planting strips, fences or walls as specified by the Special Permit Granting Authority.
2. Limitations of size, number of occupants, method or time of operation or extent of facilities.
3. Regulations of number and location of driveways, or other traffic features and off-street parking or loading requirements, or special permit features beyond the minimum required by this By-law.
4. Screening of parking areas or other parts of the premises from adjoining properties or from streets by the use of walls, fences, plantings or other such devices.
5. Modification of the exterior design or appearance of buildings, structures, signs, or landscape materials.
6. Measures to protect against environmental pollution.
7. Performance bond or other security to ensure that the project meets the conditions specified in the special permits.

Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the special permit.

#### 7.27 Decisions and Vote Requirements

The Special Permit Granting Authority shall act within ninety (90) days following the date of public hearing. Failure to take final action upon an application for

special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for. Special Permits issued by the Special Permit Granting Authority shall require an affirmative vote of at least five members of a seven member Board.

#### 7.28 Construction Period

Construction or operations must commence within six (6) months of the issuing of a special permit by the Special Permit Granting Authority.

#### 7.29 Lapse of Permit

If substantial use or construction has not commenced without good cause within two (2) years from the date of issuance of a special permit, including the time required to pursue or await the determination of an appeal, the special permit will lapse.

#### 7.30 Accessory Uses

Special permits may be granted for accessory uses which are necessary in connection with scientific research, scientific development, or related production activities which are permitted by right. The accessory use does not have to be on the same parcel as the principal use, and the proposed accessory use shall not substantially derogate from the public good.

#### 7.31 Change, Alterations, Expansion

Any substantial change, alteration or expansion of a use allowed by special permit shall require a special permit from the appropriate Special Permit Granting Authority.

### 7.4 SITE PLAN APPROVAL

#### 7.40 Projects Requiring Site Plan Approval

No special permit or building permit shall be issued for any of the following uses unless a site plan has been endorsed by the Planning Board, after consultation with other boards, including but not limited to the following: Building Inspector, Board of Health, Board of Selectmen, Conservation Commission, Highway Department, Fire Department, Historical Commission and Police Department.

- a. The construction or exterior alteration of a commercial or industrial structure specified in the Schedule of Use Regulations as requiring Site Plan Approval;
- b. Any expansion or change in use of a commercial, manufacturing or industrial structure;
- c. Any commercial or industrial use of a structure not previously used for commercial or industrial uses;
- d. Any other use specified in the Schedule of Use Regulations which indicates Site Plan Approval is required.

The Planning Board may waive any or all requirements of site plan approval where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning By-law.

#### 7.41 Purpose

The purpose of Site Plan Approval is to further the purposes of this By-law and to ensure that new development is designed in a manner which reasonably protects visual and environmental qualities and property values of the Town, and to assure adequate drainage of surface water and safe vehicular access.

#### 7.42 Application

- 7.421 Each application for Site Plan Approval shall be submitted to the Planning Board by the current owner of record, accompanied by nine (9) copies of the site plan.

7.422 The Planning Board shall obtain, with each submission, a deposit sufficient to cover any expenses connected with a public hearing and review of plans, including the costs of any engineering or planning consultant services necessary for review purposes. If consultant services are necessary or appropriate, the applicant shall, prior to the determination of Site Plan Approval by the Planning Board, pay the Town for the full cost of services. An application is incomplete without the full payment of these services. The Planning Board may request the posting of bond instead to cover consulting service expenses.

#### 7.43 Required Site Plan Contents

7.431 All site plans shall be prepared by a registered architect, surveyor, landscape architect, or professional engineer unless this requirement is waived by the Planning Board because of unusually simple circumstances. All site plans shall be on standard 24" x 36" sheets and shall be prepared at a sufficient scale to show:

- a. The location and boundaries of the lot, adjacent streets or ways, and the location and owner's names of all adjacent properties.
- b. Existing and proposed topography including contours, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding, and unique natural land features.
- c. Existing and proposed structures, including dimensions and elevations.
- d. The location of parking and loading areas, driveways, walkways, access and egress points.
- e. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other waste disposal methods.
- f. Proposed landscape features including the location and a description of screening, fencing, and plantings.

- g. The location, dimensions, height, and characteristics of proposed signs.
- h. The location and a description of proposed open space or recreation areas.

7.432 The Planning Board may waive any information requirements it judges to be unnecessary to the review of a particular plan.

#### 7.44 Procedures for Site Plan Approval

7.441 The Planning Board shall refer copies of the application within 15 days to the Conservation Commission, Board of Health, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and Building Inspector, who shall review the application and submit their recommendations and comments to the Planning Board. Failure of Boards to make recommendations within 35 days of the referral of the application shall be deemed to be lack of opposition.

7.442 The Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of an application and after due consideration of the recommendations of the Board shall take final action within 90 days from the time of hearing.

7.443 The period of review for a special permit requiring site plan approval shall be the same as any other special permit and shall conform to the requirements of Chapter 40A, Section 9, "Special Permits." Specifically, a joint public hearing to address the Special Permit application and Site Plan Approval application shall be held within sixty-five (65) days of the filing of a special permit application with the Planning Board. The Planning Board shall then have 90 days following the public hearing in which to act.

#### 7.45 Site Plan Approval Criteria

7.451 The following criteria shall be considered by the aforementioned Boards in the review and evaluation of a site plan, consistent with a reasonable



use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:

- a. If the proposal requires a special permit, it must conform to the special permit requirements as listed in Section 7.2 of this By-law.
- b. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible: a) minimize impact on wetlands, steep slopes, floodplains, hilltops; b) minimize obstruction of scenic views from publicly accessible locations; c) preserve unique natural or historical features; d) minimize tree, vegetation and soil removal and grade changes; e) maximize open space retention; and f) screen objectionable features from neighboring properties and roadways.
- c. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.
- d. The development shall be served with adequate water supply and waste disposal systems provided by the developer/applicant. For structures to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a Certified Engineer and approved by the Board of Health.
- e. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. The plan shall describe estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.

- f. The site plan shall show adequate measures to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels; increased run-off and potential for flooding. Drainage shall be designed so that run-off shall not be increased; groundwater recharge is maximized, and neighboring properties will not be adversely affected.
- g. The development will not place excessive demands on Town services and infrastructure.
- h. Electric, telephone, cable TV, and other such utilities are encouraged to be underground where physically and environmentally feasible.
- i. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structure and other unsightly uses shall be set back or visually screened to protect the neighbors from objectionable features.
- j. The site plan shall comply with all zoning requirements for parking, loading, dimensions, environmental performance standards, and all other provisions of this By-law.
- k. The plan shall not conflict with the goals of the community open space plan, or the character of the Town.

7.452 Before approval of a site plan, the reviewing board may request the applicant to make modifications in the proposed design of the project to ensure that the above criteria are met.

#### 7.46 Final Action

7.461 The Planning Board's final action shall consist of either:

- a. A determination that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in this By-law;
- b. A written denial of the application stating the reasons for such denial; or,
- c. Approval subject to any conditions, modifications and restrictions as the Planning Board may deem necessary.

#### 7.47 Enforcement

7.471 The Planning Board may require the posting of a bond or approval of a covenant in accordance with the Chesterfield Subdivision Rules and Regulations to assure compliance with the plan and conditions and may suspend any permit or license when work is not performed as required.

7.472 Any special permit with site plan approval issued under this section shall lapse within two (2) years if a substantial use thereof has not commenced sooner except for good cause.

7.473 The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

### 7.5 AMENDMENT

This zoning By-law may be amended from time to time at an annual or special Town Meeting as provided for by Chapter 40A of the General Laws.

### 7.6 VALIDITY

The invalidity of any section or provision of this Zoning By-law shall not invalidate any other section or provision thereof.

## **SECTION VIII – DEFINITIONS**

For the purpose of this By-law, the following words shall have the meanings given hereinafter. Where appropriate, the plural shall include the singular; the words “used” or “occupied” include the words “designed”, “arranged”, “intended”, or “offered”, to be used or occupied; the words “building”, “structure”, “lot”, “land”, or “premises” shall be construed as though followed by the words “or any portion thereof”; and the word “shall” is always mandatory and not merely directory. Terms and words not defined herein but defined in the subdivision Control Law shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster’s Unabridged Dictionary.

Accessory Building – A building used for a purpose customarily incidental to the main or principal building and located on the same lot with the primary building.

Accessory Use – The use of a building or premises for a purpose customarily incidental to the main or principal use and located on the same lot with such primary use.

Addition – A structure added to the original structure at some time after the completion of the original.

Agriculture – Agriculture shall include, but not be limited to: farming, horticulture, floriculture, nursery, truck gardening, greenhouses, maple sugar production and display and sale of natural products raised in the Town with the necessary structures needed for these uses.

Alteration – Any construction, rearrangement, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

Animal Feed Lot – A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.

Antenna – A metallic device, as a rod or wire, for sending out and receiving radio waves.

Approved Frontage – Frontage which meets the criteria of the Planning Board for access.

Aquifer – Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

Art Gallery – A building, or part thereof, where works of art are exhibited.

Automobile Dismantling or Used Parts Yard – A lot and structure where the principal purpose is to acquire, store, resell, or disassemble motor vehicles that are in some way inoperative.

Automotive Sales – The use of any building, land area or other premise for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreation vehicles and including warranty repair work and other repair service conducted as an accessory service.

Aviation Field – A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair various accommodations for passengers.

Bed and Breakfast Establishment – A private owner-occupied house where four, five, or six or more rooms are let, and a breakfast is included in the charge and all accommodations are reserved in advance.

Bed and Breakfast Home – A private owner-occupied house where three or fewer rooms are let, and a breakfast is included in the charge and all accommodations are reserved in advance.

Boarding Stable – A structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises.

Building – Any roofed structure, permanently located on the land, used for housing or enclosing persons, animals or material.

Building (Principal) – A building in which is conducted a principal use of the lot on which it is situated. (Amended April 7, 2008)

Building (Non-conforming) – Any lawful use of a building existing on the effective date of the adoption of this By-law, but not conforming to it.

Building Coverage – The percentage which the aggregate area of all buildings on the lot bears to the area of the lot.

Building Height – The vertical measurement of a building from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, excluding chimneys, antennas, water tanks, silos and similar structures.

Business – Place where the activity of a commercial, industrial, service or professional organization is transacted.

Carry-Out Restaurant – An establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared ready-to-eat foods intended primarily to be consumed off the premises, and where the consumption of food in motor vehicles on the premises is not permitted.

Church – A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

Club – An association of persons which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose, whose activities are confined to the members and guests and are not open to the general public. This includes the establishment so operated. Where appropriate, this definition shall apply to camps organized on a similar basis.

Club, Neighborhood or Community – A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and By-laws. Does not include clubs which are commercial in nature, such as tennis and fitness clubs, owned by individuals and operated for profit.

Cluster Housing Development – A single-family residential development in which the houses are clustered together into one or more groups on the lot and separated from each other and adjacent properties by permanently protected open space.

Commercial Garage – Any building, premises and land in which or upon which a business, service or industry involving maintenance, servicing, repair or painting of vehicles is conducted or rendered.

Commercial Kennel – Any structure in which animals are kept, boarded, bred, or trained for commercial gain.

Commercial Recreational Development – Areas developed for the rental of sites of tents, campers, camping units or traveling trailers for the use of vacationers and travelers, including sanitary, cooking, recreational and parking facilities for patrons as well as boys' camp, girls' camp, outdoor athletic activities, a commercial golf course, parks, tennis courts, picnic areas, ski tow and/or swimming pool carried out for pecuniary gain.

Commercial Use – Activity carried out for pecuniary gain.

Congregate Housing for Elderly and Handicapped Persons – A building or buildings arranged or use for the residence of persons age fifty-five (55) or older, or for handicapped persons, as defined in Chapter 121B of the M.G.L., with some shared facilities and services.

Conservation Land – The careful preservation and protection of land in a natural condition owned and/or maintained by the Federal government, Commonwealth, the Town or a non-profit organization.

Continuing Care Retirement Community – A structure or structures containing independent living units, health care facilities, and/or other related services and amenities provided to three or more elderly persons.

Convenience Store – A small retail establishment no greater than 3,000 square feet in floor area that sells principally convenience goods including but not limited to food, drugs, and proprietary goods and is usually open 15 to 24 hours a day.

Craft Center – A structure or complex of structures for housing crafts.

Craft Shop – A retail establishment selling crafts.

Daycare Center – Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school, or known under any other name which receives more than six (6) children not of common parentage, under seven years of age, for non-residential custody and care during part or all of the day separate from their parent(s) and which is licensed or approved to operate.

Daycare Home – Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven (7) years of age in a family day care home not to exceed six (6) children including participating children living in the residence and licensed or approved to operate. Day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or occasional care of children with or without compensation therefor.

Discount Store – An establishment advertising a wide variety of merchandise for sale at less-than-retail cost.

Drive-In Establishment – a business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term “drive-in” includes drive-in service establishments such as banks, convenience stores, cleaners and the like.

Drive-In, Fast-Food Restaurant – An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant or off premises.

Dwelling, Single-Family – A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only. It shall include prefabricated and modular units that meet the state standards for building construction.

Dwelling, Two-Family or Three-Family – a detached residential building, other than a mobile home, containing two (2) or three (3) dwelling units, designed for occupancy by not more than two (2) or three (3) families, each unit having a separate bedroom, kitchen and entrance. It shall include prefabricated and modular units that meet the state standards for building construction.



Dwelling Unit – One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the structure for the exclusive use of a single family maintaining a household.

Earth Removal – Excavation, stock piling, processing, and/or sale of gravel, sand, stone, peat and loam for commercial purposes.

Education Institution – Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

Family – One or more persons, related by birth, marriage, or legal adoption or not more than four (4) individuals who are not so related, living together as a single housekeeping unit.

Farm – A parcel or parcels of land under one ownership or lease, said land being common and totaling not less than five (5) acres in area on which farming operations can be carried on to produce a minimum living income.

Farm Business – Business established for the processing of farm products, fifty percent (50%) of which must have been raised or produced on the premises or elsewhere in the Town of Chesterfield, but not including slaughterhouses, poultry processing and manufacturing of agricultural products.

Farm Stand – stand established for the display or sale of farm products. During the months of June, July and August, fifty percent (50%) of such products must have been raised or produced on the premises or elsewhere in the Town of Chesterfield.

Fast Food Restaurant – An establishment whose primary business is the sale of food for consumption on or off the premises which is: (a) primarily intended for consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; and (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Fence – A man-made barrier intended to prevent escape or intrusion or to mark a boundary.

Filling Station – Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles. A filling station shall not include a sales, major repair or rental agency for autos, trucks or trailers.

Firm and Continuous Masonry Foundation – Solid or block wall foundation, or equal, constructed according to accepted practices and with due consideration for frost and soil conditions.

Fraternal Organization – A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

Frontage – The linear distance of a lot measured from the right-of-way line where a plan of the way is on file with the Registry of Deeds or in the absence of such a plan, from a line of 25 feet from the parallel with the center of the traveled way, provided in both cases that the minimum frontage required by this By-law shall be satisfied in a continuous, uninterrupted segment of such frontage on one public way. Frontage must also provide meaningful access to the parcel and access shall be across such frontage. In the case of corner lots, the front yard depth shall be observed from all bordering streets. At no point between the front line of the lot and 100' back from the front line shall the lot width be less than the required frontage. Frontage must be continuous from the right-of-way line to the front setback line.

Funeral Establishment – An establishment used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Garage (Private) – A building used for the storage of one or more automotive vehicles, owned or used by the owner or tenant of the premises, and not exceeding two additional vehicles (not commercial) owned or used by others. A private garage is considered an accessory building.

General Retail Store – Retail establishment selling general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, small wares and hardware.

Government building – A building owned or operated by any department, commission, independent agency or instrumentality of the United States, of a state, county, municipality, authority, district or other governmental unit.

Habitable Area – The floor area of the living space for the exclusive use of a single family in a dwelling or in a dwelling unit. Living space shall not include porches, breezeways, garage, basement, and any unfinished or community area, and shall be measured as net area, or as gross area less twelve percent (12%) for partitions and walls.

Hazardous Waste – A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.

Heliport – An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Home Occupation – Accessory use of a service character conducted within a dwelling and accessory buildings by the residents thereof, which is clearly secondary to the dwelling used for living purposes and which does not change the character thereof.

Hospital – A building providing, among others, 24-hour inpatient services for persons admitted thereto for the diagnosis, medical, surgical or restorative treatment or other care of human ailments.

Impervious Surfaces – Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Intermediate Care Facility – A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital is designed to provide, but who, because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities such as these. Includes rest homes, convalescent homes, nursing homes and rehabilitation facilities.

Junk Car – An unregistered or unusable motor vehicle which is ready for destruction or has been collected or stored for salvage or conversion to some other use.

Junk Yard – Land or structures used commercially for collecting, storing or selling wastepaper, rags, scrap metal, or discarded material, or for collecting, dismantling, storing, salvaging or selling inoperative machinery, vehicles, or parts thereof.

Junk Yard (Motor Vehicle) – Any business or place of storage or deposit, whether in connection with another business or not, where four or more junk cars or parts thereof exist. (Added May 8, 1995)

Leachable Wastes – Waste materials including solid wastes, sludge, and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

Livestock – Shall mean domestic animals, including horses, ponies, cows, sheep and goats.

Log concentration yard – Area where logs are stored for commercial purposes, but excluding temporary storage during logging operations.

Lot – A single area of land in one ownership defined by metes and bounds or boundary lines on a deed recorded in the Registry of Deeds, Hampshire County, or drawn on a plan endorsed by “Approval Not Required” under Subdivision Control Law, or words of similar import. In order to be used for building purposes, it must meet the criteria of a buildable lot.

Lot, Buildable – A tract of land under separate ownership which is, or can be, occupied by a principal building and the structures and areas accessory to it, having adequate frontage on street and defined by measurements and/or boundaries in a deed or plan.

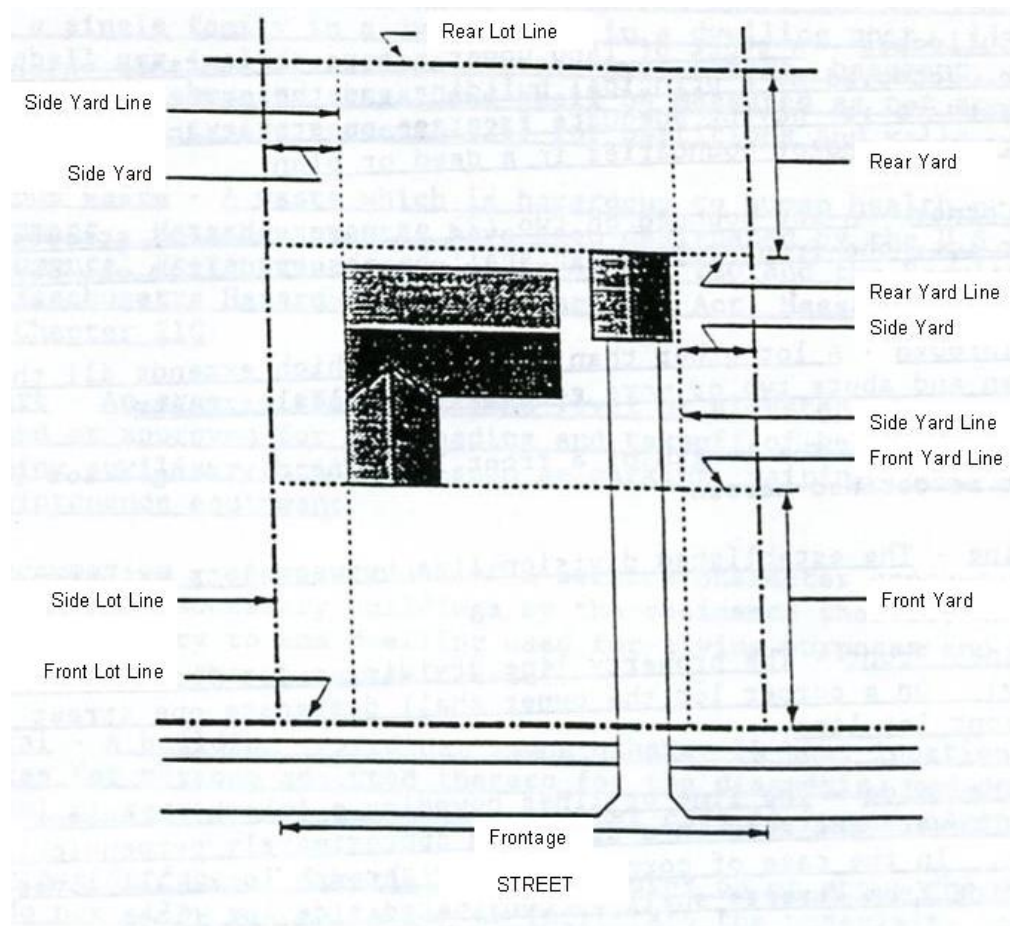
Lot, Corner – A lot bounded on two (2) or more sides by streets in any corner lot, the front yard depth shall be observed from all bordering streets.

Lot, Through – A lot other than corner lot which extends all the way between and abuts two or more generally parallel streets.

Lot, Frontage – The length of a front lot line dividing a lot from a street as defined herein.

**Lot Line, Front** – The property line dividing a lot from a street (right-of-way). On a corner lot the owner shall designate one street line as the front lot line.

**Lot Line, Rear** – The lot line opposite the front lot line.



Lumbering – All operations associated with the cutting and removal of timber from the land for commercial purposes, but which shall not include milling, processing, or log concentration.

Manufactured (or Modular) Housing – A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this By-law, a modular unit shall not be deemed a “mobile home” but shall be regarded as a conventional dwelling, subject to the rules and regulations contained herein (See Section 5.5).

Mobile Home – A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities.

Mobile Home Village or Court – Any lot, parcel or tract of land upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations. Mobile home villages or courts are not allowed in Chesterfield under this By-law.

Motor Vehicle Sales – a lot and/or structure where motor vehicles are on display for sale and service.

Museum – An institution devoted to the procurement, care, study and display of objects of lasting interest or value.

Non-Conforming Use – The use of a building or land that does not conform with the provisions of this By-law or subsequent amendments thereto.

Non-Profit Recreation – Areas designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities operated by a non-profit organization.

Nursing Home – An extended or intermediate care facility licensed by the state to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Off-Premise Sign – A sign located on the property other than that of the principal business.

Off-Street Parking – A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

Office, Business or Professional – The office of an establishment for profit or non-profit use engaged in rendering business services on a fee or contract basis, such as advertising and mailing; employment service; business management and consulting services; equipment leasing and rental; commercial research; development testing; and personal supply services and/or the office of a member of a recognized profession maintained for the conduct of that profession.

Park – A tract of land, designated and used by the public for active and passive recreation.

Parking Area – Any open space used for parking motor vehicles exclusively, and in which no gasoline nor motor vehicle accessories are sold, or no other business conducted.

Person – Shall include an individual, corporation, society, association, partnership, trust or other entity, public or private.

Playground – An area used for games and recreation especially by children.

Primary Aquifer Recharge Area – Areas which are underlain by surficial geologic deposits including glacialfluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.

Principal Use or Uses – The primary or predominant use or uses of any lot. (Amended May 8, 1996)

Public Utility – A closely regulated private enterprise with an exclusive franchise for providing a public service.

Private Stable – A building or part of a building in which one or more horses or ponies are kept for the private use of the owner, and in which no horses or ponies are kept for sale, rent, hire, breeding, or for commercial cartage, trucking, or other business purposes.

Private Uses – Uses belonging to or intended for a particular group.

Public Uses – Uses owned or operated by a government entity or a non-profit organization for the general welfare of the community.

Public Way – Public way shall include any street or highway established by prescription as a public way or by the State, county, or Town as a public way dedicated or open to public use.

Radioactive Waste – Any waste material or substance which is a source of ionizing or non-ionizing radiation.

Recreation Area – An area designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Retail General Store – Retail establishment selling general merchandise, including but not limited to dry goods, apparel and accessories, furniture and home furnishings, home equipment, small ware and hardware.

Recreation Vehicle – A recreation vehicle shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways whether licensed or not, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, and not designed to be used as a principal place of abode. A recreation vehicle under this ordinance shall also mean tent trailers, truck campers, vehicles converted to sleeping facilities other than a mobile home and/or what normally constitutes a permanent dwelling unit.

Repair Shop – An establishment for the repair of household items except motor vehicles.



Research Laboratory – An establishment for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

Rest Home – See Nursing Home.

Restaurant – An establishment where food and drink is prepared, served and consumed primarily within the primary building.

Riding Academy – An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

Sanitarium – An institution which is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related by marriage, blood or adoption.

Sawmill – a facility utilized to process timber into boards, beams and related wood stock for commercial purposes.

Seasonal Dwelling or Camp – An existing dwelling constructed for temporary use or occupancy on an intermittent or short-term basis primarily during the summer months and/or weekends. Such temporary use shall not exceed a total of more than 130 days during a calendar year. Such seasonal dwelling existing on less than the minimum size lot required in this By-law shall not be inhabited for more than 130 days per calendar year unless additional land is secured to make the parcel conform to the By-law.

Setback – The minimum distance from a lot line to a building place or feature, as is required in a particular situation by the Table of Dimensional Regulations. Said setback shall be measured perpendicular to the lot line. No part of any structure except uncovered steps, and no accessory structure (other than a sign) having a height of more than four (4) feet shall be placed or protrude into the area between the setback line and the street line, or the area between the setback line and the side or rear lot line. (Added May 10, 1993)

Special Permit – An authorization in the form of permit granted by the Special Permit Granting Authority for any of the uses which require a special permit as listed in Section

3.0 Schedule of Uses and elsewhere in this By-law, when it shall be found that the use involved will not be detrimental to the neighborhood and town and subject to appropriate conditions or safeguards if deemed necessary.

Story – A living level between grade on the street side, and eave. Attic space shall constitute one-half story.

Street – As used in this Zoning By-law, a street is a way, either public or private, giving access to private property and to which the public has access, but excluding an alley used for service access only. Street shall be deemed to include the entire right-of-way.

Street Line – The dividing line between a street and a lot, and in the case of a public street, the street line established by public authority.

Structure – A combination of materials assembled at a fixed location to give support or shelter or for other purposes. Included are buildings, frameworks, sheds, platforms, towers, and similar objects.

Subdivision – Including resubdivision, shall be as defined in the Subdivision Control Law, M.G.L., Chapter 41.

Trucking Terminal – Business which services or repairs commercial trucks which are not owned by the business.

Underground Storage – Storage below ground level, but not including storage in a free-standing container within a building.

Use – The purpose for which a structure or lot is arranged, designed or intended to be used, occupied or maintained.

Variance – An authorization granted by the Board of Appeals to modify a permitted use when special physical conditions affect such use and where a literal enforcement of this By-law would involve substantial hardship to the owner. Provided also that such authorization shall not take away from the intent or purpose of this By-law. See also Section 7.12 Authority to Grant a Variance.

Veterinary Hospital – A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Warehouse – A building where goods are stored for commercial purposes other than in conjunction with a home occupation.

Water Supply Use – Uses associated with construction, operation, and maintenance of a water supply system.

Watershed – Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage area of such water courses and bodies.

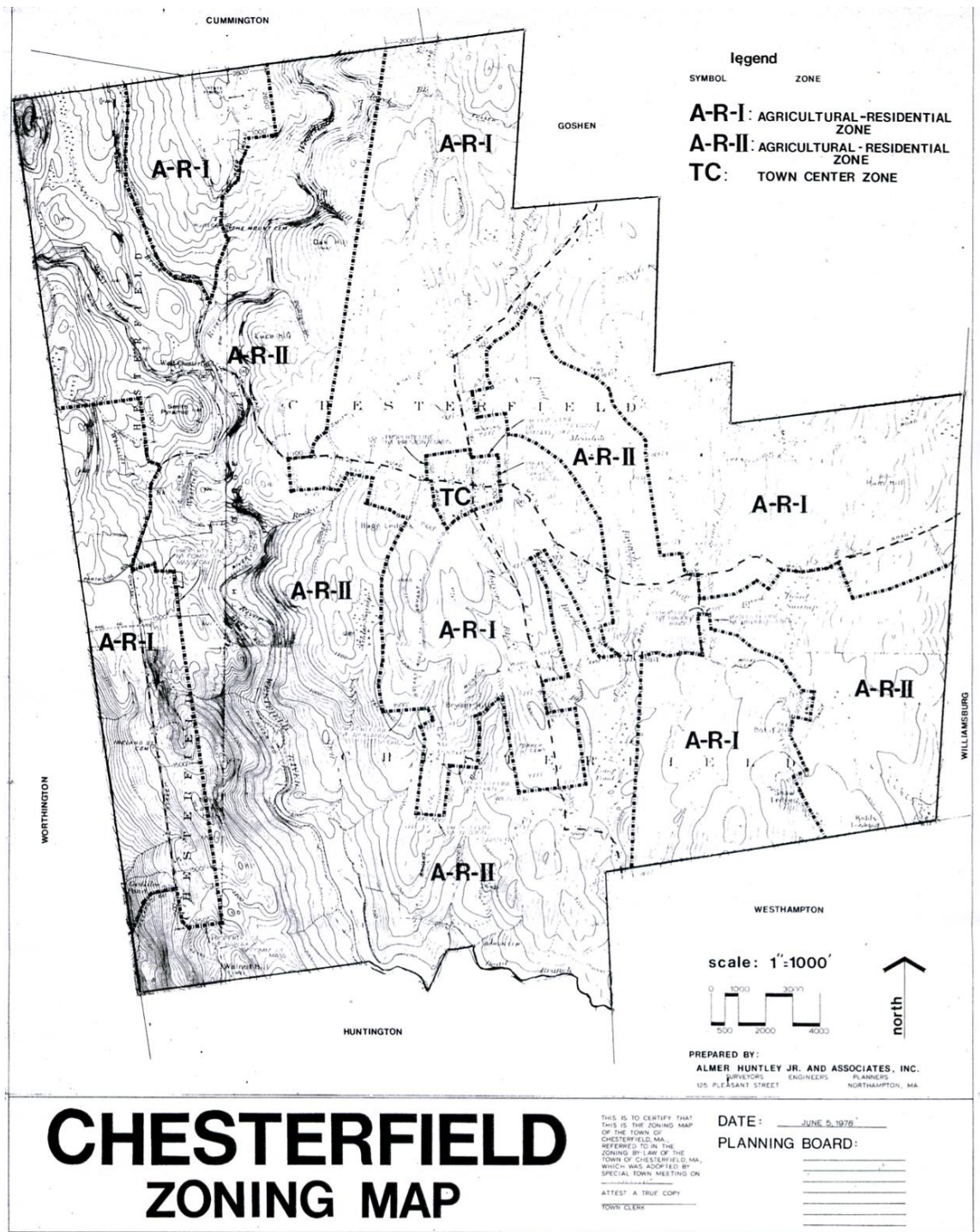
Wholesale Store – Establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers.

Yard – A required open space, unoccupied except as herein permitted, between a principal building and a street or a lot line.

Yard, Front – A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.

Yard, Rear – A yard adjacent to the rear lot line and extending between side lot lines.

Yard, Side – A yard adjacent to the side lot line and extending from the front yard to the rear yard.



Chesterfield Zoning Map. Schematic Zoning Map only. Official Zoning Map may be inspected at the Office of the Town Clerk.