

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Administration and Interpretation of Bylaws

§ 1-1. Severability.

If any article or section of any article of these ~~by laws~~bylaws is declared unconstitutional or illegal by any court, or is disapproved by the ~~S~~state authority having jurisdiction, the validity of the remaining provisions of these ~~by laws~~bylaws shall not be affected thereby.

§ 1-2. Adoption of bylaws.

These articles shall constitute the General ~~By Laws~~Bylaws of the Town of Whitman, which shall be in lieu of all ~~by laws~~bylaws heretofore in force.

§ 1-3. Effect of repeal.

The repeal of a ~~by law~~bylaw shall not thereby have the effect of reviving any ~~by law~~bylaw heretofore repealed.

§ 1-4. Officers, boards and committees.

Words and phrases specifying or naming any officer, board or committee of the Town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board or committee.

§ 1-5. Repeal or amendment of bylaws.

These ~~By Laws~~bylaws may be repealed, altered or amended by a majority of those present and voting, or by such other proportion as may be required by law in special instances, at any Annual Town Meeting with a quorum of 50 voters present or any Special Town Meeting with a quorum of 150 voters present; provided, however, that the proposed changes in the ~~By Laws~~bylaws shall be specified in the warrant for said meeting.

ARTICLE II

Criminal and Noncriminal Disposition of Violations

§ 1-6. Criminal disposition; maximum penalty.

Whoever violates any provision of these ~~By Laws~~bylaws may, except as otherwise required by law, be prosecuted by indictment or on complaint brought in the District Court. Except as may be otherwise provided for by law, and as the District Court may see fit to impose, the maximum penalty for each violation brought in such manner shall be \$300.

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§ 1-7. Noncriminal disposition.

- A. Any provision of these ~~By-Laws~~bylaws, and any rule or regulation of a Town officer, board or department, the violation of which is subject to a specific monetary fine or penalty, may, in the discretion of the Town official who is the enforcing person and as an alternative to initiating criminal proceedings, be enforced in the manner provided in MGL c. 40, § 21D. The term "enforcing person" shall mean the Town official, if any, specifically designated in any chapter, section or provision of these ~~By-Laws~~bylaws, and any such rule or regulation, as being responsible for enforcing the same. In addition, the term "enforcing person" shall mean, with respect to any violation of any provision of these ~~By-Laws~~bylaws and whether or not specifically so designated, any police officer of the Town. The specific penalties to be imposed pursuant to the ~~non-eriminal~~noncriminal disposition method shall be stated in the particular ordinance, rule or regulation, except as provided hereunder.
- B. The ~~non-eriminal~~noncriminal disposition method may also be used pursuant to this ~~By-Law~~bylaw for violations of any rule or regulation of any municipal officer, board or department listed below, the violation or offense of which is subject to a specific penalty.
- C. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ~~By-Laws~~bylaws and rules and regulations are to be included within the scope of this ~~By-Law~~bylaw, that the specific penalties, as listed here, shall apply in such cases and that, in addition to police officers, who shall in all cases be considered enforcing person for the purposes of this provision, the municipal positions, or person serving the functions of the same, shall also be enforcing persons for such violations or offenses.
- D. Each day on which any violation or offense exists shall be deemed to be a separate violation or offense.
- E. Nothing contained herein shall be deemed to require the use of the ~~non-eriminal~~noncriminal disposition method. At the option of the appropriate enforcing person, criminal and/or civil action may also be utilized.
- F. Any specific monetary fine or penalty that is set forth in any provision of these ~~By-Laws~~bylaws for the violation of same shall be considered to apply only to a ~~non-eriminal~~noncriminal disposition of such violation and shall not be construed as a limitation upon the monetary penalty recoverable through criminal proceedings.

Table of Noncriminal Disposition Penalties

Bylaw	Enforcement Officer	Penalty
Chapter 110, Animal Control, Article I, Restrain of Dogs Animal Control Officer/102, Alarm Systems	Police Department \$10 + \$2- per day pound fee officers	<u>4th response: \$50 5th response: \$75 6th and subsequent responses: \$100/each</u>
Chapter 110, Animal Control, Article II, Dog Control	Animal Control Officer/Police Department	
§ 110-74 , Rabies vaccination	Animal Control Officer/Police Department	\$200
§ 110-21 <u>18</u> , Fines and penalties	Animal Control Officer/Police Department	\$15 <u>to \$50</u>
<u>§ 110-21, Dog and animal deposits</u>	<u>Animal Control Officer/Police Department</u>	<u>1st offense: \$20 2nd offense: \$35 3rd and subsequent offenses: \$50</u>

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Bylaw	Enforcement Officer	Penalty
Chapter 118, Boating and Waterways, Article I, Bodies of Water Managed by Conservation Commission	Conservation Commission	\$50
Chapter 118, Boating and Waterways, Article I, Conservation Lands or Wetlands Managed by Conservation Commission	Conservation Commission	\$50
Chapter 157, Junk Dealers and Collectors	Board of Selectmen	\$20
Chapter 199, Solid Waste	Board of Selectmen	\$50
Chapter 205, Streets, Sidewalks and Public Ways, Article II, Openings and Excavations <u>Use of Public Ways</u>		
§ 205-12, Snow and ice removal	Board of Selectmen	\$50
§ 205-13, Deposit of snow, ice or water on public ways prohibited	Board of Selectmen	\$50
§ 205-14, Loitering on private property prohibited	Board of Selectmen	\$50
Chapter 218, Junk Vehicles	Board of Selectmen	\$20
Chapter 222, Unregistered Vehicles	Board of Selectmen	\$20
Chapter 240, Zoning, Article XII, Administration and Enforcement, § 240-12.6	Building <u>Commissioner</u> /Inspector <u>of Buildings</u>	\$50

**ARTICLE III
Disposition of Fees Collected by Town Departments**

§ 1-8. Payment to Town Treasurer.

All fees received by the Town ~~D~~departments shall be paid over to the Town Treasurer and retained by the Town Treasurer on behalf of the Town, except those fees collected by those persons acting as ~~A~~agents for the ~~S~~state or ~~C~~county.

Chapter 7

BOARDS, COMMISSIONS AND COMMITTEES

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Finance Committee

§ 7-1. Membership; appointment.

There shall be a Finance Committee of nine citizens of the Town, who shall be sworn to a faithful performance of their duties. The Moderator shall appoint three members for three years, at each ~~a~~Annual Town ~~m~~Meeting, no member of which may hold any other elective Town office, or be a member of any other committee, except that a member may be appointed to a building or facilities committee with the approval of the Town Moderator and Board of Selectmen.

§ 7-2. Duties.

It shall be the duty of ~~this committee~~the Finance Committee to investigate all appropriations and articles of the warrant for any Town ~~meeting~~Meeting that shall in any way ~~effect~~affect the finances of the Town, and to recommend to the Town at the time of said meeting a course of action thereon, and, in general, to make recommendations to the Town in regard to the financial business of the Town. The vote of the ~~e~~C~~o~~mmittee shall be recorded on the margin beside each recommendation.

ARTICLE II
Council on Aging

§ 7-3. Membership; appointment; terms.

~~To hereby establish a~~A Council on Aging ~~is hereby established~~, consisting of a ~~five~~-member board made up of citizens of this Town appointed by the Board of Selectmen, for terms not to exceed four years for any member. Said term shall be staggered so that not more than two appointments shall be made in any calendar year. Members may be reappointed for concurrent terms.

§ 7-4. Duties.

The duties of said Council on Aging shall be to:

- A. Identify the total need of the community's elderly population.
- B. Educate the community and enlist support and participation of all citizens concerning these needs~~;~~
- C. Design, promote~~;~~ or implement services to fill these needs, or coordinate present existing services to the community.
- D. Promote and support any other programs which are designed to assist elderly programs in the community.

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§ 7-5. Cooperation with federal and state requirements.

~~Said~~The Council on Aging shall cooperate with the Commonwealth of Massachusetts ~~Commission on Aging~~Department of Elder Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exists for better community programming for the elderly.

§ 7-6. Annual report.

~~Said~~The Council on Aging shall give an annual report to the Board of Selectmen, with a copy of that report directed to the Commonwealth of Massachusetts ~~Commission on Aging~~Department of Elder Affairs.

§ 7-7. Private nature of certain information.

The names, addresses, telephone numbers or other identifying information about elderly persons in the possession of the Council shall not be public records, but the use of these records shall comply with MGL c. 19A, § 14 et seq., as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

ARTICLE III Residency Requirements

§ 7-8. Town residency required.

No person shall be appointed to or serve on any Town board, commission or committee unless such person resides in the Town or establishes and maintains residency within the Town within one year of appointment. Any person serving as a member of a board, commission or committee who, during the term of office for which appointed, ceases to be a resident of the Town, shall immediately be deemed to have vacated such membership.

§ 7-9. Applicability.

The provisions of this bylaw shall not apply to ex-officio members or nonvoting members. Any nonresident members of a board, commission or committee holding such membership at the time this bylaw becomes effective shall be exempt until the expiration of the member's current term.

Chapter 15

EMERGENCY MANAGEMENT

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 15-1. Department of Civil Defense.

There is hereby established a ~~d~~Department of ~~civil defense~~Civil Defense (hereinafter called the "Department"). It shall be the function of the ~~d~~Department to have charge of civil defense as defined in Section 1, Chapter 639, Acts of 1950 and to perform civil defense functions as authorized or directed by said chapter or by any and all executive orders or general regulations promulgated thereunder, and to

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exercise any authority delegated to it by the ~~g~~Governor under said Chapter 639.

§ 15-2. Director of Civil Defense.

- A. The ~~d~~Department shall be under the direction of a ~~d~~Director of ~~civil defense~~Civil Defense (hereinafter called the "Director~~→~~"), who shall be appointed as prescribed by law. The ~~d~~Director shall have direct responsibility for the organization, administration and operation of the ~~d~~Department, subject to the direction and control of the appointing authority and shall serve at a salary voted at Annual Town Meeting. The ~~d~~Director, may, within the limits of the amount appropriated ~~therefore~~, appoint such experts, clerks and other assistants as the work of the ~~d~~Department may require and remove them, and may make such expenditures as may be necessary to execute effectively the purpose of Chapter 639, Acts of 1950.
- B. The ~~d~~Director shall also have authority to appoint district coordinators and may accept and may receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purpose of civil defense, offered by the ~~F~~federal government or any agency or officer thereof or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The ~~d~~Director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

§ 15-3. Civil Defense Advisory Council.

There is hereby established a ~~civil defense advisory council~~Civil Defense Advisory Council (hereinafter called the "~~e~~Council"). Said ~~e~~Council shall serve without pay and shall consist of the ~~d~~Director of ~~civil defense~~Civil Defense, such other department heads and such other persons as the authority appointing said ~~d~~Director may deem necessary. Such member of said ~~e~~Council as said appointing authority shall designate, shall serve as Chair~~man~~ of said ~~e~~Council. Said ~~e~~Council shall serve subject to the direction and control of the appointing authority and shall advise said appointing authority and the ~~d~~Director on matters pertaining to civil defense.

§ 15-4. Police aid to other municipalities.

The Police Department is hereby authorized to go to aid another city or ~~T~~town at the request of said city or ~~T~~town in the suppression of riots or other forms of violence therein.

§ 15-5. Termination of bylaw.

This ~~by-law~~bylaw shall remain in force during the effective period of Chapter 639, Acts of 1950, and any act in amendment or continuation thereof or substitution therefor.

§ 15-6. Scope.

All references to Chapter 639, Acts of 1950, as now in force, shall be applicable to any act or acts in amendment or continuation of or substitution for said Chapter 639.

Chapter 21

FINANCES

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Revolving Funds

§ 21-1. Purpose and authority.

This ~~by-law~~bylaw establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.

§ 21-2. Expenditure limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this ~~by-law~~bylaw without appropriation, subject to the following limitations:

- A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance of the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by Town ~~m~~Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the ~~select-board~~Select Board and ~~finance committee~~Finance Committee.

§ 21-3. Interest.

Interest earned on monies credited to a revolving fund established by this ~~by-law~~bylaw shall be credited to the general fund.

§ 21-4. Procedures and reports.

Except as provided in MGL c. 44, § 53E 1/2 and this ~~by-law~~bylaw, the laws, charter provisions, ~~by-laws/ordinances~~bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town/~~city~~ funds shall apply to the use of a revolving fund established and authorized by this ~~by-law~~bylaw. The Town ~~a~~Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town ~~a~~Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

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§ 21-5. Authorized revolving funds.

The Table establishes:

- A. Each revolving fund authorized for use by a Town department, board, committee, agency or officer;
- B. The department or agency head, board, committee or officer authorized to spend from each fund;
- C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;
- D. The expenses of the program or activity for which each fund may be used;
- E. Any restrictions or conditions on expenditures from each fund;
- F. Any reporting or other requirements that apply to each fund; and
- G. The fiscal years each fund shall operate under this bylaw.

A. Revolving Fund	B. Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	C. Fees, Charges or Other Receipts Credited to Fund	D. Program or Activity Expenses Payable from Fund	E. Restrictions or Conditions on Expenses Payable from Fund	F. Other Requirements/ Reports	G. Fiscal Years
Animal Control	Board of Health vote	Fines assessed by Animal Control Officer; boarding or adoption fees	Expenditures related to animal control	Not to be used for payment of salaries		Fiscal Year 2019 and subsequent years
Council on Aging	Director, Council on Aging	Minibus fares and program fees	Council on Aging expenses	None		Fiscal Year 2019 and subsequent years
Library F ines and F ees	Board of Library Trustees vote	Late return fines and program fees	Library operating expenses	None		Fiscal Year 2019 and subsequent years
Passport and photo fees	Director, Council on Aging	Sale of photos and passport acceptance fees	Any expenditures related to passport services	None		Fiscal Year 2019 and subsequent years

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A. Revolving Fund	B. Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	C. Fees, Charges or Other Receipts Credited to Fund	D. Program or Activity Expenses Payable from Fund	E. Restrictions or Conditions on Expenses Payable from Fund	F. Other Requirements/ Reports	G. Fiscal Years
Planning Board	Planning Board V ote	Fees received on A pplications and Plan-Review <u>plan review</u>	All expenses of the Planning Board	Not to be used for full-time payroll costs		Fiscal Year 2019 and Subsequent Years
Police Department	Police Department	Fines A ssessed under MGL c. 41 § 21D and F ees from Southeastern Massachusetts Law Enforcement	Police T rainning and E quipment P urchases <u>equipment purchases</u>	None		Fiscal Year 2019 and Subsequent Years
Recreation Department	Recreation Commission	Fees R eceived for All-Activities <u>all activities</u> and Recreational-Programs <u>recreational programs</u>	All Recreation Department E xpenditures	Shall N ot be used to pay Salary-Costs <u>salary costs</u> for any F ull-time E mployees		Fiscal Year 2019 and Subsequent Years
Street Lighting Receipts	Street Lighting	Fees for L ighting and Insurance-Claims <u>insurance claims</u>	Expenditures R elated to Street Lighting <u>street lighting</u>	None	None	Fiscal Year 2021 and Subsequent Years

Chapter 29

HEALTH, BOARD OF

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 29-1. Duties and authority.

It shall be the duty of the Board of Health to look after the sanitary condition of the Town. ~~They~~It shall make such regulations as ~~they judge~~it judges necessary for the public health and safety respecting nuisances, sources of filth, and causes of sickness within the Town, and respecting articles that are capable of containing infection and contagion that might be brought into or conveyed from the Town.

§ 29-2. Prohibited waste disposal.

No person shall throw, or put into, or upon any public or private way, path, enclosure or grounds, or storm drain, bodies of waters, streams or brooks in this Town any decayed animal or vegetable matter, or other refuse whatsoever.

§ 29-3. Fines and fees.

A. ~~Non-Criminal Enforcement~~Noncriminal enforcement of ~~L~~Regulations enforced by the Board of Health. Whoever violates any provisions of the laws and regulations enforced by the Board of ~~h~~hHealth which are subject to a specific penalty may be penalized by the ~~non-criminal~~noncriminal disposition as provided in MGL c. 40, § 21D, and establishing fines for response to complaints found to be valid and adding the following as Whitman Board of Health fees:

- (1) Food inspections:
 - (a) Routine/Complaint: \$0.
 - (b) ~~Re-inspection~~Reinspection: \$0.
 - (c) Subsequent ~~re-inspection~~reinspection: up to: \$100.
- (2) Housing inspection complaint inspection.
 - (a) Initial: \$0.
 - (b) ~~Re-inspection~~Reinspection: \$0.
 - (c) Subsequent ~~re-inspection~~reinspection: \$100.
- (3) Pool inspections.
 - (a) Initial/~~e~~Complaint: \$0.
 - (b) ~~Re-inspection~~Reinspection: \$0.
 - (c) Subsequent ~~re-inspections~~reinspections: \$75.

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B. The fee schedule for inspections for those that hold Board of Health licenses/permits and are not listed above ~~are~~is as follows:

- (1) License ~~I~~nspection~~s~~:
 - (a) Routine/~~e~~Complaint: \$0.
 - (b) ~~Re-inspection~~Reinspection: \$0.
 - (c) Subsequent ~~re-inspection~~reinspection: \$100.

C. Tobacco violation fines.

- (1) It is the responsibility of the permit holder and/or his or her business agent to ensure compliance with all sections of the ~~R~~regulations of the Whitman Board of Health Sale of Tobacco to Products to Minors.
 - (a) First violation: \$100.
 - (b) Second violation within 24 months: \$200.
 - (c) Three or more violations within 24 months: \$300.

(2) Smoke-free ~~Workplace Violations~~workplace violations:

Violation	1st offense	2nd offense	3rd offense
Employer failure to provide a smoke-free workplace	\$100	\$200	\$300
Employer failure to post required sign	\$100	\$200	\$300
Individual smoking in workplace/ E <u>est</u> ablishment	\$100	\$200	\$300

- (3) Rabies ~~Violation Fines—Failure~~violation fines - failure to quarantine: \$250.
- (4) Condemnation and ~~O~~rder to ~~Vacate Violations~~vacate violations: \$250.

Chapter 48

OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Town Clerk

§ 48-1. Notification of committee members.

It shall be the duty of the Town Clerk to immediately notify, in writing, all members of committees who may be elected or appointed at any Town ~~Meeting~~, stating the business upon which they are to act and the names of the persons composing the committees.

§ 48-2. Notification of votes.

It shall be the duty of the Town Clerk, immediately after every Town ~~Meeting~~, to notify all boards, officers and committees of all votes passed at any Town ~~Meeting~~ in any way affecting them.

§ 48-3. Recordkeeping.

It shall be the duty of the Town Clerk to properly record, file, and index all contracts, agreements, releases, road layouts, and all other papers and documents in any way affecting the interest of the Town when filed with ~~him~~ the Clerk. All such papers and documents, unless otherwise required by law, shall be so filed by all boards, officers and committees at such time as the work to which such papers or documents pertain, shall have been completed.

ARTICLE II
Town Collector

§ 48-4. Collection of accounts due.

The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town which are committed to ~~him~~ the Collector, and shall collect all other sundry receipts credited to ~~Estimated Revenue~~ estimated revenue, with the exception of the ~~State Taxes~~ state taxes and the Town Clerk's fees, which are received by the Treasurer, and shall collect all ~~Federal Welfare~~ federal welfare reimbursements, with the exception of individual refunds and recoveries."

§ 48-5. Disposition of funds collected; bond.

The Town Collector shall, once in each week or oftener, pay over to the Treasurer all money received by ~~him~~ the Collector during the preceding week or lesser period on every such account, including any sums received as interest on moneys received by ~~him~~ the Collector on such accounts and deposited in any bank. ~~He~~ The Collector shall give bond to the Town for the faithful performance of ~~his~~ the Collector's duties in a form approved by the Commissioner of ~~Corporations and Taxation~~ Revenue and in such sum, not less than the amount that may be established by said Commissioner, as shall be fixed by the Selectmen.

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§ 48-6. Collection of past-due accounts.

If it shall seem advisable to the Town Collector that suit shall be instituted on behalf of the Town for the establishment of collection of any account due the Town, ~~he~~the Collector shall so notify the Selectmen and ~~he~~ shall report to them from time to time, as they may direct, upon all uncollected accounts in ~~his~~the Collector's hands. The Selectmen shall take such action with respect to all such accounts as they deem expedient and consistent with the interest of the Town.

ARTICLE III Town Treasurer

§ 48-7. Custody of checks filed with bids.

The Town Treasurer shall have the custody of all certified checks filed by any person, firm, or corporation in connection with bids of any nature.

§ 48-8. Custody of notes, bonds and coupons, deeds and insurance policies.

The Town Treasurer shall have the custody of all paid matured notes, bonds and coupons. ~~He~~The Treasurer shall also have custody of all deeds issued in any way affecting Town property, and insurance policies payable to the Town.

ARTICLE IV Town Accountant

§ 48-9. Custody of vouchers.

The Town Accountant shall have the custody of all vouchers which have been entered on warrants for payment and approved by the Selectmen and Accountant.

§ 48-10. Methods of accounting and forms.

The Town Accountant shall prescribe the methods of accounting and forms to be used by the several departments of the Town wherein the collection or disbursement of money is concerned, so that such methods and forms shall conform to the requirements of the ~~S~~state system of accounting.

ARTICLE V ~~Report of Accidents-~~

§ 48-11. Required reporting.

Every officer in charge of a department shall immediately make a report in writing to the Board of Selectmen whenever any transaction, act or negligence of ~~his~~the officer's department occurs which results in or may occasion injury to any person or property, and any police officer having knowledge of any such transaction, act or negligence shall make a similar report.

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Chapter 53

PERSONNEL

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 53-1. Personnel Board; Personnel Director.

The Board of Selectmen shall serve as the Personnel Board for the Town. The Town Administrator shall serve as Personnel Director for the Town and develop plans, policies and procedures for Board of Selectmen approval, and participate in the collective bargaining process.

§ 53-2. Duties and authority of Personnel Director.

- A. The Personnel Director shall administer the Personnel Administration Plan. He/~~s~~She shall establish for this purpose such policies, procedures and regulations consistent with the Plan as he/~~she~~ considers desirable, except that no action of the Director may take effect unless approved by the Board of Selectmen.
- B. The Town Treasurer and ~~Department Heads~~department heads shall keep such records of the employees of the Town as the Personnel Director may require. The Personnel Director shall maintain personnel files on all Town employees. All records of the Town by whosoever kept pertaining to the Town's employees shall be opened to inspection by the Personnel Director at all reasonable times.
- C. The Personnel Director shall prepare and maintain written job descriptions of the positions of all employees in the service of the Town, whether full- or part-time, seasonal, casual, special, civil service or others, except those positions filled by popular election. The Personnel Director shall work with elected officials to develop uniform job descriptions for those positions not under his/her direct authority.

§ 53-3. Conflict with other laws and regulations.

- A. Nothing in the Personnel Administration Plan shall be construed to conflict with the Civil Service Laws of the Commonwealth of Massachusetts.
- B. Nothing in the Personnel Administration Plan shall be construed to conflict with collective bargaining agreements between the Town and any collective bargaining units.

Chapter 57

PROPERTY, DISPOSITION OF

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 57-1. Authority to dispose of property.

The Chief Procurement Officer of the Town, or his/her designee, shall be responsible for the disposition of surplus or obsolete material or personal property.

§ 57-2. Method of disposal.

The disposal of surplus material shall be in conformance with MGL Chapter 30B.

Chapter 64

SELECTMEN

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 64-1. General powers and duties.

The Selectmen shall have general direction and management of all property and affairs of the Town in all matters of the Town not otherwise provided for by statute; or these ~~By laws~~ bylaws.

§ 64-2. Appearance before other bodies; rights regarding claims and suits.

- A. The Selectmen may appear, either personally or by Town Counsel, or by the special counsel duly employed by them, before any ~~Court, Committee~~ court, committee of the Legislature, or any ~~Federal, State, federal, state~~ or ~~County Board~~ county board of ~~C~~ commissioners, or other tribunal to protect the interests of the Town.
- B. They shall have authority as agents to institute, prosecute and defend suits and claims against or involving the interests of the Town, and to settle same when, in their judgment upon advice of counsel, such settlement is for the best interests of the Town.

§ 64-3. Authority to establish fees.

The Board of Selectmen, with recommendations from the Building Commissioner/Inspector of Buildings, shall have the authority from time to time, as circumstances indicate, to determine and set reasonable fees for building permits, sign permits, occupancy permits or other fees required by the State Building Codes or Town of Whitman ~~By laws~~ bylaws.

Chapter 70

TOWN MEETINGS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Annual Town Meeting and Election

§ 70-1. Date and time; poll hours.

The Annual Town Meeting shall be held on the first Monday of May each year and commence at 7:30 p.m. The Annual Town Election of Officers and other matters to be determined by ballot shall be held on the third Saturday of May each year and shall be considered as part of the Annual Town Meeting and shall be included in the ~~W~~warrant for the Annual Town Meeting. The hours for the opening and closing of the polls shall be left to the discretion of the Board of Selectmen.

§ 70-2. Notice.

Except as otherwise required by law, notice of every Town ~~m~~M~~e~~e~~t~~ing shall be given by posting at least seven days before the day appointed for the meeting true and attested copies of the warrant in not less than seven public places in the Town.

§ 70-3. Review of warrant by Finance Committee.

The Selectmen shall, upon the closing and completion of the warrant for any ~~a~~A~~n~~n~~u~~al or ~~s~~S~~p~~ecial Town ~~m~~M~~e~~e~~t~~ing, forward a copy thereof to the Finance Committee.

§ 70-4. Quorum.

The number of legal voters to constitute a quorum at ~~a~~A~~n~~n~~u~~al Town ~~m~~M~~e~~e~~t~~ings, except such parts of the Town ~~m~~M~~e~~e~~t~~ings as are devoted exclusively to the election of Town officers, shall be 50.

ARTICLE II

Special Town Meetings

§ 70-5. Limitations on authority.

At a Special Town Meeting at which less than 150 registered voters of the Town have been admitted to the meeting, no vote shall be taken on any articles which, if adopted, would have the effect of increasing the salary or wage rate of any Town officer or employee or which would increase the total amount of the appropriations made at the meeting above \$25,000. If this situation shall arise, then such article shall be passed over and the meeting shall proceed to take up whatever other business shall then come before it.

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**ARTICLE III
Rules and Procedures**

§ 70-6. Written questions or motions required.

All questions or motions submitted for the consideration of the Town ~~m~~Meeting shall be reduced to writing by the person submitting the question or motion to the Moderator. However, any person may request the Town Clerk to reduce his or her question or motion to writing and the request shall be complied with.

§ 70-7. Seating.

The Moderator shall require all those desiring to vote to occupy seats in the reserved area until seating capacity is exhausted. Additional seating areas for voters shall be designated by the Moderator. Tellers shall be instructed to count the votes only of those persons seated in the areas reserved and/or designated for Town ~~m~~Meeting voters. The Town Administrator and any nonresident department head shall have the right to sit with his/her respective ~~Board, Committee,~~board, committee or ~~C~~commission.

§ 70-8. Speakers.

Every person desiring to speak shall arise, address the Moderator, and, upon obtaining recognition, shall identify him~~-~~/herself and his/her address and shall stand while speaking unless the Moderator directs otherwise.

§ 70-9. Votes.

All votes, unless otherwise provided by law, shall be taken, in the first instance, by a "Yes" and "No" voice vote. If the Moderator is in doubt as to the vote, or if five voters immediately question the vote once completed and reported by the Moderator, the Moderator shall call either for a standing vote or a roll call vote, or the Moderator may employ an electronic handset voting system.

§ 70-10. Ballot voting.

If the majority of the Town ~~m~~Meeting approves a motion for a vote by ballot on any question, such a vote on the main motion shall be taken by electronic handset voting system or with the Town furnishing ballots as per the following sample:

Yes _____ No _____

§ 70-11. Reconsideration of votes.

No vote shall be reconsidered more than once and only after a majority vote of the voters present and voting on a motion to reconsider such vote. There shall be no reconsideration of any article at an adjourned Town ~~m~~Meeting except on advice of Town Counsel.

§ 70-12. Printed copies of warrant.

Printed copies of the warrant, with Finance Committee recommendations on appropriations of over \$5,000, shall be furnished to the voters at the Annual Town Meeting and at Special Town Meetings.

§ 70-13. Order of consideration of articles.

Articles in the warrant shall be acted upon in their order, unless the meeting, by majority vote, otherwise determines.

§ 70-14. Precedence of motions.

When a question is before the meeting, the following motions shall be received and shall have precedence in the following order, and the first three shall be decided without debate:

To adjourn

To lay on the table

For the previous question

To postpone to a certain time

To commit, recommit, or refer

To amend

To postpone indefinitely

§ 70-15. Motion to dissolve.

No motion, the effect of which would be to dissolve a Town Meeting, shall be in order until every article in the warrant has been duly considered and acted upon, but this shall not prevent the postponement of action on, or the consideration of, any article to an adjournment of the meeting to a stated time.

§ 70-16. Voters and visitors.

Only persons whose names are on the list of voters shall be admitted to the meeting and allowed to be seated in the reserved area for voters, except as hereinafter provided. A visitors' section of not more than 50 seats shall be provided so long as seats are available for student groups or anyone else who in the opinion of the Moderator deserves such consideration. Persons wishing to visit shall request permission of the Moderator before said meeting and will not be allowed to speak or vote on any question.

§ 70-17. Rules of order.

The duties of the Moderator and Town Officers and the government of the Town Meeting, when not specially provided for by law, or by the foregoing rules, shall be determined by the rules of practice contained in the current edition of Roberts Rules of Order Newly Revised, so far as they are adapted to the conditions and power of the Town and its Town Meeting.

Chapter 102

ALARM SYSTEMS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 102-1. False alarms.

- A. Any residence, school, municipal building or place of business which has an alarm system connected directly to the Police Department or connected indirectly to said ~~D~~department through a private alarm company (each of which shall be hereinafter referred to as a "monitored system";") shall be charged a fine for all responses by the ~~D~~department to such buildings when the response is caused by:
- (1) The activation of the monitored system through mechanical failure, malfunction, improper installation, or negligence by the user of an alarm system or ~~his~~ the user's employees or agents, including but not limited to incorrect security code entry, failure to notify the alarm company of contact information; or
 - (2) The activation of the monitored system requesting, requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion, robbery or burglary, or attempted threat.
- B. For purposes of this bylaw, activation of a monitored system for the purposes of testing with prior approval by the Police Department, or by an act of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.
- C. A fine for violation of this bylaw may be assessed against the owner or tenant of the residence or place of business.

§ 102-2. Violations and penalties.

Penalties for violation of this bylaw shall be as follows; successive responses to be counted within any twelve-month period;

- A. First three responses; ~~W~~ warning;
- B. Fourth response; \$50;
- C. Fifth response: \$75;
- D. Sixth and subsequent responses: \$100 each.

§ 102-3. Noncriminal disposition of violations.

This ~~section~~ bylaw may be enforced pursuant to the ~~non-criminal~~ noncriminal disposition method as contained in MGL c. 40, § 21D. Enforcing persons shall be police officers.

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Chapter 106

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 106-1. Public consumption prohibited.

No person shall drink alcoholic beverages as defined in MGL c. 138, § 1 while on, in or upon any public way or upon any way to which the public has a right of access or any place to which members of the public have access as invitees or licensees, park or playground or private land or place without the consent of the owner or person in control thereof.

§ 106-2. Seizure of beverages.

All alcoholic beverages being used in violation of this ~~ordinance~~bylaw shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.

§ 106-3. Violations and penalties.

Whoever violates any provision of this ~~by-law~~bylaw shall be liable to a penalty of not more than ~~\$50~~300 for each violation.

Chapter 110

ANIMAL CONTROL

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Dog Control

§ 110-1. Definitions.

The following words and phrases shall have the following meanings:

ANIMAL CONTROL OFFICER — Any officer appointed by the Board of Selectmen under the ~~By-Laws~~bylaws of the Town for the enforcement of said Dog Control Rules and Regulations ~~By Law~~Bylaw.

BOARD OF SELECTMEN — The chief executive officers of the Town of Whitman, a political subdivision of the ~~C~~ommonwealth.

COMMERCIAL KENNEL — A kennel maintained as a business for the ~~B~~oarding or grooming of dogs, or which sells dogs born and raised on the premises from ~~more than~~ four or more litters per year.

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HOBBY KENNEL — A kennel maintained for a collection of ~~six-seven~~ to 10 dogs or for breeding dogs for show or sport, or which sells dogs from less than four litters per year, not to exceed 10 dogs on the premises over the age of three months.

KEEPER — Any person, corporation or society, other than the owner, harboring or having in his/~~her~~ possession any dog.

KENNEL — One pack or collection of four or more dogs over the age of three months kept on a single premises, not to exceed six dogs.

LICENSE PERIOD — The time between July 1 and the following June 30, both dates inclusive.

§ 110-2. Licenses and fees.

- A. Effective July 1 of each year, the annual fee for every dog license, except as otherwise provided by law, shall be \$15 unless a certificate of a registered veterinarian who performed the operation that such dog has been neutered or has been spayed and has thereby been deprived of the power of propagation~~;~~ has been shown to the Town Clerk~~,~~ in which case the fee shall be \$10.
- B. A certified copy of such certificate on file in the office of any city or ~~Town Clerk~~town clerk within the Commonwealth of Massachusetts may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certification by the veterinarian who neutered or spayed the dog cannot be obtained, the Town Clerk may accept in lieu thereof a statement under the penalties of perjury by a veterinarian registered and practicing in the ~~C~~ommonwealth describing the dog and stating that ~~he~~the veterinarian has examined such dog and in ~~his~~the veterinarian's opinion the dog is not capable of propagation by reason of neutering or spaying. Until the veterinarian has examined the dog in question, the license fee for the licensing period shall be at the rate of the unneutered male or spayed female.
- C. When applying for a license, the applicant must also show proof~~,~~ by a veterinarian certificate, that the dog has been vaccinated against rabies, within the last three years if the dog is six months of age or over, as required by MGL c. 140, § 145B.
- D. In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog which is not licensed on or before August 31~~st~~ in any year shall be subject to a "late fee"~~,~~ so-called, of \$25. Said fee is to be paid to the Town Clerk in addition to the license fee for all dogs licensed on or after August 31~~st~~ of any year. The late fee must be paid before a license tag will be issued.
- E. Every dog licensed under the provision of this ~~By-Law~~bylaw shall wear a collar or harness to which shall be securely attached a proper and valid license tag. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk at a cost of \$3.
- F. The provisions of this section shall not apply to institutions licensed under MGL c. 140, § 174D, to pet shops licensed under MGL c. 129, § 39A, to any person operating a kennel or where otherwise provided by law.

§ 110-3. Kennel license.

- A. Any owner or keeper of four or more dogs, over the age of three months ~~of age or over~~, shall obtain a kennel license upon submission ~~of~~of written application and approval of the Board of Appeals~~s~~ to the Town Clerk. The kennel license shall be on a prescribed form and shall specify the name of the owner, the name of the kennel, the name of the keeper and the location of such kennel. Such license shall specify the maximum number of dogs to be kept on the premises at any one time.

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- B. The fees for each classification of kennel license shall be as follows:
- (1) Kennel ~~L~~license, as defined: \$30.
 - (2) Hobby ~~Kennel License~~kennel license, as defined: \$60.
 - (3) Commercial ~~Kennel License~~kennel license, as defined: \$150.
- C. A kennel license shall be in lieu of any other license upon a ~~V~~variance granted by the Board of Appeals (see ~~appropriate by law~~Chapter 240, Zoning), required for any dog which may be kept in such kennel for any portion of the period for which the license is issued. The owner or keeper ~~or of~~ such kennel shall renew the license prior to the commencement of each succeeding license period.
- D. While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license and the year of issuance and the name of the Town.
- ~~E. Any holder of a kennel license may move his kennel to a location in another city or Town with written prior approval of such new location by the special permit granting authority of the Board of Appeals of the city or Town to which he seeks to move his kennel, such written approval and his original kennel license. Upon payment of a fee of \$1, the Town Clerk shall issue to the owner of a new kennel license covering the new location for the balance of the licensing period.~~
- ~~FE.~~ A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for the ~~B~~boarding of dogs for other than medical or surgical purposes, in which case it shall apply in writing to the Town Clerk, submitting approval from the Board of Appeals for the required kennel license.
- ~~GF.~~ The Chief of Police or Animal Control Officer of the Town shall at any -time inspect or cause to be inspected any kennel and if, in their judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall by order revoke or suspend said kennel license. In the case of suspension of said license, the Board of Selectmen may reinstate such license and impose conditions and regulations upon the operation of said kennel.

§ 110-4. Rabies vaccination.

- A. In accordance with MGL c. 140, § 145B, the owner or keeper of a dog which has reached the age of six months shall cause that dog to be vaccinated by a veterinarian using a vaccine approved by the Department of Public Health.
- B. Upon vaccination, the veterinarian shall provide a tag, which shall be secured to the collar or harness of the dog, which shall show the year the vaccination was given, and shall prepare three copies of a form which shall specify the name and address of the owner or keeper of the dog, the name, registration number, rabies tag number, license number, life of the vaccine and the name of the company that produced the vaccine. The veterinarian shall mail one copy to the Town Clerk, present one copy to the owner or keeper of the dog and keep one copy.
- C. Unvaccinated dogs acquired or brought into the Town shall be vaccinated within 30 days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.
- D. Vaccinated dogs shall be revaccinated periodically in accordance with rules and regulations adopted and promulgated by the Department of Public Health.
- E. Whoever violates the provisions of this section shall be punished by a fine of not less than \$25.

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§ 110-5. Appointment of Animal Control Officer.

In accordance with applicable law and Town ~~By Laws~~bylaws, the Board of Selectmen shall, from time to time, appoint one or more Animal Control Officers who shall receive an annual salary which shall be set by the Selectmen, who may be police officers or constables, who shall serve at the pleasure of the Board of Selectmen.

§ 110-6. Animal Control Officer duties.

- A. The Animal Control Officer shall attend all complaints or other matters regarding dogs in the Town.
- B. The Animal Control Officer shall, at least twice in each year, inspect every premises holding a kennel license and shall issue a written report of the conditions of said kennel to the Board of Selectmen and to the Board of Health, stating his/~~her~~ -opinion as to maintenance, humane and sanitary conditions and if records are properly kept by the owner or keeper of said kennel.
- C. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Animal Control Officer or any representative shall sell any animal to any licensed animal dealer registered with the United States Department of Agriculture.
~~Whoever violates the provision of this section shall be punished by a fine of not less than \$50 nor more than \$200.~~
- D. The Animal Control Officer shall be responsible for the supervision of and the maintenance and care of the animal control shelter in the Town, and shall maintain such shelter in a humane and sanitary condition.
- E. The Animal Control Officer shall be responsible for maintaining records of all animals that become the subject of any action. ~~He~~The Animal Control Officer shall record each complaint and the nature thereof and what action, if any, was taken by ~~him~~the Animal Control Officer or any other authority of the Town.
- F. The Animal Control Officer shall maintain records of each dog confined under his/~~her~~ care and custody for any reason whatsoever, stating the reasons for such confinement, the breed and color of the dog, the date the dog came under the control of the Animal Control Officer, the final disposition of the dog and the date of that disposition. Records of the Animal Control Officer are public records and must be made available during normal working hours to any person requesting same.
- G. The Animal Control Officer shall examine any premises to be used as a proposed kennel and must submit a written report to the special permit granting authority stating his/~~her~~ opinion as to whether or not such a site would be suitable for the type of kennel license requested.

§ 110-7. Annual census of licensed dogs.

- A. The Board of Selectmen shall annually, within 10 days after September 1, issue a ~~Warrant to warrant~~ directing the Animal Control Officer ~~directing him~~ to seek out, catch and confine all dogs within the Town which ~~then have are~~ not been licensed, collared and tagged as required by this ~~By Law~~ He shall bylaw, and to enter and prosecute a complaint for failure to comply with the provisions of this ~~By Law~~ bylaw against the owner or keepers thereof, if known. ~~He~~The Animal Control Officer shall ~~destroy~~euthanize, or cause to be ~~destroyed each such dog which, after~~euthanized in a period of 10 days remains unclaimed manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia, or at the end of ~~the ten a seven-day period~~ the, any dog that remains unclaimed. The Animal Control Officer may ~~sell any healthy dog to make available for adoption~~ any person presenting a valid positive identification dog found free of disease for a sum not less than \$5,

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~~which will be paid~~3. to be determined by the Town, and shall turn over all monies to the Town-Treasurer.

- B. Before delivery of any dog so sold, the Animal Control Officer shall require the purchaser to obtain a license from the Town Clerk where the ~~D~~dog is to be kept, or shall require the purchaser to pay the appropriate license fee with an application for a dog license to the Animal Control Officer.
- C. All dogs confined under this section shall be confined in a suitable and humane detention area, or they may be placed in the care of a holder of a kennel license or with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, abuse or neglect.
- D. The Town Clerk shall annually, on September 1, provide to the Board of Selectmen a listing of all dog licenses issued in the preceding year, their name and address, and a listing of all persons shown on the annual census who, as of January 1, ~~was~~were the owner or keeper of a dog and their address. The Town Clerk shall further provide to the Board of Selectmen a listing of all persons in the current year who have licensed their dogs and their address. The Board of Selectmen shall attach all such lists to the ~~W~~warrant.

§ 110-8. Form of warrant.

The ~~W~~warrant to the Animal Control Officer will be in the following form:

COMMONWEALTH OF MASSACHUSETTS
PLYMOUTH, ss.

To _____, Animal Control Officer of the Town of Whitman, you are hereby required to catch and confine all dogs within the Town of Whitman not duly licensed, harnessed or collared and tagged. You shall record in writing the date, time and location of each apprehension and confinement, and shall describe the appearance of each dog caught, the condition under which it was caught and its final disposition. You shall maintain each record for one year following the apprehension and confinement of each dog and such record will be available for public inspection during that one year. You shall issue a citation against the owner or keeper of every such dog whose owner or keeper can be identified.

You shall confine every such dog for a period of not less than 10 days, unless during that 10 days you release that dog to its owner or keeper if such dog has been licensed, collared or harnessed and tagged and the owner or keeper has paid to you the sum of \$3 for every day the dog was in your custody, which shall be transmitted to the Town Collector.

At the expiration of the ten-day confinement period, you may allow any person to adopt a healthy dog, upon presentation of a valid positive identification, in accordance with § 110-7 of the Dog Control ~~By-~~Law~~Bylaw~~.

Hereof fail not, and make due return of this Warrant with your doings thereon on or before the first day of October next, on or before the first day of April next and on or before the first day of June next, stating the number of dogs caught, confined and/or destroyed or sold, along with the names and addresses of the owners of keepers thereof, if known, and whether all unlicensed dogs in the Town of Whitman have been caught, confined, destroyed or sold and the names of persons against whom complaints have been made.

Given under our hand and seal at Whitman, the _____ day of September, 20____

(Signed by the Board of Selectmen)

§ 110-9. Returns by Animal Control Officer on warrant.

The Animal Control Officer to whom such ~~W~~warrant is issued shall make returns on or before October 1, on or before January 1, on or before April 1, on or before June 1 and at the expiration of ~~his~~the Animal

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Control Officer's term of office to the Board of Selectmen, and shall state in said returns the number of dogs which ~~he~~the Animal Control Officer has caught, confined, killed or sold, the names or persons against whom complaints have been entered and whether complaints have been entered against all persons who have failed to comply with this ~~By-Law~~bylaw since the previous report.

§ 110-10. Disturbing the peace.

No person shall own or keep in the Town any dog which by biting, excessive barking, howling or any ~~any~~ other manner disturbs the quiet of the public.

§ 110-11. Complaint of nuisance.

If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within his/her jurisdiction is a nuisance by reason of vicious disposition or excessive barking or of other disturbance, the Animal Control Officer shall investigate such complaint, which may include an examination under oath of the complainant, submit a written report to the Selectmen of his/her findings and recommendations, together with the written complaint. Upon receipt of such report and examination the complainant and the owner of the dog, under oath, the Selectmen after hearing, of which time the owner of the dog will be given due notice to appear, may make such order concerning the restraint, muzzling, disposal of such dog, dismissal of the complaint or such other action as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to enable the Selectmen to issue their order following receipt of the report of the Animal Control Officer. If the Selectmen fail to act during the period of interim order, upon expiration of the period the interim order is automatically vacated.

§ 110-12. Restraint or muzzling.

- A. The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed 14 days, any dog for any of the following reasons:
- (1) For having bitten or threatened (worried) any person.
 - (2) If found at large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect. For the purpose of this ~~by-law~~bylaw, the term "at large" means a dog which:
 - (a) Is unaccompanied by a person of adequate age and discretion to properly control its actions; ~~and~~
 - (b) Is unrestrained by a lead or chain of less than seven feet that is of suitable test for the size of the dog being restrained.
 - (3) If found in a school, schoolyard or other recreational area.
 - (4) For having killed or maimed or otherwise damaged any domesticated animal.
 - (5) For chasing any vehicle (including bicycles) upon any public way or way open to public travel in the Town.
 - (6) For any violation of § 110-2.
 - (6) All of the above are subject to penalties or fines.
- B. Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit, in writing, to the Selectmen a report of his/her action and the reasons therefor. Upon receipt of such report, the Selectmen may make such order concerning the restraint, muzzling

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or disposal of such dog as may be deemed necessary. If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated. If the dog is ordered to be restrained or muzzled six weeks of a twelve-month period, the Selectmen must issue a permanent order of restraint, muzzling or disposal of said animal.

§ 110-13. Appeal of order of restraint or muzzling.

The owner or keeper of any dog that has been ordered to be restrained or muzzled or which has been restrained under this ~~article~~bylaw may, within 10 days after such order, bring a petition in the District Court, addressed to the justice of the court, praying that the order may be reviewed by the court, and after such notice to the officer or officers involved as the court may deem necessary it shall review such action, hear the witnesses and affirm such order unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed. The decision of the court shall be final and conclusive upon the parties.

§ 110-14. Full-time leash law.

Any person owning or harboring a dog shall not cause or allow said dog to roam at large in any of the streets or public ways or places within the Town of Whitman, or upon the premises or anyone other than the owner or keeper, unless the owner or occupant of such premises expressly grants permission. Under no circumstances shall a dog, even though secured by suitable lead, be allowed on private property, unless specific permission has been granted by the owner of said property. No dog shall be permitted in any public place or on public thoroughfares, inclusive of all Town-owned property and properties under the authority of the Commonwealth of Massachusetts that are situated in the Town of Whitman, unless said dog is restrained by a chain or lead not exceeding seven feet in length that is of suitable test for the size of the dog that is being restrained, and is attended by a person of adequate age and discretion to properly control its actions or is at the "heel" position beside a competent person and demonstrably obedient to the person's command.

§ 110-15. Unlicensed dogs; licensed dogs not wearing tag; pickup fee.

Any dog within the limits of the Town, unlicensed or not wearing a valid license tag shall be impounded by the Animal Control Officer and not released until pound fees, in accordance with the General Laws, and pick-up fees are paid and a current license is obtained from the Town Clerk. The pickup fee shall be \$10, with said fee to go to the Town. Any dog not claimed within 10 days will be disposed of by the Animal Control Officer by whatever humane means are available.

§ 110-16. Dog in estrus cycle.

If the Animal Control Officer determines that a dog in her estrus cycle (even when confined to the property of the owner or keeper) is attracting other dogs to her area, which condition causes disturbance on or damage to neighboring property or public areas, ~~he~~the Animal Control Officer may pick up and impound the dog for the duration of her estrus cycle, releasing thereafter to the owner or keeper upon payment of pickup and pound fees; or the Animal Control Officer may require the owner or keeper to place and keep such dog, while in such cycle, in a commercial or boarding kennel or to remove it from the area so that the nuisance is abated.

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§ 110-17. Pound and equipment.

The Board of Selectmen may select a commercial kennel facility within the Town or use the existing Town ~~K~~kennel to impound or keep dogs that have been apprehended by the Animal Control Officer as being strays or violators of the law, providing that both of the foregoing are within cost limitations and specifications set by the Board of Selectmen.

§ 110-18. Fines and penalties.

The fine schedule for each offense shall be set at as forth with respect to the violation of state law in which the amount assessed by the ~~C~~ommonwealth will be cited. Offenses of the section shall apply within the calendar year.

- A. Violation of the ~~L~~eash law/~~D~~og at ~~L~~arge:
 - (1) First offense: \$30.
 - (2) Second offense: \$50.
 - (3) Third and subsequent offenses: \$100.
- B. Dog ~~Bite—thebite.~~ ~~The~~ Animal Control Officer must make a judgment as to the severity and provocation of the bite to determine processing and procedure of this violation:
 - (1) First offense~~—~~: written warning.
 - (2) Second offense~~;~~: \$30 and a nuisance/dangerous dog hearing.
 - (3) Third and subsequent offenses~~;~~: \$60 and a nuisance/dangerous dog hearing.
- C. Dog found in school yard; additional to Subsection B:
 - (1) First offense: written warning.
 - (2) Second and subsequent offenses: \$50~~.~~
- D. Failure to comply with order of restraint in accordance with MGL c. 140, § 168: \$25.
- E. Failure to comply with notice to kill or confine in accordance with MGL c. 140, § 164~~;~~: a fine not less than \$25 and a police officer, constable or animal control officer may euthanize the dog in a humane manner if it is found outside the enclosure of its owner or keeper and not under the owner's~~s~~ or keeper's immediate care.
- F. Failure to vaccinate against rabies in accordance with MGL c. 140, § 145B: \$100.

§ 110-19. Court action.

If a complaint against a dog and dog owner or keeper is filed in the District Court by the Dog Officer, the schedule of fines and penalties contained in § 110-18 above shall be applicable.

§ 110-20. Release of dogs from custody.

A dog~~s~~, which has been picked up and in the custody of the Animal Control Officer~~s~~, will not be released to its owner or keeper unless the following fees have been paid~~;~~:

- A. A pickup fee of \$30.

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- B. A fee of \$10 per day for each day the dog has been in the Animal Control Officer's care (see MGL c. 140, § 151A).
- C. If not licensed, a paid receipt from the office of the Town Clerk showing proper license fee (under § 110-2) has been paid and that all late fees have been paid.
- D. All fines assessed must be paid within 21 days, if such fines are applicable.

§ 110-21. Dog and animal deposits.

- A. Restrictions ~~-on~~ urination and defecation. An owner or keeper of an animal will remove and dispose of any feces left by such animal on any sidewalk, street, park or other public area, or on any private property which is not owned or occupied by such owner. If an animal defecates on property other than that of the owner or keeper, the owner or keeper of the animal is responsible for the immediate removal of the feces.
- B. Restrictions ~~-on~~ disposal. Feces will only be disposed of at a place suitable and regularly reserved for the disposal of human feces or otherwise designated as appropriate by the Board of Health, to include appropriate amounts of feces that can be disposed of in the regular trash, provided it is contained in a plastic or paper bag.
- C. Exemption. Subsection A of this ~~By-Law~~bylaw will not apply to a person who, by reason of a physical disability, is unable to comply with the requirements of such section.
- D. ~~Violation—penalty~~Violations and penalties.
 - (1) Whoever violates the provisions of Subsections A and B of this ~~By-Law~~bylaw may be fined up to the maximum provided for this ~~by-law~~bylaw.
 - (2) In addition to the enforcement as described above, the provisions of this ~~by-law~~bylaw may also be enforced by non-criminal complaint pursuant to the provisions of the MGL c. 40, § 21D, and such penalties will be:
 - (a) For a first offense: \$20.
 - (b) For a second offense: \$35.
 - (c) For a third and subsequent offense: \$50.
- E. Complaints. A complaint form must be sworn to by the complainant before any enforcement action is taken, except when the Animal Control Officer or Board of Health observes the offense.

Chapter 118

BOATING AND WATERWAYS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Bodies of Water Managed by Conservation Commission

§ 118-1. Watercraft with internal combustion engines prohibited.

No person, or persons, shall operate any type of ~~water-craft~~watercraft powered by an internal combustion engine, on any of the bodies of water in the Town of Whitman that are managed by the Conservation Commission, except official Town or other emergency ~~water-craft~~watercraft.

§ 118-2. Violations and penalties.

Penalty for a breach hereof shall be in an amount ~~not in excess of \$50 for each offense to be specified by the Board of Selectmen, not to exceed the maximum prescribed by statute for each offense,~~ which may be recovered by indictment or on complaint before ~~district court~~the District Court.

ARTICLE II

Conservation Land or Wetlands Managed by Conservation Commission

§ 118-3. Vehicles powered by internal combustion engines prohibited.

No person, or persons, shall operate any type of vehicle powered by an internal combustion engine, on any of the conservation lands or wetlands in the Town of Whitman that are managed by the Conservation Commission, except official Town or other emergency vehicles.

§ 118-4. Violations and penalties.

Penalty for a breach hereof shall be in an amount ~~not in excess of \$50 for each offense to be specified by the Board of Selectmen, not to exceed the maximum prescribed by statute for each offense,~~ which may be recovered by indictment or on complaint before ~~district court~~the District Court.

Chapter 124

BUILDINGS AND BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Numbering of Buildings

§ 124-1. Numbers required; location.

Each new dwelling or business building shall be numbered with numbers assigned by the Assessors, attached to the front of the building in a location which is clearly visible from the street.

§ 124-2. Number standards.

Said numbers shall be a minimum of three inches in height and shall be a color in direct contrast to the surface to which ~~it is~~ they are attached.

§ 124-3. Certificates of compliance.

Upon the sale, rental, or transfer of a dwelling or business building in existence at the time of acceptance of this ~~by-law~~ bylaw, a certificate of compliance shall be required from the Fire Department.

§ 124-4. Time frame for compliance.

All dwellings and buildings, not affected by §§ 124-1, 124-2 and 124-3 of this ~~by-law~~ bylaw, shall comply within 12 months after its acceptance.

§ 124-5. Enforcement.

This ~~by-law~~ bylaw will be enforced by the Fire Department and/or the Building Commissioner/Inspector of Buildings.

ARTICLE II
Stretch Energy Code

§ 124-6. Definitions.

As used in this ~~article~~ bylaw, the following terms shall have the meanings indicated:

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) — The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

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STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the ~~8th edition~~ Massachusetts ~~building code~~Building Code, the Stretch Energy Code is an appendix to the Massachusetts ~~building August 2013 code~~Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

§ 124-7. Purpose.

The purpose of 780 CMR 115.AA is to provide a more energy-efficient alternative to the Base Energy Code applicable to the relevant sections of the ~~building code~~Building Code for both new construction and existing buildings.

§ 124-8. Applicability.

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

§ 124-9. Adoption of Stretch Code; enforcement.

- A. The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Whitman General Bylaws.
- B. The Stretch Code is enforceable by the Building Commissioner/~~Inspector of Buildings~~~~or Building Commissioner~~.

Chapter 135

EARTH REMOVAL

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 135-1. Permit required.

The removal of soil, loam, sand or gravel from any parcel of land not in public use in the Town, except as hereinafter provided, shall be allowed only after a written permit therefor is obtained from the Board of Selectmen after a public hearing of which due notice is given.

§ 135-2. Exceptions.

- A. No permit shall be required for the continuous operation on any parcel of a sand or gravel pit in operation or loam now piled at the time this ~~by-law~~bylaw is adopted, provided such operation is not thereafter discontinued for more than one year; and no permit shall be required for the removal of soil, loam, sand or gravel from any parcel of land when incidental to and in connection with the construction of a building on the parcel.
- ~~A.B.~~ This bylaw shall not apply to any soil, loam, sand or gravel which is the subject of a permit or license issued under the authority of the Town or by the appropriate licensing board of the Town or by

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the Board of Appeals, or which is to be removed in compliance with the requirements of a subdivision plan approved by the Town Planning Board.

§ 135-3. Permit conditions; revocation of permit; term.

In issuing a permit under this ~~by-law~~bylaw, the Board of Selectmen may impose such conditions not specifically provided for herein as it may deem necessary for the adequate protection of the neighborhood and the Town. Any conditions imposed by the Board shall be attached to and made a part of the permit. The Board, may, in its discretion, require a bond, certified check or other security for compliance with said conditions or as evidence of good faith as to the completion of any proposed construction. The Board may, after a public hearing, on proof of violation of any condition, revoke any permits so issued. No permits shall be issued under the provisions of this ~~by-law~~bylaw for a period of more than three years.

§ 135-4. Sand and gravel removal restrictions.

Sand and gravel may be removed from any parcel of land, except within 150 feet of a street or way, and the Board shall issue a permit therefor; provided, however, that the Board shall impose such reasonable conditions as to the disposition of topsoil and the re-establishment of ground levels and grades ~~as it may deem necessary.~~

§ 135-5. Soil and loam removal restrictions.

Soil or loam may be removed from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such removal. In issuing a permit, the Board may impose reasonable conditions as to the re-establishment of ground levels and grades.

§ 135-6. Removal of soil and loam for road purposes.

Notwithstanding the provisions of the above, the Board may issue a permit for the removal of soil or loam from any parcel of land in the Town where such removal is necessarily incidental to and in connection with the construction of a road or other facility involving a permanent change in the use of the land. The Board shall issue no such permit unless it is reasonably satisfied that the construction will be completed, and evidence thereof shall be made a part of the records of the Board.

§ 135-7. Removal near streets or ways.

Soil, loam, sand or gravel may be removed from any parcel of land within such parcel lying within 150 feet of any street or way, provided a permit therefor has been issued by the Board after satisfactory evidence that such removal will not be seriously detrimental or injurious to the neighborhood; provided, further, that the Board shall impose reasonable conditions as to the method of removal, the re-establishment of ground levels and grades and planting of the area to suitable cover, as it may deem necessary. Removal of soil or loam under authority of this section shall be further subject to the provisions of §§ 135-5 and 135-6 above.

§ 135-8. Violations and penalties.

Any person violating the provisions of this bylaw shall be punished by a fine of \$50 for the first offense, \$100 for the second offense and \$200 for each succeeding offense. Each day or portion thereof of continuing violation shall constitute a separate offense.

Chapter 141

FIRE PREVENTION AND PROTECTION

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Key Access Boxes

§ 141-1. Occupancies requiring key boxes; type and manufacturer.

- A. All occupancies subject to the provisions of the MGL c. 148, §§ 26, 26A, 26A 1/2, 26C, 26G, ~~26G 1/2~~, 26H and 26I shall be provided with a secured key access box. The type and manufacturer of the box shall be determined by the Fire Chief in order to standardize the system. All owners of occupancies mentioned herein shall have a period not to exceed 12 months from this ~~By-Law's~~bylaw's inception to bring occupancies into compliance.
- B. This ~~By-Law~~bylaw shall apply to the following types of structures:
- (1) Any new or existing residential structures which exceed 7,500 gross square feet in building area.
 - (2) Any new or existing residential structures which contain six or more living units and utilizes common corridors to access living units.
 - (3) Any new or existing structure protected by an automatic sprinkler system or automatic fire detection system.
 - (a) Exception: Residential structures containing five or fewer units that are owner-occupied.
 - (4) Any new or existing structure with a master fire alarm box.

§ 141-2. Location of box.

The box shall be located at or near the recognized public entrance (normal point of Fire Department access) or adjacent to the remote fire alarm annunciator panel on the exterior of the building. The box shall be located no less than four feet above, nor more than five feet above the threshold at the Fire Department access point.

§ 141-3. Supervision of box.

The box may be electronically supervised at the discretion of the owner, connecting to the burglar alarm system.

§ 141-4. Contents of box.

The box shall contain the following:

- A. Current keys for:
- (1) Main entrance.

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- (2) Fire alarm panel and room.
- (3) Mechanical rooms, if any.
- (4) Elevator access and firefighter switch.
- (5) Any area with hazardous conditions or materials.

§ 141-5. Contact information.

A current list of employees or contact persons to be called in an emergency shall be kept on file at the Fire Department. To change this list or update keys, the Fire Department must be notified, since ~~they have~~it has the only key to the access box.

§ 141-6. Violations and penalties.

The penalty for ~~non-compliance~~noncompliance for any provision of this ~~By-Law~~bylaw shall be \$100 for every thirty-day period of ~~non-compliance~~noncompliance.

Chapter 157

JUNK DEALERS AND COLLECTORS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 157-1. License required.

No person shall keep a shop for the purchase, sale or barter of junk, old metals or ~~second-hand~~secondhand articles, and no person shall collect, by purchase or otherwise, junk, old metals or ~~second-hand~~secondhand articles, from place to place in this Town without a license, issued by the Selectmen, in accordance with the provisions of the statutes of the ~~Common-wealth~~Commonwealth of Massachusetts relating to the licensing of dealers in and keepers of shops for the purchase, sale or barter of junk, old metals or ~~second-hand~~secondhand articles.

Chapter 166

LICENSES AND PERMITS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Denial or Revocation for Nonpayment of Taxes and Fees

§ 166-1. Authority.

~~Any City or The~~ Town ~~which hereby~~ accepts ~~this section may~~ MGL c. 40, § 57, which authorizes the Town, by ~~By Law~~ ~~bylaw~~ or ordinance, to deny any application for, or revoke or suspend any local license or permit, including renewals and transfers, issued by any ~~Board, Officer~~ ~~Department~~ ~~board, officer or department~~ for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other municipal charges or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised, on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. ~~Such By Law or ordinances shall provide that:~~

§ 166-2. Authority to deny, revoke or suspend.

- A. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges ~~for not less than a twelve month period,~~ and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.
- B. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing to be held not earlier than 14 days after said notice. Said list shall be a prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceedings at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this ~~section~~ bylaw shall not be reissued or renewed until the license authority receives a certificate issued

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by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges; payable to the municipality as the date of issuance of said certificate.

§ 166-3. Payment agreements.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

§ 166-4. Waivers.

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, ~~in~~if any, or members of ~~his~~their immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

§ 166-5. Exceptions.

This ~~section~~bylaw shall not apply to the following licenses and permits:

- A. Open burning, MGL c. 48, § 13;
- ~~B. Bicycle permits, MGL c. 85, § 11A;~~
- ~~C.~~ Sales of articles for charitable purposes, MGL c. 101, § 33;
- ~~D.~~ Children work permits, MGL c. 149, § 69;
- ~~E.~~ Clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E;
- ~~F.~~ Dog licenses, MGL c. 140, § 137;
- ~~G.~~ Fishing, hunting, trapping license, MGL c. 131, § 12;
- ~~H.~~ Marriage licenses, MGL c. 207, § 28; and
- ~~I.~~ Theatrical events, public exhibition permits, MGL c. 140, § 181.

§ 166-6. Additional exceptions.

~~A city or~~The Town may exclude any local license or permit from this ~~section~~bylaw by ~~By-Law or ordinance~~bylaw.

Chapter 173

MARIJUANA AND TETRAHYDROCANNABINOL

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Public Consumption

§ 173-1. Public consumption prohibited.

No person shall display, roll, smoke, ingest or otherwise use or consume marijuana or any form of tetrahydrocannabinol (as defined in MGL c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot or any area owned by or under the control of the Town of Whitman; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public; within the limits of the Town of Whitman.

§ 173-2. Enforcement.

This ~~By-Law~~bylaw may be enforced through any lawful means in law or in equity by ~~non-criminal~~noncriminal disposition pursuant to MGL c. 40, § 21D, by any sworn ~~Police Officer~~police officer in the Town of Whitman.

§ 173-3. Violations and penalties.

The fine for violation of this ~~By-Law~~bylaw shall be \$300 for each offense. Any penalty imposed under this ~~By-Law~~bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

ARTICLE II
Marijuana Establishments

§ 173-4. Establishments prohibited in Town.

Consistent with MGL c. 94G, § 3(a)(2), all types of ~~non-medical~~nonmedical "marijuana establishments" as defined in MGL c. 94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Whitman.

§ 173-5. Exception for medical purposes.

This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under ~~Chapter 369 of the Acts of 2012~~MGL c. 94I, § 1 et seq.

§ 173-6. When effective.

This ~~section~~bylaw shall be effective upon passage by the voters at a Town Election.

Chapter 182

OPEN BURNING

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 182-1. Purpose; scope.

- A. ~~Permitting and Regulation of~~ This bylaw is adopted for the Residential Use purpose of permitting and regulating the residential use of all ~~Open Burning Devices~~ open burning devices, as defined below, by the Whitman Fire Department.
- B. This ~~By Law~~ bylaw is not intended to govern the permitting and regulation of ~~Outdoor Wood Fired Boilers~~ outdoor wood-fired boilers and/or the ~~Open Burning~~ open burning of ~~Brush Material~~ brush material.

§ 182-2. Definitions.

The following definitions shall be used for the provisions of this ~~By Law~~ bylaw:

ATTENDED — Under the personal supervision of the ~~P~~ permit holder or other adult person acting under the ~~P~~ permit holder's direct supervision, with said individual remaining at the location of the ~~Open Burning~~ open burning at all times during which a fire is burning and until the fire is thoroughly extinguished.

BRUSH MATERIAL — Materials which include brush, trees, cane, driftwood, forestry debris from other than commercial or industrial land clearing operations, and/or materials associated with the normal pursuit of agricultural activities.

ENCLOSED CHAMBER — An ~~Open Burning Device~~ open burning device in which the entry and exit of combustion air and exhaust gas are permitted only through openings, apertures, ducts, stacks, flues, or chimneys designed for such entry and exit of air and/or exhaust gas.

HEAD OF THE FIRE DEPARTMENT — The Chief of the Whitman Fire-Rescue and Emergency Services, and/or his/her designee.

NUISANCE — Any odor, emission, or event that, in the discretion of the ~~H~~ head of the Fire Department, prevents the reasonable use and enjoyment of one's property.

OPEN BURNING — Burning wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an ~~Enclosed Chamber~~ enclosed chamber.

OPEN BURNING DEVICE — Any container manufactured and/or used for ~~Open Burning~~ open burning and/or as an ~~Enclosed Chamber~~ enclosed chamber, including any and all ~~Fire Pits; Chimineas; Wood Stoves~~ fire pits; chimineas; wood stoves; and, ~~Outdoor Fireplaces~~ outdoor fireplaces.

OPEN BURNING OF BRUSH MATERIAL — The ~~Open Burning~~ open burning of ~~Brush Material~~ brush material pursuant to a ~~Brush Burning Permit~~ brush burning permit issued by the ~~H~~ head of the Fire Department.

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OUTDOOR WOOD-FIRED BOILERS — Self-contained hot water boilers that are fired by wood and are regulated pursuant to the Massachusetts Fire Code (527 CMR) and the Massachusetts State Building Code (780 CMR).

PERMIT — An ~~Open Burning Device Permit~~open burning device permit issued pursuant to this ~~By-Law~~bylaw.

RESIDENTIAL USE — The use of any ~~Open Burning Device~~open burning device by the owner or occupant of a home or building located in a residential zoning district.

§ 182-3. Requirements for issuance of permits; denial or revocation.

Open ~~Burning Device Permits~~burning device permits will be issued by the ~~H~~Head of the Fire Department in accordance with the requirements of this ~~By-Law~~bylaw.

A. Scope and issuance.

- (1) No person shall allow and/or perform ~~Open Burning~~open burning in an ~~Open Burning Device~~open burning device in the Town of Whitman, without obtaining, in advance, a ~~P~~Permit from the ~~H~~Head of the Fire Department as provided in this ~~By-Law~~bylaw.
- (2) Permits for ~~Open Burning~~open burning in an ~~Open Burning Device~~open burning device may be issued by the ~~H~~Head of the Fire Department in his/her discretion and shall be subject to such reasonable conditions as the ~~H~~Head of the Fire Department may establish from time to time.
- (3) The conditions for the issuance of a ~~P~~Permit may include an inspection of the ~~Open Burning Device~~open burning device and/or the intended location of use of the ~~Open Burning Device~~open burning device prior to issuance of the ~~P~~Permit.
- (4) A ~~P~~Permit shall be valid for one year from the date of issuance. After issuance of the ~~P~~Permit, the Fire Department reserves the right to make inspections of the ~~Open Burning Device~~open burning device and the location of use of the ~~Open Burning Device~~open burning device on an annual basis and/or as deemed necessary by the ~~H~~Head of the Fire Department.
- (5) The ~~P~~Permit shall carry restrictions requiring that all local and state laws, regulations and ~~By-Laws~~bylaws are obeyed during the use of any ~~Open Burning Device~~open burning device.
- (6) A ~~P~~Permit shall be valid for the use of ~~Open Burning Devices during~~open burning devices between the hours of 12:00 noon and 12:00 midnight only.
- (7) An applicant for a ~~P~~Permit must show sufficient identification to prove ownership of the property upon which the device will be used.
- (8) If the applicant does not own the property, permission for the issuance of a ~~P~~Permit will be required from the property owner.
- (9) The use of ~~Open Burning Devices~~open burning devices requiring a ~~P~~Permit is limited to property containing one- and two-family dwellings in a residential district in the Town of Whitman, unless otherwise authorized by ~~T~~The Fire Chief or his/her designee.

B. General regulations for all outdoor fires.

- (1) Any fire set or maintained under authority of a ~~P~~Permit issued pursuant to this ~~By-Law~~bylaw shall be extinguished immediately upon request by a member of the Fire Department or any member of the Town of Whitman Police Department.

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- (2) Acceptance of a ~~P~~permit issued pursuant to this ~~By-Law~~bylaw shall constitute an agreement on the part of the person to whom it is issued to indemnify and save harmless the Town, its employees, representatives, agents, officials and servants, from and against any injuries or damages the ~~P~~permit holder may sustain personally and/or any liability the ~~P~~permit holder may incur toward any third persons by reason of the issuance of such ~~P~~permit or any action taken thereunder.
- (3) No fire shall be maintained in such manner as to create a smoke nuisance; and/or a condition of air pollution due to excessive smoke; and/or, to create a hazard to others as determined by the ~~H~~head of the Fire Department pursuant to provisions of 310 CMR 7.00 et seq.
- (4) All ~~Open-Burning-Devices~~open burning devices shall be at all times attended by the ~~P~~permit holder, who shall remain at the location of the fire at all times during which ~~the~~ fire is burning and until the fire is thoroughly extinguished.
- (5) Open ~~Burning-Devices~~burning devices shall not be used inside a building or on decks or porches.
- (6) Any situation where the smoke from an ~~Open-Burning-Device~~open burning device creates a ~~N~~nuisance and/or is objectionable or offensive to the community is prohibited.
- (7) Permit holders shall have the premises equipped with a garden or fire hose sufficient in length to reach the fire and attached to the faucet with water in the hose ready for immediate use at all times, or shall have watering pots filled with a sufficient supply of water ready for immediate use at all times while a fire is burning.
- (8) The ~~Open-Burning~~open burning of trash, refuse, or other similar material is strictly prohibited.
- (9) No ~~Open-Burning-Devices~~shall beopen burning devices set or maintained under authority of this permit shall be within 20 feet on any building or structure, including roofs, canopies and overhangs, nor within 20 feet of any combustible material, including but not limited to rubbish, wood, debris, trees, bushes or standing piles of leaves, branches, or grass.
- (10) The ~~P~~permit holder shall only use dry seasoned firewood ignited with a small amount of clean, dry paper. The burning of any material other than seasoned firewood, including but not limited to yard waste, leaves, vines, evergreen needles, brush, trash, construction materials, branches smaller than three inches in diameter, garbage, paper products, or any other material not allowed by state or local code or law shall be forbidden.
- (11) The ~~P~~permit holder shall follow all manufacturer and distributor safety guidelines and instructions for assembly, installation, use and maintenance of the ~~Open-Burning-Device~~open burning device.
- (12) The ~~Open-Burning-Device~~open burning device should be placed and maintained on a flat, level surface that is noncombustible. The device should not wobble or be subject to tipping.
- (13) No fire shall exceed three feet in diameter.
- (14) All fires shall be fully extinguished by 12:00 midnight.
- (15) With the exception of charcoal grills, the use of any accelerant to ignite an fire in an ~~Open Burning-Device~~open burning device is strictly prohibited.

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- C. Denial/~~r~~Revocation. An ~~Open Burning Device Permit~~open burning device permit may be denied and/or revoked for reasons which include but are not limited to the following:
- (1) A ~~P~~permit may be denied and/or revoked at any time by the ~~H~~head of the Fire Department or his/her designee in their sole discretion.
 - (2) A ~~P~~permit may be denied and/or revoked in response to any situation in which the smoke from an ~~Open Burning Device~~open burning device constitutes a ~~N~~nuisance and/or is objectionable or offensive to neighbors and/or the community.
 - (3) A ~~P~~permit may be denied and/or revoked as a result of any violation of any term or condition of this ~~By-Law~~bylaw, including but not limited to the ~~General Regulations~~general regulations stated above, or any history of violations.
 - (4) A ~~P~~permit may be denied and/or revoked in response to any situation where the open air burning creates a dangerous condition and/or risk of harm or injury to individuals or property.
 - (5) Permits issued pursuant to this ~~By-Law~~bylaw shall be immediately void, without any need for written notice of revocation, in case of and for the duration of any storm, air quality and/or high wind advisory issued by the Massachusetts Department of Environmental Protection, the Fire Department and/or any local or state weather or public safety service.
 - (6) A ~~P~~permit may be revoked immediately upon notice, including verbal notice, from the ~~H~~head of the Fire Department, in response to any violation of any applicable law or ordinance, ~~a~~Any violation of any term or condition of this ~~By-Law~~bylaw, or the violation of any condition contained in a permit issued pursuant to this ~~By-Law~~bylaw shall render the ~~P~~permit null and void.

§ 182-4. Delegation of authority.

Any authority conferred upon the ~~H~~head of the Fire Department, under this ~~By-Law~~bylaw and/or pursuant to Massachusetts laws and regulations, may be delegated to such members of the Fire Department as the ~~H~~head of the Fire ~~d~~Department shall designate from time to time.

Chapter 190

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 190-1. Registration with Town required.

No person, unless otherwise authorized, shall go from place to place within the Town selling or bartering or carrying for sale or barter, or exposing therefor or taking orders therefor any goods, wares, or merchandise, nor shall any person go from place to place within the Town begging or soliciting alms or contributions for any person, cause, or organization, either on foot or from any animal or vehicle, without having first recorded his/her name and address with the Chief of Police and furnished such other information as may be requested of him/her. The Chief of Police shall thereupon, if satisfied with the honesty of the applicant, issue a permit for a period not exceeding 12 months, which must be shown on request, and shall

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state that said person has duly registered and is entitled to go from place to place within the Town for the purpose specified.

Chapter 199

SOLID WASTE

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 199-1. Prohibited disposal.

No person shall dispose of garbage, refuse, bottles, cans or rubbish on any street or sidewalk, or on private property, except in approved solid waste containers while awaiting regularly scheduled pickup.

§ 199-2. Transportation restrictions.

No person shall transport or convey garbage, refuse, bottles, cans or rubbish on any street unless the same be placed in suitable covered containers or otherwise effectively enclosed so as to prevent any of said garbage, refuse, bottles, cans or rubbish from dropping, sifting, leaking or otherwise escaping upon any street, sidewalk, or private property.

§ 199-3. Violations and penalties.

Any person who violates this provision by law shall forfeit and pay for each offense a fine not exceeding \$50300.

Chapter 205

STREETS, SIDEWALKS AND PUBLIC WAYS

[HISTORY: Adopted by the Town Meeting of the Town of Whitman as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Openings and Excavations

§ 205-1. Permit required; restoration of surface.

No person or corporation, or its agents and servants, except the Board Department of Public Works, or those acting under their order, in the lawful performance of their duties, shall break or dig up the ground in any street, sidewalk, or public way in the Town without obtaining a written permit from the Board Department of Public Works, which permit shall state the regulations under which the work shall be done. Upon completion of said work covered by this permit, the surface of the street, sidewalk, or way shall be restored

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to a condition satisfactory to the ~~Board~~Department of Public Works.

ARTICLE II Use of Public Ways

§ 205-2. Permit required for encroachments.

No person, or persons, shall erect, set up~~;~~ or maintain~~;~~ any fence, portico, platform, ~~door-step~~doorstep, sign, ~~sign-board~~signboard or advertising device projecting into~~;~~ or placed on or over public ways in the Town without first obtaining a written permit from the Board of Selectmen.

§ 205-3. Permit required for use or obstruction of public ways; conditions.

- A. Any person who intends to erect, alter, repair or take down any building, or part thereof, on land abutting on any way which this Town is obliged to keep in repair, and desires to make use of any portion of said way for the purpose of placing thereon building materials or rubbish, shall give notice thereof to the Board of Selectmen. Thereupon~~,~~ the Board of Selectmen may grant a permit to occupy such a portion of said way to be used for such purpose as the necessity of the case demands, and the security of the public allows; such permit in no case to be in force longer than 90 days, and to be on such conditions, and by furnishing such security, by bond or otherwise~~,~~ for the observance and performance of the conditions and for the protection of the Town, as the Board of Selectmen may require; and especially in every case upon condition that during the whole of every night, from sunset in the evening until sunrise in the morning, ~~lighted lanterns~~lights shall be so placed as effectually to secure all travelers from liability to injury.
- B. No person shall use any portion of any way which the Town is obliged to keep in repair for the purposes named in Subsection A above without the written permit of the Board of Selectmen, and having obtained such permit shall not fail to comply with the conditions thereof. For any violation of such permit the Board of Selectmen may immediately revoke such permit.

§ 205-4. Shades and awnings.

No person, or persons, shall establish or maintain any shade or awnings over any part of a street, sidewalk~~;~~ or public way unless the same be securely supported and unless the lowest part thereof be not less than seven feet above the street, sidewalk or public way.

§ 205-5. Games on streets.

No person, or persons, shall play ball, throw stones or other missiles within or upon any street of the Town.

§ 205-6. Coasting.

No person, or persons, shall coast, or slide down, across, in~~;~~ or over or along any street, way or sidewalk upon any hand-sled, board, or otherwise, except in such places and under such restrictions as the Board of Selectmen shall determine and prescribe.

§ 205-7. Loitering.

No person shall loiter in any street, or on any sidewalk~~;~~ or in any other public place in such a manner as to obstruct the free passage of pedestrians or vehicles after being directed by a police officer to move on.

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§ 205-8. Horses and vehicles on sidewalks.

No person shall drive or ride a horse, bicycle, or drive a motor-driven vehicle, along any sidewalk.

§ 205-9. Maintenance of vegetation.

No person shall permit any part of a tree, hedge, bush, or shrubbery, growing on his/her land, to extend or overhang any street, sidewalk, or highway so as to create a dangerous condition or to interfere with the free full use of such street, sidewalk, or highway.

§ 205-10. Moving buildings.

- A. No person, or persons, shall move or assist in moving any building more than 10 feet high and 15 feet wide over any street or way which this Town is obliged to keep in repair without the written permit of the Board of Selectmen first being obtained, or, having obtained such permit, without complying with the restrictions and provisions thereof.
- B. This section shall not apply to the transportation of small or portable type buildings, when carried upon trucks or other suitable vehicles, provided the weight is not sufficient to cause damage to said street or way, or the height of such building above the ground then loaded such as to cause damage to or interfere with the overhead property of any person, firm or corporation if the same is being lawfully maintained.
- C. Planking or other protection must be used by all heavy equipment backing over or operating on sidewalks and driveways owned and maintained by the Town. Damage done by any person or corporation or their agents or servants shall be repaired or reimbursed to the satisfaction of the Department of Public Works.

§ 205-11. Vehicles interfering with snow and ice removal.

- A. Between the hours of 11:00 p.m. and 6:00 a.m. from December 1 through and including April 1, no person shall place, or cause to be placed, any vehicle which shall interfere with the removing or plowing of snow, or the removing of ice in any way of the Town.
- B. The BoardDepartment of Public Works, or those acting under theirits orders in the lawful performance of their duties, for the purpose of removing or plowing snow, or removing ice, from any way, is hereby authorized and empowered to remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work, and the owner of such vehicle shall be liable for the cost of such removal, and the storage charges, if any, resulting therefrom.

§ 205-12. Snow and ice removal.

- A. The owner or occupant of any land abutting upon a sidewalk or public way in this Town, which said property is used for business purposes, shall cause all snow and ice to be removed from such sidewalk to a width of four feet. Such snow and ice shall be so removed by plowing, shoveling, scraping or otherwise so as not to damage such sidewalk, and within the first three hours between sunrise and sunset after said snow and ice has ceased to accumulate.
- B. Any owner or occupant who violates this provision shall forfeit and pay the sum of \$100 for the first offense, ~~\$300 for the second offense~~, and ~~\$500~~\$200 for ~~the third and~~ each subsequent offense; and each day the sidewalk remains covered by snow shall be considered a separate offense.

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§ 205-13. Deposit of snow, ice or water on public ways prohibited.

- A. No person shall cause snow to be shoveled or plowed onto any sidewalk or street or public way; and no person shall pump water or other liquid onto any street or public way so as to create a dangerous condition unless the Board of Selectmen permits same in an emergency.
- B. Any person who violates any of these provisions shall forfeit and pay the sum of \$100 for the first offense, \$300 for the second offense, and \$500 for the third and each subsequent offense.

§ 205-14. Loitering on private property prohibited.

No person shall be or remain in or upon any doorway, doorstep, portico or other projection from any house or other building to the obstruction of any person lawfully entitled to pass or resort thereto; thereof, without express consent of such owner or occupant.

Chapter 218

VEHICLES, JUNK

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 218-1. Open storage prohibited.

No junked or dilapidated vehicle may be allowed to stand for a period of more than six months on any premises unlicensed under MGL c. 140, § 57, if the Selectmen have received a written complaint on same. The Selectmen's judgment shall be final as to determining whether or not a motor vehicle is junked or dilapidated.

§ 218-2. Violations and penalties.

Penalty for a breach hereof shall be in an amount not in excess of \$~~20~~300 for each offense, which may be recovered by indictment or on complaint before ~~district court~~ the District Court.

Chapter 222

VEHICLES, UNREGISTERED

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 222-1. Purpose.

The purpose of this bylaw is to regulate the parking ~~Parking~~ of unregistered vehicles on residential properties.

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§ 222-2. Open storage limitations.

Each property address shall not keep or store more than one unregistered, uninsured or inoperable motor vehicle, boat, trailer, camper or recreational vehicle ~~un-garaged~~ungaraged on premises for more than 72 hours on a residential property.

§ 222-3. Storage in front yard prohibited.

Under no circumstances shall any unregistered, uninsured or inoperable motor vehicle, boat, trailer, camper or recreational vehicle be stored in any front yard on a residential property.

§ 222-4. Violations and penalties.

Penalty for a breach hereof shall be in an amount of \$300 for each offense, which may be recovered by indictment or on complaint before ~~district court.~~ ~~(Per Massachusetts General Laws, Chapter the District Court per MGL c. 40, Section § 21D—, Noncriminal disposition of ordinance, by-law, rule or regulation violations).~~ Each day of violation beyond 72 hours shall constitute a separate offense.

Chapter 230

YARD SALES

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

§ 230-1. Intent.

It is the intent of this ~~by-law~~bylaw that a mechanism be provided to place reasonable and appropriate controls on the activity of offering for sale secondhand articles within residential areas of the Town of Whitman (hereinafter "Town"). It is also the intent of this ~~by-law~~bylaw to ensure that groups, individuals or corporations who or which customarily engage in the sale of secondhand articles as a business are limited to those locations within the Town that are designated by the Zoning ~~b~~Bylaws for such business activities.

§ 230-2. Additional regulations.

Town of Whitman citizens are advised that additional state laws and regulations may apply to the conduct of such sales activities, including but not limited to sales and use tax regulations. These laws and regulations may require additional permits and licensing.

§ 230-3. Permit required; conditions.

Yard sales may be held in the Town pursuant to a permit granted by the Office of the Selectmen, subject to the following conditions:

- A. Subject to any additional limitations imposed by state laws or regulations, the number of garage/yard sales an owner or resident or qualified organization may conduct shall be limited to three per calendar year.

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- B. All material available for the sale shall originate from the premises on which the sale takes place or from other residential properties in the immediate neighborhood.
- C. No sign or advertising device shall be placed within any street right-of-way, including freestanding signs, or any sign affixed to street signs, traffic and regulatory warning signs or any utility poles within such right-of-way. No such sign or advertising device shall be placed on any public tree. Signs shall not be displayed more than 48 hours prior to the start of the sale and must be removed within 24 hours after the conclusion of the sale. All signs shall meet the Town's sign bylaw standards.
- D. No person customarily engaged in the business of conducting ~~second-hand~~secondhand sales shall participate in any way in a garage sale directly or indirectly unless said garage/yard sale is conducted on said person's property and then, only providing that none of the material is brought in from outside sources for purposes of resale.
- E. Such sale shall not exceed two consecutive days' duration. The hours of operation for any yard sale shall be limited to between 9:00 a.m. and 7:00 p.m., unless terminated earlier at the direction of the Whitman Police Department. All unsold items or objects shall be stored out of public view by 7:30 p.m.
- F. The permittee shall be responsible for orderly parking and traffic flow. If parking or traffic flow conditions create a threat to the safety of the public, the yard sale shall be terminated at the request of the Whitman Police Department.
- G. No yard sale event shall be held at a time or place so that it creates a public nuisance, violates any other provision of the Town's ~~by-laws~~bylaws, creates unreasonable noise or disturbance, and/or negatively impacts or interferes with any other public event in the community.

§ 230-4. Time frame for permit application; fees; tenants.

The permittee must apply at least four days prior to the commencement of the yard sale. The Board of Selectmen shall establish a fee schedule for the permit. The owner shall be responsible for obtaining a permit for each yard sale and for compliance with this bylaw. Tenants renting a home and seeking a yard sale permit must present written authorization from the property owner to hold a yard sale prior to being granted a permit.

§ 230-5. Enforcement; violations and penalties.

The Whitman Police Department is authorized to enforce this yard sale ~~by-law~~bylaw by issuing ~~non-criminal~~noncriminal citations as provided by MGL c. 40, § 21D and by Chapter 1, Article II, of these ~~by-laws~~bylaws. Failure to comply with this bylaw will result in a fine of \$25 for the first offense and \$100 for the second and each subsequent offense.

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Chapter 240

ZONING

[HISTORY: Adopted by the Town Meeting of the Town of Whitman. Amendments noted where applicable.]

ARTICLE I

Title, Authority and Purpose

§ 240-1.1. Adoption.

The "Town of Whitman Protective Zoning ~~By Law~~Bylaw, effective March 29, 1960, subsequent amendments thereto, is hereby amended in total and a revised "Town of Whitman Protective Zoning ~~By Law~~Bylaw, hereinafter called "this ~~By Law~~bylaw," is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto, herein called the "Zoning Act," and the powers granted to the Town under the Home Rule amendment to the Massachusetts Constitution.

§ 240-1.2. Purpose.

The purposes of this Zoning ~~By Law~~Bylaw are to promote the health, safety, morals, convenience and general welfare of the inhabitants of Whitman, to lessen the danger from fire and congestion and from the hazards of ~~flood water~~floodwater inundation; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to protect and conserve the value of property; to prevent overcrowding of land; to avoid undue concentration of population; to preserve and increase the amenities of the Town; to conserve natural conditions; to conserve and protect public and private water supply; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements; and to improve and beautify the Town by encouraging the most appropriate uses of land within the Town under the provisions of Chapter 40A of the General Laws, as amended.

§ 240-1.3. Intent.

In accordance with these purposes, the use, construction, erection, establishment, movement, repair, alteration, enlargement, height, appearance, location, and occupancy of buildings and structures and the uses and occupancy of premises in the Town of Whitman are hereby regulated and restricted as hereinafter provided.

ARTICLE II

Definitions

§ 240-2.1. Word usage; terms defined.

For the purposes of this ~~by law~~bylaw, certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural; the plural 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 Whitman Subdivision Rules and

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Regulations shall have the meanings given therein unless a contrary intention clearly appears.

ABANDONMENT — The visible or otherwise apparent intention of an ~~Owner~~ to discontinue a nonconforming use of a building or premises or the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use without its replacement by similar equipment or furnishings or the replacement of the nonconforming use or building for a period of two years or more.

ABOVE GROUND LEVEL (AGL) — A measurement of height from the natural grade of a site to the highest point of a structure.

ABUTTING — Having a common property line with; contiguous, fronting upon.

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADULT ENTERTAINMENT ESTABLISHMENT — Includes adult bookstores, adult motion-picture theaters, adult paraphernalia stores and adult video stores, as defined herein.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other matter which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT MOTION-PICTURE THEATER — An enclosed building or drive-in theater used for presenting motion pictures, slides, photo displays, videos or other material for viewing distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade videos, movies or other film material which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

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

ALTERNATIVE ENERGY — Resources whose common characteristic is that they come from a green source and replace or supplement traditional fossil fuel sources, such as coal, oil and natural gas, and shall include the following technologies: combined heat and power; and, ~~electric~~ and ~~hydrogen~~-powered vehicles and associated technologies, including advanced batteries and recharging stations.

ANTENNA — The surface from which wireless radio signals are sent and received by a personal wireless service facility.

APARTMENT — A building exclusively for residential use with three or more dwelling units.

AS-OF-RIGHT SITING — ~~That~~Means that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to ~~non-discretionary~~nondiscretionary site plan review to determine conformance with local zoning ordinances or bylaws and with state and federal law. Projects that are consistent with zoning bylaws and state and federal law cannot be prohibited, but can be reasonably regulated by the Zoning Board of Appeals through ~~Site Plan Review~~site plan review.

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BUILDING — A combination of any materials, whether portable or fixed, having a roof and enclosed within exterior walls or fire walls built to form a structure that is safe and stable supported by columns or walls resting on its own foundation for the shelter, housing or enclosure of persons, animals, ~~chattels~~ ~~of personal~~ property of any kind. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

BUILDING, ACCESSORY — A detached building, the use of which is customarily incidental and subordinate to that of the principal building and which is located on the same lot as that occupied by the principal building to which it is accessory.

BUILDING, ATTACHED — A building having any portion of one or more walls in common with adjoining buildings.

BUILDING, DETACHED — A building having open space on all sides.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

CAMOUFLAGED — A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged".

CARRIER — A company that provides wireless services.

CERTIFICATE OF OCCUPANCY — The final permit required from the Town before any use or structure may be occupied; issued by the Building Commissioner/Inspector of Buildings; a means of assuring that all work has been completed in accordance with plans approved for Building Permits ~~building permits~~ and that all work conforms to the requirements of all building, zoning, and health regulations of the Town.

CO-LOCATION — The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

CONDOMINIUM — A structure in which an individual owns separately one or more single dwelling units in a multi-unit building. He/She and the owners of the other units have an undivided interest in common areas and facilities that serve the project. The common areas include such items as land, roof, floors, main walls, stairways, lobby, hall, parking spaces and community and commercial facilities.

CROSS-POLARIZED (OR DUAL-POLARIZED) ANTENNA — A low mount that has three panels, flush-mounted or attached very close to the shaft.

DISTRICT — A zoning district as established by Article III of this ~~by law~~ bylaw.

DRIVEWAY — An open space located on a lot which is built for access to a garage, or off-street parking or loading space.

DUPLEX DWELLING — A two-family dwelling designed with separated dwelling units separated by a fire separation wall and/or floor-ceiling assembly.

DWELLING — A privately or publicly owned permanent structure containing a dwelling unit or dwelling units. The terms "one-family", "two-family" or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, trailer, however mounted, or dormitory, or structure solely for transient or overnight occupancy.

DWELLING UNIT — One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with permanent provisions for cooking, living, sanitary, eating, and sleeping facilities.

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DWELLING, MULTIFAMILY — A building containing three or more dwelling units constructed on a single lot (~~A~~apartment).

ELEVATION (AMSL) — The measurement of height above sea level.

ENVIRONMENTAL ASSESSMENT (EA) — An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EQUIPMENT SHELTER — An enclosed structure, cabinet, shed, or box at the base of the mount within which are housed batteries and electrical equipment.

EXCEPTION — A use of a structure or lot or any action upon a premises which may be permitted under this ~~by-law~~bylaw only upon application to and the approval of the Zoning Board of Appeals and in accordance with provisions of this ~~by-law~~bylaw.

FALL ZONE — The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY — One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

FLOOR AREA — The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this ~~by-law~~bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.

FRONTAGE — That portion of a lot contiguous with a street or street right-of-way line and providing access thereto.

FUNCTIONALLY EQUIVALENT SERVICES — Cellular, ~~Personal Communication Services (PCS), Enhanced Special Mobile Radio, Specialized Mobile Radio and Paging, personal communication services (PCS), enhanced special mobile radio, specialized mobile radio and paging.~~

GU~~H~~YED TOWER — A monopole or lattice tower that is tied to the ~~G~~ground or other surface by diagonal cables.

HEIGHT — The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof or the mean level of the highest gable or the slope of a hip roof.

HOME OCCUPATION — An accessory use which by custom has been carried on entirely within a dwelling unit and is incidental and subordinate to the dwelling use and which shall not occupy more than 25% of the floor area or 400 square feet, whichever is less, of the dwelling unit so used. No commodities except those processed on the premises shall be sold. Permitted uses shall be carried on by the occupants of the dwelling unit with not more than one nonresident employee, and shall not in any manner change the residential character of the building.

HOSPITAL — A building providing twenty-four-hour in-patient services for the diagnosis, treatment or other care of human ailments, including, where appropriate, a sanitarium, clinic, rest home, sanatorium, nursing home, and convalescent home.

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HOTEL — A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances, including an inn, motel, motor inn, and tourist court, but not including a ~~boarding house~~boardinghouse, lodging house, or rooming house.

LATTICE TOWER — A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

LICENSED CARRIER — A company authorized by the FCC to construct and operate a commercial mobile radio services system.

LIVE ADULT ENTERTAINMENT ESTABLISHMENT — Establishments which feature persons, entertainers or employees who appear or work in a state of nudity, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

LODGING UNIT — One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in ~~boarding houses~~boardinghouses, tourist houses or rooming houses.

LOT — A single or contiguous tract of land in the same ownership throughout and defined by bounds or lot lines ascertainable by recorded deed or plan.

LOT DEPTH — The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE — The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

LOT LINE, FRONT — The property dividing a lot from the street.

LOT LINE, REAR — The lot lines opposite from the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT, CORNER — A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in the case of a curved street, extended lot lines, being not more than 135°.

MANUFACTURING FACILITIES — Those facilities used primarily for heavy or light industry or the manufacture or assembly of a product, including processing, blending, fabrication, assembly, treatment and packaging.

MEMBERSHIP CLUB — A social, sports or fraternal association or organization which is used exclusively by members and their guests, which may contain bar facilities.

MOBILE HOME — A large trailer outfitted as a home meant to be parked more or less permanently at a location. See "trailer."

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

MOUNT — The structure or surface upon which antennas are mounted, including the following four types of mounts.

- A. Roof ~~Mounted: Mounted~~mounted: mounted on the roof of a building.
- B. Side ~~Mounted: Mounted~~mounted: mounted on the side of a building.

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C. Ground ~~Mounted: Mounted~~ mounted: mounted on the ground.

D. Structure ~~Mounted: Mounted~~ mounted: mounted on a structure other than a building.

~~MULTIFAMILY DWELLING — A dwelling, including a single family attached units, designed for, or occupied by three or more families.~~

OMNIDIRECTIONAL (WHIP) ANTENNA — A thin rod that beams and receives a signal in all directions.

OPEN SPACE — The space on a lot unoccupied by building, unobstructed to the sky, not devoted to streets, driveways, or off-street parking or loading spaces and expressed as a percentage of total lot area.

OWNER (REAL ESTATE) — Any person or entity of record, holding fee simple title to a lot of land.

PANEL ANTENNA — A flat surface antenna usually developed in multiples.

PARKING SPACE — An off-street space, whether inside or outside a structure, for exclusive use as a parking stall for one motor vehicle as required elsewhere in these ~~by laws~~ bylaws.

PERSONAL WIRELESS SERVICE FACILITY — Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

PERSONAL WIRELESS SERVICES — The three types of services regulated by ~~this By Law- Article XIII of this bylaw~~.

PLANNED CLUSTER DEVELOPMENT — An area of land, designed and developed as a unit, with common open spaces as an integral characteristic, which departs from the zoning regulations conventionally required in the district concerning lot size and dimensional requirements.

RADIO FREQUENCY (RF) ENGINEER — An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR) — The emissions from personal wireless service facilities.

RENEWABLE ENERGY — Resources whose common characteristic is that they are nondepletable or are naturally replenishable but flow-limited; or ~~(ii)~~ existing or emerging non-fossil fuel energy sources or technologies, which have significant potential for commercialization in New England and New York, and shall include the following: solar photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; geothermal; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; and low-emission advanced biomass power conversion technologies using such fuels such as wood, by-products or waste from agricultural crops.

RESEARCH AND DEVELOPMENT FACILITIES — Those facilities used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses.

SECURITY BARRIER — A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

~~SEPEA~~RATION — The distance between one carrier's array of antennas and another carrier's array.

SIGN — Any permanent or temporary representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by illumination, provided, however, that the

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following shall not be included in the application of the regulations herein:

- A. Flags and insignia of any government except when displayed in connection with commercial promotion.
- B. Legal notices, identification, informational or directional signs erected or required by government bodies.
- C. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGN, SURFACE AREA OF

- A. For a sign, the area shall be considered to include all lettering, wording and accompanying designs and symbols together with the background, whether open or enclosed, on which they are displayed. Frames and structural members not bearing advertising matter shall not be included in computation of sign area.
- B. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface building wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.

SPECIAL PERMIT — A permit which may be issued by the Board of Appeals to authorize a use which would not be allowed generally or without restriction throughout any particular zoning district; but which, if controlled as to number, area, location, relation to the neighborhood and other characteristics, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare; a special permit is not a "variance" but may include a waiver of dimensional and similar requirements incidental to the special permit.

STREET — A public way or way which the Town Clerk certifies is maintained and is used as a public way.

STREET LINE — The right-of-way line of a street.

STRUCTURE — A combination of materials assembled at a fixed location that is safe and stable to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, sign, fence, flagpole, swimming pool, shelters, sheds, or the like.

TRAILER — Any vehicle which is designed primarily to be portable and is arranged, intended, designed, or used temporarily for sleeping, eating, or business use in conjunction with construction, or is a place in which persons may congregate, including a tent trailer, travel trailer, motor home, or camper.

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

~~**USE, ACCESSORY** — A use incidental and subordinate to the principal use of a structure or lot.~~

USE, NONCONFORMING — A use lawfully existing at the time of adoption of this ~~by-law~~ bylaw or any subsequent amendment thereto, which does not conform to one or more provisions of this ~~by-law~~ bylaw.

USE, PRINCIPAL — The main or primary purpose for which a structure, building, or lot is designed, arranged, constructed, or intended, or for which it may be used, occupied or maintained under this ~~by-law~~ bylaw.

YARD — A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

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YARD, FRONT — A yard extending for the width of the lot between the front line of the nearest building wall and front lot line.

YARD, REAR — A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE — ~~Yard~~A yard extending for the full length of a building between the nearest building wall and the side lot line.

ZONING ACT — Chapter 40A of the General Laws and subsequent amendments thereto.

**ARTICLE III
Establishment of Zoning Districts**

§ 240-3.1. Division into districts.

The Town of Whitman, Massachusetts is hereby divided into ~~eight Zoning Districts~~zoning districts to be designated as follows:

Full Title	Short Name
Single Residence A-1 Districts	A-1
Single Residence A-2 Districts	A-2
General Residence Districts	GR
Highway Business Districts	HB
General Business Districts	GB
Limited Industrial Districts	LI
Industrial Districts	I
Floodplain and Watershed Protection Districts	FP
Multiple Use Overlay District	MUOD

§ 240-3.2. Zoning Map.

The location and boundaries of the ~~Zoning Districts~~zoning districts are hereby established as shown on a map titled "Town of Whitman, Massachusetts, Street Map and Zoning District Map, 1987", which accompanies and is hereby declared to be a part of this ~~By-Law~~bylaw. The Zoning District Map shall be on file with the Town Clerk.

§ 240-3.3. Changes to map.

Any change in the location of boundaries of a ~~Zoning District~~zoning district hereafter made through the amendment of this ~~By-Law~~bylaw shall be indicated by the alteration of such map and the map thus altered as declared to be part of the ~~By-Law~~bylaw thus amended. It shall be the responsibility of the Planning Board to direct such alterations.

§ 240-3.4. Boundaries of districts.

The boundaries of each of the said districts are hereby established as shown, defined, and bounded on the map accompanying this ~~by-law~~bylaw and on file with the Clerk of the Town of Whitman, entitled, "Zoning District Map, Whitman, Massachusetts." All explanatory matter thereon is hereby made a part of this ~~By-Law~~bylaw.

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- A. Where the boundary lines are shown upon said map within the street lines of public and private ways, the center lines of such ways shall be the boundary lines.
- B. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot, or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- C. Boundary lines located outside of such street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and dimensions shown in figures placed upon said map near such boundary lines are the distances being measured at right angles to such street lines unless otherwise indicated.
- D. In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of the map.
- E. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend not more than 30 feet into the more restricted portion, provided the lot has frontage in the less restricted district.
- F. Where the district boundary line follows a stream, lake, or other body of water, said boundary line shall be construed to be at the thread or channel of the stream, or at the limit of the jurisdiction of the Town of Whitman, unless otherwise indicated.
- G. Where the district boundary line follows approximately the edge of the marsh and upland, said boundary line shall be construed to be at the edge of the marsh or upland.
- H. The Floodplain and ~~Water Shed~~Watershed Protection Districts are defined as all areas designated as QS and Q1 on the proposed Floodplain and Watershed Protection Map, dated May 1, 1973.

§ 240-3.5. District boundary interpretation.

The Building ~~Commissioner~~/Inspector of Buildings, in consultation with the Planning Board, shall have the authority to interpret district boundaries where there is some question in the interpretation of the rules in this ~~section~~article or where boundaries on the ground are unclear or at variance with those on the Zoning Map.

ARTICLE IV Interpretation and Applicability

§ 240-4.1. Interpretation.

The provisions of this ~~By-Law~~bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, or the general welfare of the Town of Whitman, Massachusetts. Whenever the regulations made under the authority hereof differ from those prescribed by any ~~By-Law~~bylaw or other regulations, that provision which imposed~~s~~ the greater restriction or the higher standard shall govern.

§ 240-4.2. Applicability.

Except as herein provided, or as specifically exempted by "~~T~~the Zoning Act", the provisions of this ~~By-Law~~bylaw shall apply to the erection, construction, reconstruction, alteration, or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become nonconforming, and any existing nonconforming use, structure, or lot shall not become further nonconforming.

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§ 240-4.3. Lots in multiple municipalities.

When a lot is situated in part of the Town of Whitman and in part in an adjacent municipality, the provisions of this ~~By-Law~~bylaw shall be applied to the portion of such lot in the Town of Whitman in the same manner as if the entire lot were situated in the Town of Whitman.

§ 240-4.4. Principal buildings.

No principal building shall be built except on a lot fronting on a street, and there shall be not more than one principal building on any lot.

§ 240-4.5. Exceptions.

This ~~By-Law~~bylaw shall not apply to existing buildings, structures, or recorded lots, nor to the existing use of any building, structure, or land to the extent to which it is used at the adoption of this ~~By-Law~~bylaw. It shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration or for its use for the same purpose to a substantially greater extent.

§ 240-4.6. Mixed occupancies.

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used.

ARTICLE V Use Regulations

§ 240-5.1. Use restrictions.

Except as provided by law or in this ~~By-Law~~bylaw, in each district no building, structure, or land shall be used or occupied except for the purposes permitted as set forth in the accompany Table of Use Regulations, § 240-5.4.

§ 240-5.2. Interpretation of regulations.

A use listed in § 240-5.4 is permitted as of right in any district under which it is denoted by the letter "P", subject to such requirements as may be specified elsewhere in this ~~By-Law~~bylaw. If designated in the Table by the letters "SP", the use may be permitted as an exception only if the Board of Appeals so determines and grants a special permit therefor as provided in Article XII, subject to such restrictions as set forth elsewhere in this ~~By-Law~~bylaw and such further restrictions as said Board of Appeals may establish. The letter "N" shall designate that the use is not permitted except by a variance from the Board of Appeals.

§ 240-5.3. ~~Districts.~~ (Reserved)

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§ 240-5.4. Table of Use Regulations.

Full Name	Short Name
Single Residence A-1 Districts	A-1
Single Residence A-2 Districts	A-2
General Residence Districts	GR
Highway Business Districts	HB
General Business Districts	GB
Limited Industrial Districts	LI
Industrial Districts	I
Floodplain and Watershed Protection Districts	FP
Multiple Use Overlay District	MUOD

- ~~A-1 — Single Residence~~
- ~~A-2 — Single Residence~~
- ~~GR — General Residence~~
- ~~HB — Highway Business~~
- ~~GB — General Business~~
- ~~LI — Limited Industrial~~
- ~~I — Industrial~~
- ~~FP — Flood Plain and Watershed Protection~~

- P = Permitted
- SP = Special Permit
- N = Not Permitted

Whitman Zoning Districts									
Principal Uses	A-1	A-2	GR	HB	GB	LI	I	FP	
A. Residential Uses									
1) Detached dwelling on a separate lot occupied by not more than one family									P P P
N N N N SP									
2) Antique shop in a dwelling or building accessory thereto, provided that there is no exterior display and the residential character of the premises is preserved									SP SP SP P P
P N SP									
3) Boarding and lodging houses, and tourist homes					N	N	SP	SP	N N
N SP									
4) Planned Cluster Development <u>cluster development</u>					N	N	N	N	N N
N N									
5) Motels	N	N	N	SP	N	N	N	SP	
6) The renting of rooms or the furnishing of board in the dwelling to not more than five persons not members of the family residing on the premises				P	P	P	N	N	N N
SP									
7) Conversion of an existing dwelling to accommodate not more than two families, provided that the exterior design of <u>the</u> structure is not changed from the character of a single-family unit and further provided that each dwelling unit resulting from such conversion shall comply with § 240-6.4 and have a lot size of a minimum of 18,000 square feet before conversion									SP SP SP SP SP
SP N SP									

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- 8) Detached dwelling on a separate lot occupied by not more than two families and having a lot size with a minimum of 22,500 square feet SP SP N N N N N SP
- 9) Trailer or ~~Mobile Homes~~ mobile homes N N N N N N N N
- 10) Trailer ~~P~~park or ~~Mobile Home Park~~ mobile home park N N N N N
- 11) Campgrounds N N N N N N N
- 12) Multifamily apartment dwellings on a single lot of not less than 87,000 square feet, and subject to the conditions set forth in § 240-7.3 N N SP SP N N N SP

B. Institutional, Recreational, and Educational Uses

- 1) Place of ~~Worship, Parish Houses, Religious Schools~~ worship, parish houses, religious schools P
P P P P P P SP
- 2) Religious, sectarian and ~~non-sectarian~~ nonsectarian denominational, or private school not conducted as a private business for gain P P P P P P P SP
- 3) Extension of an existing cemetery SP SP SP N N N N SP
- 4) Recreation facility owned or operated by an agency of Town or other government SP SP
SP SP SP SP SP SP
- 5) Public ~~U~~utilities SP SP SP SP SP SP SP SP
- 6) Private nonprofit libraries or museums SP SP SP SP SP SP SP
- 7) Private community center building, settlement house, community residences or other similar facility
SP SP SP SP SP SP SP SP
- 8) Hospital, infirmary, nursing home, convalescent home or other medical institutions SP SP
SP SP SP N N SP
- 9) Day nursery, nursery, school, kindergarten or other agency giving day care to children SP
SP SP N N N N SP
- 10) Trade, professional or other school conducted as a private business for gain N N N
P P SP N SP
- 11) Private clubs, lodge~~s~~, or other nonprofit social, cultural, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business) SP SP SP
P P SP N SP
- 12) Country ~~C~~club, golf, swimming, outdoor tennis~~s~~, or other commercial recreational facility SP
SP SP P N SP N SP
- 13) Entertainment and recreation facilities operated as a business for gain, including but not limited to bowling alley, theater~~s~~, sport arena, skating rink~~s~~, or tennis courts~~s~~, provided such use is housed indoors in a sound-insulated structure protecting neighborhood from inappropriate noise in any season N
N N P P SP N SP
- 14) All Town and ~~M~~municipal uses SP SP SP SP SP SP SP SP

C. Agricultural Uses

- 1) Farming-~~A~~gricultural, orchard, horticultural or silvicultural P P P P P
P P P
- 2) Farms, including livestock (excluding the raising or keeping of one or more swine) poultry and dairy farm, market gardens, and the sale of produce raised on the premises P P SP SP
SP P N SP
- 3) One roadside stand per farm for sale of agricultural products grown or produced on the premises
P P P P P N P

D. Office and Laboratory

- 1) Professional business or financial office or studio situated in a dwelling used as a private residence by the professional, business or financial person, but not including in any instance any business, office, studio or entity applying tattoos~~s~~; and/or engaging in body piercing, branding, scarring~~s~~; or any other form

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of so-called "body art" or "body modification", provided that not more than 25% of the floor area or 400 square feet, whichever is less, of the residence shall be used for the professional, financial or business purpose, and limited to not more than one nonresident employee allowed N N N
 SP N SP SP N

2) Business or professional offices or banks N N N P P P P
 SP

3) Offices and clinics for medical, psychiatric, or other health services for examination or treatment of persons as outpatients, including only laboratories that are part of such office or clinic N N
 N P P P N SP

4) Research laboratories with incidental assembly or experimental and testing laboratories N
 N N P N P P SP

5) Commercial or Educational Radio Television studio N N N P P P
 N SP

6) Commercial or ~~Educational Radio~~educational radio or television transmission tower facility but not studio N N N N N SP SP SP

E. Retail Business and Consumer Service Establishments

1) Store for retail sale of merchandise, provided that all display, storage and sale of materials are conducted within a building (except for nursery and agricultural supplies), and provided there be no manufacturing or assembly on the premises N N N P P P N
 SP

2) Eating places serving food and/or beverages to be consumed within the building N N
 N P P P N SP

3) Drive-in or open-air restaurant or other establishment providing food and beverage with no live or mechanical entertainment N N N P SP SP N SP

4) Space for manufacturing, assembly or packaging of consumer goods, provided that at least 50% of such merchandise is sold at retail on premises and that all display, sales and storage ~~is~~are conducted within building; and further provided that no more than 25% of floor area is devoted to manufacturing, assembly, or packaging of consumer goods N N N SP SP P P
 SP

5) Service business serving local needs, such as barber shops, beauty shops, shoe repair, self-service laundry, or dry-cleaning establishments, but not including in any instance any business, office, studio or entity applying tattoos, and/or engaging in body piercing, branding, scarring, or any other form of so-called "body art" or "body modification"- N N N SP N SP SP
 N

6) Mortuary, undertaking ~~of~~ funeral establishment N N N SP SP N
 N SP

7) Veterinary establishment or kennel used for boarding purposes, provided that animals are kept indoors, and provided that such uses are located on the same premises as a dwelling and ~~is~~are conducted by the resident thereof SP SP SP SP SP SP N SP

8) Store for retail sale of merchandise such as but not limited to lumber yards and building supply yards wherein merchandise is stored in the open N N N SP N P P
 SP

9) Any business, office, studio or entity applying tattoos, and/or engaging in body piercing, branding, scarring, or any other form of so-called "body art" or "body modification" N N N
 SP N SP SP N

F. Automotive Service and Open-Air Drive-In Retail Service

1) Gasoline service stations, repair garages and body shops, provided that: they comply with the requirements of § 240-7.4 of this bylaw N N N P SP SP N SP

~~a) Repairs done outside be limited to minor repairs and adjustments with all major work done within~~

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~~enclosed, sound insulated structures sufficient to protect the neighborhood from inappropriate noise and other disturbing effects such as but not limited to flashing, fumes, gases, smoke, and vapors. Any lighting for outdoor display shall be directed at the display area only, and shall be shielded at the source of illumination from abutting streets and properties.~~

~~b) There shall be no storage of motor vehicles, rubbish, appliances, and equipment on the premises other than those in process of repair or awaiting delivery or in an enclosed structure or required in the operation of the service station, garage or repair shop.~~

~~c) No gasoline pumps shall be located nearer than 30 feet from any property or street line.~~

~~d) The use occupies a lot of not less than 25,000 square feet.~~

~~e) The lot has a frontage of not less than 160 feet.~~

~~f) There shall be an area at least 15 feet deep between the street line and the paved area of such service station, garage or repair shop which shall be seeded and/or landscaped except at entrances and exits.~~

~~g) There shall be only one entrance and one exit each at least 20 feet wide for every 160 feet of street frontage or major fraction thereof, and they shall be at least eight (80) feet apart.~~

~~h) The paved area of such service station, garage or repair shop shall be screened from all abutting properties by a buffer at least 15 feet wide, of densely planted evergreen trees or shrubs which are at least three feet high at the time of planting, and of a type which may be expected to form a year round dense screen at least five feet high within three years, or by a solid closed fence or wall five feet in height and a three foot wide landscaped buffer or above dimension.~~

2) Sales, service and rental of new automobiles, trucks, boats and other motor vehicles conducted wholly or partly within an enclosed structure; accessory sales of used automobiles, trucks, and other motor vehicles conducted wholly or partly within an enclosed structure; and accessory storage, provided that service activities and facilities conform to the requirements of ~~Subsection 1)a) above.~~ § 240-7.4A N

N N P SP SP N SP

3) Sales of used motor vehicles in conjunction with a gasoline service station, repair garage or body shop: N N N SP SP SP N SP

4) Sales of used motor vehicles from within an enclosed structure or on an outdoor lot and as a distinct business unrelated to and separate from any gasoline service station, repair garage or body shop, with lighting and other display features meeting the standards of ~~Subsection 1)a) above.~~ § 240-7.4A N

N N SP N N N SP

5) Car and truck washing establishments: N N N SP N SP N
SP

6) Truck and heavy equipment repair shops, provided all work is carried out within the building:

N N N SP N P P SP

7) Sales places for flowers, garden supplies, agricultural produce partly or wholly outdoors, including commercial greenhouses: N N N P N P N SP

8) Place for exhibition, lettering, or sale of gravestones: N N N P N
P N SP

G. Industrial, Wholesale and Transportation Uses

1) Laundries and dry-cleaning plants N N N SP P SP P SP

2) Printing, binding, publishing and related arts and trades N N N SP P
SP P SP

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3) Bottling of beverages	N	N	N	SP	N	SP	P	SP
4) Plumbing, electrical, or carpentry shop or other similar service or repair establishment other than those in Subsection I(6)	N	N	N	P	SP	P	P	SP
5) Place for manufacturing, assembling, or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor be effectively confined to the premises or be disposed of in a manner that does not create a nuisance or hazard to safety or health	N	N	N	SP	P	SP		
6) Wholesale business and storage in a roofed structure	N	N	N	P	SP	P		
7) Trucking and freight terminals	N	N	N	SP	N	SP	SP	SP
8) Light non-nuisance manufacturing, including fabricating of small parts and manufacturing which is incidental to research and experimental laboratories or which is in an <u>Industrial Park, Cafeterias industrial park; cafeterias</u> for employees and other normal accessory uses when contained in the same structure as the permitted use	N	N	N	SP	SP	P	P	SP
9) Industrial parks	N	N	N	N	N	SP	P	SP
10) Office Pparks	N	N	N	SP	N	SP	SP	SP
11) Research Pparks	N	N	N	SP	N	SP	SP	SP
12) Renewable or alternative energy research and development facilities, and renewable or alternative energy manufacturing facilities. For the purposes of this section "Renewable Energy," "Alternative Energy," "Research subsection, "renewable energy," "alternative energy," "research and Development Facilitiesdevelopment facilities" and "Manufacturing Facilitiesmanufacturing facilities" shall be as defined in Article II, Definitions.	N	N	N	SP	N	SP	P	N

H. Other Principal Uses

1) Extractive industries, manufacture, distribution or sale of explosives	N	N	N	N
2) Open-lot storage of transport vehicles and trailers	N	N	N	SP
3) Truck and trailer bodies stored or used for storage	N	N	N	SP
4) Open-lot storage or sale of junk or salvaged materials	N	N	N	N
5) Open-lot storage of goods and materials used in connection with a commercial or industrial use	N	N	N	SP
6) Removal of sod, loam, sand, gravel or other earth products in connection with the construction of a building for which a permit has been issued, provided that the amount of such material removal does not exceed the amount contained before construction, in the particular space to be occupied by the foundation of said building	P	P	P	P
7) The removal of sand, loam, sod or gravel for commercial purposes. Nothing herein contained, however, shall prohibit the removal of the same in connection with the construction of a building for which a permit has been duly issued or for the landscaping of a lot from which said sand, loam, sod or gravel is removed. The same may be used commercially when taken from a proposed street after approval of the definitive plan of the street by the Planning Board.	N	N	N	N
8) Airport for the service of small private craft, <u>including the incidental sale, storage and repair of such craft, but only to the extent specifically authorized by the Board of Appeals</u>	N	N	N	

I. Accessory Uses

including the incidental sale, storage and repair of such craft, but only to the extent specifically authorized by the Board of Appeals	N	N	N	N	N	SP	N	SP
--	---	---	---	---	---	----	---	----

I. Accessory Uses

1) Tool shed, playhouse, tennis court, boathouse, or other building or structure for domestic use; private
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garage for motor vehicles, but not including more than one commercial vehicle, other than farm vehicles, or more than one vehicle owned by a nonresident of the premises P P P P
P P N SP

2) Private horse stable, provided that said structure be not less than 75 feet from any property line, and provided that fencing adequate to prevent passage of animals onto abutting property be established
P P SP SP SP SP N SP

3) Accessory uses which are necessary in connection with scientific research N N N
SP SP SP SP SP
~~and provided that fencing adequate to prevent passage of animals onto abutting property be established~~
P P SP SP SP SP N SP

~~3) Accessory uses which are necessary in connection with scientific research N N N
SP SP SP SP SP~~

4) A private swimming pool, provided that it meets the following requirements of § 240-7.5 of this bylaw P P P P P N SP

~~a) Electrical permits are also required in accordance with 527-CMR-12.00 (the Massachusetts State Electrical Code). All required permits must be obtained prior to commencement of installation.~~

~~b) All swimming pools must be a minimum of: 10 feet from the rear and side property lines, 35 feet from the front property lines, 10 feet from the house (this means the part of the pool that contains the water), 10 feet from the sewerage system.~~

~~c) Swimming pool construction, swimming pool installation, and swimming pool enclosures shall be in accordance with 780-CMR (the State Building Code).~~

5) The raising or keeping of livestock or poultry (except the raising or keeping of one or more swine), provided that no building for livestock may be less than 50 feet from any lot line and no building for poultry may be less than 20 feet from any lot line and not larger than 10% of the floor space P
P P P P P SP SP

6) Any customary home occupation as described in Article II P P P P P
P SP SP

~~) provided that no building for livestock may be less than 50 feet from any lot line and no building for poultry may be less than 20 feet from any lot line and not larger than 10% of the floor space P
P P P P P SP SP~~

~~6) Any customary home occupation as described in Article II P P P P P
P SP SP~~

7) The use of a portion of a dwelling or accessory building thereto by a resident skilled tradesman~~man~~person, drafts~~man~~person, or artisan, for incidental work with an off-premises occupation, provided there is no external change which alters the residential appearance of the building, and provided that all storage is kept indoors, and provided that no more than 25% of the floor area or 400 square feet, whichever is less, of the residence shall be used for the occupation P P P P P P
N SP

J. Multiple Use Overlay District.

(1) Purpose and intent. The purpose of this amendment is to allow the reasonable use, enhancement, expansion and redevelopment of the General Business Zone that is currently developed in a building intensive manner where parking is available on-street, as well as in common lots.

(2) Application. The MUOD is designated as including only the General Business District and shall not restrict the rights of owners of property in the underlying zoning district. However, if an owner elects to use the MUOD for development purposes, all development shall conform to

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- the regulations set forth in this subsection, as well as all other relevant provisions of the Zoning ~~By-Law~~Bylaw.
- (3) Design consideration.
- (a) New building shall be set close to the sidewalk or street line to encourage pedestrian access. Pedestrian connections to adjacent properties shall also be provided where appropriate.
 - (b) Parking shall not be allowed in the front yard areas. The number of parking spaces shall be provided in accordance with the requirement of this subsection that ~~supersedes~~ the requirements of Article VIII of this Zoning ~~By-Law~~Bylaw.
 - (c) Common ~~access~~ driveways and shared parking shall be provided where possible.
 - (d) Landscaping, signage and architectural elements of proposed uses shall be of high quality, consistent with existing buildings, and reflect the historical character of the Business District. Maximum consideration shall be given to building design and landscape elements which improve the streetscape of the Zzone.
- (4) Uses. The following are specifically allowed within the Zzone, in addition to those uses that are identified in § 240-5.4:
- (a) All business uses currently permitted in the General Business Zone.
 - (b) Residential uses as part of mixed-use development, but not as a stand-alone principal use, except by ~~Special Permits~~special permit from the Board of Appeals. Residential components may not exceed 50% of the total gross floor area of a proposed multi-use project, except as provided in the next Subsection J(4)(c).
 - (c) Residential units may be located on the upper floors of commercial buildings as part of a mixed-use development without limitation as to percentage of total gross floor area, provided that:
 - [1] The building is connected to the public sewer system.
 - ~~[2] One parking space is provided for each bedroom within each dwelling unit.~~
 - ~~[3]~~[2] No units are located on street level or within a basement.
 - [4] There shall be no more than two bedrooms per unit.
 - [5] All units must have two means of egress separate from the commercial use. No access to or egress from any unit shall be through a commercial establishment.
 - [6] All units must meet the requirements of the building and health codes for habitable space.
- (5) Parking requirements.
- (a) The following specific parking requirements for the MUOD Zone modify and supersede the relevant requirements contained in § 240-8.12G of this ~~By-Law~~bylaw in the following respects~~∴~~:
 - (b) Parking spaces shall be provided as follows:

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- [1] Residential: ~~One~~ space for each bedroom located within each dwelling unit ~~of~~ the building, provided that no on-street parking space may be used to satisfy this requirement.
- [2] Nonresidential: As provided in § 240-8.12, street parking spaces, as well as other public parking spaces within 500 feet of the site, may be counted toward nonresidential parking requirements.
- [3] Off-premises parking is permitted and may be located up to 600 feet from the proposed use, provided a formal agreement exists for use of the space and such evidence is presented to the Building ~~Commissioner~~/Inspector ~~of Buildings~~ as part of the permitting process.

§ 240-5.5. Marijuana establishments prohibited.

Consistent with MGL c. 94G, § 3(a)(2), all types of non-medical "marijuana establishments"~~"~~, as defined in MGL c. 94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Whitman. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012. This section shall be effective upon passage by the voters at a Town Election.

ARTICLE VI Dimensional and Density Regulations

§ 240-6.1. Compliance required.

No principal building or structure shall be built nor shall any existing building or structure be enlarged except in conformance with the regulations of the Town of Whitman Protective Zoning ~~By Law~~Bylaw, in the districts as set forth below, except as may otherwise be provided elsewhere in the Town of Whitman Protective Zoning ~~By Law~~Bylaw.

§ 240-6.2. Accessory uses and accessory buildings.

- A. A detached accessory building may be erected in the side or rear yard area no closer than 10 feet ~~from to~~ any side or rear lot line, no closer than 10 feet ~~from to~~ the principal building, and in conformance with the front yard requirement of the district in which it is located. An accessory building attached to its principal building shall be considered an integral part thereof and as such shall be subject to the front, side, and rear yard requirements applicable to the principal building.
- B. A detached accessory building shall cover no more than 25% of the rear yard area required for the principal building.
- C. A garage or storage space for private motor vehicles, attached or detached, shall be considered as an accessory building and may provide space for as many as two cars for their principal uses in Residence Districts and for dwellings in Business and Industrial Districts, subject to the provisions of ~~paragraphs~~Subsections A and B (above) in this section. All other storage space uses for vehicular equipment may have additional spaces to store necessary equipment.

§ 240-6.3. Corner lots.

On a corner lot, to provide unobstructed visibility at intersections, no sign, fence, wall, tree, hedge or other vegetation, and no building or other structure between three feet and eight feet above the established street

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grades shall be erected, placed, or maintained within the area formed by the intersecting street lines and a straight line joining said street lines at points which are 20 feet from the point of intersection of ways or tangents of curves of rounded curbs, measured along said street lines.

§ 240-6.4. Minimum floor area for apartment units.

The primary apartment unit within a two-family dwelling or a multifamily dwelling shall have a minimum interior floor area of 600 square feet; each additional apartment unit shall have a minimum interior floor area of 400 square feet; said area to be measured to the exterior walls of structures.

§ 240-6.5. Table of Dimensional and Density Regulations~~(1)~~.

Zoning District	Minimum Lot Size (square feet)	Continuous Minimum Lot Frontage (linear feet)	Minimum Yard Depth (1) (feet)			Maximum Building Height (2) (feet)	Maximum Percentage of Lot Coverage by Structure (3)
			Front	Side	Rear		
Single Residence, A-1	22,500	150	35	20	50	35	25
Single Residence, A-2	18,000	120	30	15	40	35	25
General Residence, GR	10,000	90	30	12	30	45	25
Highway Business, HB	10,000	90	100	12 (6)	50	45	(5)
General Business, GB	10,000	90			20	45	(5)
Limited Industrial, LI	15,000	100	50	25 (6)	20 (6)	45	(5)
Industrial, I	15,000	100	50	25 (6)	20 (6)	45	(5)
Floodplain and Watershed Protection, FP	(4)	(4)	(4)	(4)	(4)	(4)	(4)

(1) On lots abutting streets on more than one side, the front yard requirements shall apply to each of the abutting streets.

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- (2) These height restrictions shall not apply to chimneys, water towers, skylights and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy nor to wireless or broadcasting towers and other like unenclosed structures.
- (3) This restriction does not apply to swimming pools.
- (4) Overlay districts (See § 240-7.6.).
- (5) No specific restriction; determine on the basis for requirements of parking, drainage; and sewerage.
- (6) Where residential area abuts, minimum shall be 50 feet.

Note: In the event of a variance for residential purposes in a nonresidential zone, the A-1 lot area requirements shall apply. Minimum lot area and width requirements shall not apply to lots which, prior to the adoption of this ~~by-law~~bylaw, were shown as separate parcels on subdivision plans approved by the Planning Board, or to lots which are held and were held in separate ownership from that of all contiguous surrounding lots when the Town ~~by-law~~Bylaw on Development of Land and Construction of Streets, and Subdivision Control became effective in the Town of Whitman. Such lots may be used for any permitted use in the district in which the lot is located, and for each two feet that such lot is less than 90 feet wide, one foot may be deducted from the sum of the width of the required two side yards, provided that no side yard shall be less than 10 feet.

§ 240-6.6. Accessory apartments within single-family dwellings.

- A. Definition. An accessory apartment is a separate housekeeping unit, complete with its own means of egress, sleeping, cooking; and sanitary facilities, that is substantially contained within the structure of a single-family dwelling, but functions as a separate unit.
- B. The construction of accessory apartments, as defined by the Zoning ~~By-laws~~Bylaws, can be commenced only with the issuance of a ~~Special Permits~~special permit by the Board of Appeals.
- C. The owner must occupy either the principal residence or the accessory apartment.
- D. There shall be not more than one accessory apartment within a single-family dwelling.
- E. The accessory apartment shall be designed so that the appearance of the structure remains that of a one family dwelling, subject further to the following conditions:
 - (1) All additional stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.
 - (2) Any enlargements or extensions of the dwelling in connection with any accessory apartment must comply with building, safety; and health codes and Town ~~By-Laws~~bylaws.
 - (3) Any new entrance shall be located on the side or in the rear of the dwelling.
 - (4) Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and other entrances appear to be secondary.
 - (5) The principal residence and the accessory apartment shall be serviced and monitored by common gas, electric and water meters.
 - (6) There shall be provided at least two off-street parking spaces for the main dwelling and at least one off-street parking space for the accessory apartment. The additional parking shall be accessed by the driveway serving the main dwelling. Parking shall be designed in accordance

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with Article VIII of this Protective Zoning ~~By Law~~Bylaw.

- F. Regulations of the Board of Health and other ~~B~~boards as required must be met and the Massachusetts State Building Code regulations must be met.
- G. A ~~Special Permit~~special permit for a single-family dwelling with an accessory apartment shall terminate upon any of the following events:
- (1) Sale of the premises, excluding if the family member resides at the premises.
 - (2) Residence by any other than a family member in either the main dwelling or accessory apartment.
 - (3) Violation of any ~~of any Special Permit~~special permit restrictions imposed by the Board of Appeals.
- H. Zoning ~~D~~districts in which the ~~Special Permit~~special permit may be granted are A-1, A-2 General Residence. A special permit may also be granted as to any single-family residence in existence prior to August 1, 2001.
- I. No accessory apartment shall be permitted prior to the issuance of a ~~Special Permit~~special permit by the Board of Appeals and a ~~Building Permit~~building permit by the Building ~~Commissioner~~Inspector of Buildings.
- J. Occupancy ~~P~~permit shall only be issued upon confirmation that both the main dwelling and the accessory apartment are in compliance with the approved ~~ed~~ plans, all applicable provisions of the Zoning ~~By Laws~~Bylaws, the terms and conditions of the ~~Special Permit~~special permit and all applicable state and local building, health, fire, and safety codes and regulations.
- K. When a structure which has received a ~~Special Permit~~special permit for an ~~Acessory Apartment~~accessory apartment is sold, the new owners, if they wish to continue to exercise the ~~Special Permit~~special permit, must, within 90 days of the sale, apply to the Board of Appeals for a new ~~Special Permit~~special permit issued in their name stating that they will occupy one of the dwelling units in the structure as their permanent/primary residence, and shall conform to all of the criteria and conditions for ~~Acessory Apartments~~accessory apartments and the approved ~~Special Permit~~special permit.
- L. The Board of Appeals may waive requirement for a ~~Floor Plan, Elevation~~floor plan, elevation and ~~Plot Plan~~plot plan.

ARTICLE VII Special Provisions

§ 240-7.1. Permitted uses.

The uses outlined in this ~~section~~article may be permitted as designated in § 240-5.4, Table of Use Regulations, provided they meet the following requirements detailed in this section in addition to any other applicable requirements of the ~~By Law~~bylaw.

§ 240-7.2. Site plan approval.

- A. No building or structure, except one- or two-family dwellings and their accessory buildings, shall hereafter be erected, externally enlarged or changed in use except in conformity with a site plan bearing an endorsement of approval by the Board of Appeals. Applicants seeking site plan approval shall be required to submit a site plan. The original and eight copies of the site plan shall be submitted

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to the Town Clerk, who shall in turn give the applicant a dated receipt. Within four days of receipt the Town Clerk shall transmit one copy each to the Board of Appeals, Board of Health, the Building ~~Commissioner/Inspector of Buildings~~, the Planning Board, the Superintendent of the Department of Public Works, and the Conservation Commission. Within 30 days of filing said application, the ~~Review Boards~~ review boards shall evaluate the application and site plan with regard to the conditions and standards set forth in the ~~By-Law~~ bylaw and shall submit an advisory report to the Board of Appeals. The Board of Appeals shall not render a decision without considering the report of the ~~Review Boards~~ review boards unless 30 days from the date of filing has expired without receipt of such report.

- B. Where a proposed development will also fall under subdivision control, the applicants shall submit information required for a ~~Definitive Plan~~ definitive plan according to the latest Rules and Regulations Governing the Subdivision of Land and the procedures of the Whitman Planning Board, Whitman, Massachusetts in lieu of the ~~Site Plans~~ site plan required in this section. Planning Board endorsement of the information submitted under this ~~By-Law~~ bylaw, however, shall not constitute approval under the ~~subdivision control law~~ Subdivision Control Law. The ~~Site Plans~~ site plan shall bear the stamp of a registered land surveyor or a civil engineer in the Commonwealth of Massachusetts.
- C. When a site plan application and a variance or special permit is required in connection with the same proposed activity, both hearings shall be held as one hearing.
- D. Site plan requirements are set forth as follows:
- (1) The plan submitted shall be drawn to a scale of at least one inch equals 20 feet, or in large plots one inch equals 40 feet.
 - (2) There shall be submitted at the same scale as the site plan a professionally surveyed plan of existing site features, including the size of the property; the existing and proposed topography at two-foot contour intervals; general soil types as indicated on soil maps available from the U.S. ~~Soil~~ Natural Resources Conservation Service; vegetation cover, including accurate locations of wooded areas and major trees, as well as roads, structures, or other significant features.
 - (3) A locus map shall be included to indicate the location of the property within the Town. This map shall include the zoning district(s) for the area.
 - (4) In order to allow adequate consideration of the surroundings, a plan of adjacent properties shall be presented at a scale of not less than one inch equals 100 feet or at the same scale as the site plan if practical. This plan will show the general characteristics of all lands within 300 feet of the proposed site, including structures, parking areas, driveways, pedestrian ways, and significant natural features.
 - (5) A site plan and any other drawings necessary shall precisely indicate the following:
 - (a) Area of the site.
 - (b) Proposed uses of the land and structures.
 - (c) Vehicular circulation system, including pavement widths, and rights-of-way, if any.
 - (d) Pedestrian circulation system, if any.
 - (e) Layout of parking areas.
 - (f) Buffers and all landscaping.

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- (g) All proposed structures, including their exact location, relation to topography, height and bulk.
 - (h) Number and type of dwelling units, if any.
 - (i) Service access and facilities for all structures, or uses including garbage and trash disposal facilities.
 - (j) Location of utility infrastructures for water supply and sewerage.
 - (k) All site drainage including natural courses and storm drains including drainage calculations.
 - (l) The location of all open space, including its intended use, natural trees and foliage to be maintained, specific new planting by size and location, and the organization or owner intended to own and maintain same.
 - (m) Finish contours of the topography, measures and structures to minimize soil erosion during construction.
 - (n) Significant site appurtenances such as walls, light poles, and recreation areas.
 - (o) Name of owner of record.
 - (p) Locus and North point.
 - (q) Names and stamps of the registered professional land surveyor or civil engineer.
 - (r) Location and design of refuse storage area.
 - (s) Location and type of fencing, screening, landscaping, signs (if required).
 - (t) All access roads, rights-of-way, driveways, easements, etc., both existing and proposed.
 - (u) Names of all abutters of record.
 - (v) Location of zoning district lines.
- E. Site plan review. In considering a site plan, the Board of Appeals shall assure reasonable use of the site using the following criteria:
- (1) Protection of adjoining premises against seriously detrimental uses on the site during and after construction.
 - (2) Convenience and safety of vehicular and pedestrian movement within the site and also in relation to adjacent streets, property or improvements during and after construction.
 - (3) Adequacy of the methods of drainage for surface water during and after construction.
 - (4) Provisions for the off-street loading operation of vehicles incidental to the normal operation of the establishment.
- F. Renewable or alternative energy research and development facilities, and renewable or alternative energy manufacturing facilities, subject to ~~Site Plan Review~~ site plan review by the Zoning Board of Appeals, pursuant to § 240-7.2-~~(, Site Plan Approval)~~ plan approval, and subject to the dimensional requirements of § 240-6.5-~~(, Table of Dimensional and Density Regulations-Table)~~. Said ~~Site Plan Approval~~ site plan approval shall be an "expedited" application and permitting process under which said facilities may be sited within one year from the date of initial application to the date of final

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approval by the Zoning Board of Appeals. For the purposes of this section, ~~"Renewable Energy," "Alternative Energy," "Research,"~~ "renewable energy," "alternative energy," "research and Development Facilities" and ~~"Manufacturing Facilities"~~ "manufacturing facilities" shall be as defined in Article II, Definitions.

§ 240-7.3. Multifamily dwellings/apartments.

Multifamily dwellings/apartments shall comply with the following requirements:

- A. Minimum lot size. The lot shall have not less than 87,000 square feet of land area.
- B. Density. For each dwelling unit constructed, there shall be a minimum equivalent of 6,000 square feet of lot area.
- C. Dimensional requirements. Buildings shall be ~~at least~~:
 - (1) ~~Fifty~~At least 50 feet from any lot line that abuts the proposed development;
 - (2) ~~Fifty~~At least 50 feet from any street line;
 - (3) ~~Fifteen~~At least 15 feet from any parking area;
 - (4) At least 45 feet apart; and
 - (5) Not more than 35 feet in height.
- D. Building design/placement. Buildings shall ~~ensure~~ maximum compatibility with surrounding land uses and structures. Where the site adjoins single-family residential areas, the Board of Appeals may adjust building heights and side yard requirements in certain portions of the development. There shall not be more than eight units per building.
- E. Usable common open space. There shall be a minimum area of usable common open space on the same lot as the principal buildings of at least twice the total floor area of the buildings devoted to residential use.
 - (1) "Usable common open space" shall be defined as land left substantially in a natural state or developed for the recreational use for the residents of the dwellings and it shall not include street rights-of-way, open parking lots, service or loading areas, driveways, easements for ~~above ground~~aboveground utilities, required front yards within 30 feet of the right-of-way of a public street or way, landscaped areas, ground area covered by any structure other than those structures directly related to the open space or recreational use, or any other land deemed unsuitable by the Board of Appeals, including, but not limited to swamps, marshes or wetlands, lands exceeding a slope of 33%, rock ~~outcroppings~~outcroppings, or muck or borrow, as shown on ~~maps, Sheet Nos. 14 and 15 of the current~~ Plymouth County Soil Survey issued ~~in July 1969~~ by the United States Department of Agriculture, ~~Soil~~Natural Resources Conservation Service.
 - (2) There shall be a satisfactory design and location of collection points for the disposal of garbage and trash, adequately screened for reasons of health and safety, as determined by the Board of Appeals.
 - (3) All existing and proposed utilities shall be installed underground at the time of construction.
- F. Screening buffers. See § 240-10.6.
- G. Parking. See Article VIII.
- H. Drainage. See § 240-10.3.

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§ 240-7.4. Gasoline service stations, repair garages and body shops.

Gasoline service stations, repair garages and body shops shall comply with the following requirements:

- A. Repairs done outside shall be limited to minor repairs and adjustments, with all major work done within enclosed, sound-insulated structures sufficient to protect the neighborhood from inappropriate noise and other disturbing effects such as but not limited to flashing, fumes, gases, smoke and vapors. Any lighting for outdoor display shall be directed at the display area only, and shall be shielded at the source of illumination from abutting streets and properties.
- B. There shall be no storage of motor vehicles, rubbish, appliances and equipment on the premises other than those in process of repair or awaiting delivery or in an enclosed structure or required in the operation of the service station, garage or repair shop.
- C. No gasoline pumps shall be located nearer than 30 feet to any property or street line.
- D. The use occupies a lot of not less than 25,000 square feet.
- E. The lot has a frontage of not less than 160 feet.
- F. There shall be an area at least 15 feet deep between the street line and the paved area of such service station, garage or repair shop which shall be seeded and/or landscaped except at entrances and exits.
- G. There shall be only one entrance and one exit each at least 20 feet wide for every 160 feet of street frontage or major fraction thereof, and they shall be at least 80 feet apart.
- H. The paved area of such service station, garage or repair shop shall be screened from all abutting properties by a buffer at least 15 feet wide, of densely planted evergreen trees or shrubs which are at least three feet high at the time of planting, and of a type which may be expected to form a year-round dense screen at least five feet high within three years, or by a solid closed fence or wall five feet in height and a three-foot-wide landscaped buffer of above dimension.

§ 240-7.5. Swimming pools.

All swimming pools able to contain 24 inches or more of water require a building permit in accordance with 780 CMR (the State Building Code) and an electrical permit in accordance with 527 CMR 12.00 (the State Electrical Code). Swimming pools must be at least 10 feet from side and rear property lines, 10 feet from the dwelling and 35 feet from the front property line.

§ 240-7.6. Floodplain and Watershed Protection Districts.

A. Purposes. The purposes of the Floodplain Watershed Protection Districts are:

- (1) To provide that lands in the Town of Whitman subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof, or of the public generally, or as to burden the public with costs resulting from unwise individual choices of land use.
- (2) To protect, preserve and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety.
- (3) To assure the continuation of the natural flow pattern of the watercourses within the Town in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

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- B. District boundaries. The Floodplain and Watershed Protection District is defined as: 1) all areas designated as Qs and/or Q1 on the Proposed Floodplain and Watershed Protection District Map dated May 1, 1973; and 2) 100 feet horizontally landward from any bank of the Schumatuscacant River and the Meadow Brook and all their respective tributaries; 3) 100 feet horizontally landward from the one-hundred-year stormwater elevation of the Schumatuscacant River and the Meadow Brook and all their respective tributaries; or whatever is the greater distance of (2) or (3).
- C. Use regulations:
- (1) The Floodplain and Watershed Protection District shall be considered as superimposed on existing zoning ~~By Law Districts~~ bylaw districts.
 - (2) In the Floodplain and Watershed Protection District the applicable use and other provisions of the ~~zoning By Law~~ Zoning Bylaw shall continue in force, subject to all the provisions of this section.
 - (3) In the Floodplain and Watershed Protection District no new building shall be erected or constructed, and no existing structure shall be altered, enlarged or moved; no dumping, filling or transfer of trash, garbage, junk, used or waste materials or scrap shall be permitted; no dumping, filling or transfer of gravel, sand loam, earth or other material shall be permitted; nor shall any land, building or structure be used for any purposes except: outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted; wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern on any watercourse; conservation of water, plants and wildlife; grazing and farming, including truck gardening and harvesting of crops; forestry and nurseries; public or private golf course; buildings lawfully existing prior to the adoption of these provisions subject to the provisions of Article IV of this ~~By Law~~ bylaw, unless a special permit has been issued by the Board of Appeals created under Article XII of the Protective Zoning ~~By Law~~ Bylaw, and after a hearing with due notice given as provided by MGL c. 40A, § 4. The Board shall issue a permit stating the conditions under which said building may be erected or placed in the Floodplain and Watershed Protection District as provided below.
- D. Permit procedure:
- (1) Any person desiring to undertake an action described in Subsection C(3) above within the Floodplain and Watershed Protection District, shall submit six copies of an application for a permit to the Town Clerk, who shall transmit five copies of it within 48 hours to the Board of Appeals, who in turn shall transmit one copy to each of the following within 48 hours: Board of Health, Department of Public Works, Conservation Commission and the Planning Board. The application shall be accompanied by plans of the building or structure and of the premises on which it is or to be situated. Such plans shall conform to the requirements of the Rules and Regulations Regulating ~~Sub-division~~ the Subdivision of Land for the Town of Whitman, as most recently amended.
 - (2) No permit shall be issued by the Board of Appeals until a report or reports with recommendations by the Planning Board and the Conservation Commission have been received, or until 45 days have elapsed from the date of submission in the absence of such report or reports. The failure of the Board of Appeals to act within 75 days from the date of submission shall constitute approval thereof, or such further time as may be agreed upon at the written request of the applicant.
 - (3) The Board of Appeals shall issue a permit under this section if it finds that the use of the premises will not endanger the health, safety and general welfare of the occupants thereof, the

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public generally or of other land or buildings. In deciding applications for a permit under this section, the Board shall be satisfied:

- (a) That the basement floor level shall be above the elevation of the nearest Floodplain and Watershed Protection District ~~Boundary~~boundary.
 - (b) That other land shall be protected against detrimental or offensive uses of the premises, and that no sewerage effluent shall be disposed into the Floodplain Watershed Protection District.
 - (c) That safe vehicular and pedestrian movement to, over and from the premises shall be provided over ways having an elevation above the nearest Floodplain and Watershed Protection District ~~B~~boundary.
 - (d) That the methods of drainage of the area covered by the permit are adequate under normal and flood conditions to maintain the flow below the nearest Floodplain and Watershed Protection District ~~B~~boundary.
 - (e) That the methods by which the premises are filled or otherwise elevated, as may be required, will assure that the premises are free from danger to the health or safety of the occupants thereof, the public generally or of other land or buildings, and shall not adversely affect the natural function of the ~~D~~district as a floodplain and water retention area.
 - (f) That the land is not subject to seasonal or periodic flooding.
 - (g) That the portion of any lot within a Floodplain and Watershed Protection District used to meet the area and yard requirements for the underlying district in which the remainder of the lot is situated, does not exceed 25% of the required minimum lot area of the underlying ~~D~~district.
 - (h) ~~Protective zoning by law. In the regulation Floodway, prohibit~~That any development or encroachment (including fill), ~~which would~~ shall not result in any increase in the ~~Flood Level Base~~flood level base during flood discharge.
- (4) Nothing contained in this section shall limit the authority of the Board of Health with respect to premises in the Floodplain and Watershed Protection District or affect the applicability of the State Building Code to any building in the Floodplain and Watershed Protection District.
 - (5) Nothing contained in this section shall limit the applicability of MGL c. 131, § 40. The Board of Appeals, where appropriate, shall condition the issuance of a permit required under this section upon an approval under MGL c. 131, § 40.
 - (6) The boundaries shown on map entitled FLOOD INSURANCE RATE MAP, FLOOD HAZARDOUS FLOOD-WAY MAP (dated July 2, 1981) TOWN OF WHITMAN, MASS. ISSUED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, shall be used in conjunction with the existing Floodplain Maps in determining ~~FLOODPLAIN HAZARD~~floodplain hazard, and determination be made by the more comprehensive map.

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**ARTICLE VIII
Off-Street Parking and Loading Regulations**

§ 240-8.1. Off-street parking and loading requirements.

In any district, if any structure is constructed, enlarged, or extended and any use of land established, or any existing use is changed, after the effective date of this ~~By-Law~~ bylaw, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations. An existing structure which is enlarged or an existing use which is extended after the effective date of this ~~By-Law~~ bylaw shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use, unless the increase in units or measurements amounts to less than 25%, whether such increases occur at one time or in successive stages.

§ 240-8.2. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this ~~By-Law~~ bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this ~~section~~ article; provided, this regulation shall not require the maintenance of more parking or loading spaces than ~~is~~ are required according to the tables.

§ 240-8.3. Space area requirements.

- A. ~~Off-Street Parking-~~ street parking. All parking spaces shall be a minimum of 10 feet - zero inch by 20 feet - zero inch, and all maneuvering and travel lanes shall be a minimum of 24 feet - zero inch in width.
- B. Loading area:
 - (1) Each loading space shall not be less than 12 feet in width and not less than 45 feet in length. Height clearance shall not be less than 14 feet. In all cases, required loading space shall not encroach on customer parking, employee parking, maneuvering space.
 - (2) Loading spaces shall be designed to provide adequate off-street maneuvering areas so that it will not be necessary for vehicles to use a public right-of-way in maneuvering into a loading space and so that egress from such areas will not require backing into public streets.

§ 240-8.4. Off-premises off-street parking.

- A. Required parking spaces shall be on the same lot as the principal use served, or if not reasonably possible, on other property within 400 feet of the principal use.
- B. Such off-premises parking shall be in possession, by deed or lease, of the owner of the use served. Such required parking shall thereafter be associated with and maintained for the use established and shall not be reduced or encroached upon. The owner of any property to be used for any off-premises parking shall sign a recorded declaration of restrictions with the Town of Whitman binding the property to prescribed use as parking until such time as said restriction shall be released by an instrument of the owner and the Town of Whitman.

§ 240-8.5. Joint use of required parking.

Joint use may be made of required parking spaces by intermittent-use establishments such as churches, assembly halls, or theaters whose peak parking demand is only at night or on Sundays and by other uses

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whose peak demand is only during the day. A formal agreement shall be made in writing by the owners of the uses involved concerning the number of spaces involved, substantiation of the fact that such joint use is not overlapping or in conflict, and the duration of the agreement. Required spaces shall be within 300 feet of churches and public assembly halls and 400 feet of other uses.

§ 240-8.6. Combined establishment and operation of parking areas.

Required spaces for any number of uses may be provided in a combined lot or lots, provided that the number of spaces in the combined facility shall not be less than the sum of those required of the individual uses, with allowance made, upon formal designation, for night use or for separate and distinct working shifts, and provided also that such lot or lots shall be within 300 feet of the principal buildings served.

§ 240-8.7. Entrance and exit points.

- A. Suitable provision shall be made along all property lines and along the borders of parking areas to prevent entrance upon any public right-of-way except at approved points. No existing curb shall be cut, broken out, or removed except as authorized by the Building Commissioner/Inspector of Buildings under the terms of this By-Law bylaw.
- B. No more than two driveways shall be allowed on any street frontage, unless such frontage exceeds 500 feet, in which case more driveways may be authorized by the Building Commissioner/Inspector of Buildings or Board of Appeals. (A pair of one-way drives separated by a median may be considered one driveway.) Driveways shall be no closer than 55 feet to any intersection of street lines, and not less than 55 feet apart, except in cases of narrow lots in which the Building Commissioner/Inspector of Buildings may authorize a smaller separation, but no less than 30 feet. No driveway shall be closer than 50 feet to any driveway on any adjoining lot, variable by the Building Commissioner/Inspector of Buildings to a minimum of 30 feet under exceptional circumstances.
- C. Driveway width shall fall within the following limits:

	Minimum (feet)	Maximum (feet)
1- to 5 -family residential	10	20
Multifamily (above 5 dwelling units)	20	30
Commercial and I Industrial		
One-way	12	20
Two-way	24	30

§ 240-8.8. Surfacing requirements.

Off-street parking areas shall be paved with ~~mix~~-asphalt or other approved hard surface, all-weather surfacing material and provided with proper drainage. One- and two-family dwellings not part of a larger complex may waive surfacing requirements, provided that areas shall be clearly defined.

§ 240-8.9. Lighting requirements.

All parking areas providing more than 10 spaces and providing access (e.g., walkways) to and from the principal building shall be suitably illuminated as prescribed by the Building Commissioner/Inspector of Buildings. Lighting shall be so placed or hooded as to prevent direct light from becoming a nuisance to

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surrounding property.

§ 240-8.10. Visual relief for lots.

- A. Parking lots that abut public ways shall be separated therefrom by at least a ten-foot strip of landscaping (which shall contain at least three trees per 200 linear feet that are at least three inches' diameter at breast height).
- B. Parking lots in HB, GB, LI or I Districts that abut residential districts shall also provide a minimum ten-foot landscaped buffer strip on the affected side yards. A wall or solid fence, at least six feet in height, may replace the buffer strip.
- C. Parking lots shall contain visual relief from vast expanses of unbroken blacktop and cars. In parking areas exceeding 1/4 acre but less than one acre in area, landscaping islands containing trees of greater than six feet in height shall be provided at a rate of at least six per 80 parking spaces. At least half of these shall be of a species expected to mature to a height greater than 30 feet. Landscaping in islands shall be protected from damage from parking cars and snow removal operations.
- D. When the total amount of parking on a lot or building site exceeds 40,000 square feet, the parking shall be separated into smaller lots or segments of not more than 20,000 square feet each with dividers at least 10 feet wide and containing vegetation.

§ 240-8.11. Parking and storage.

- A. No large trucks, trailers, or other major transportation equipment shall be parked in any yard between the building line and a public street in any residential zone.
- B. Parking lots in HB, GB, LI, and I Districts where large trucks, trailers, and other major transportation equipment is stored in a lot abutting a public way shall provide a solid fence six feet in height to screen the lot from the street. Refer to § 240-6.3.

§ 240-8.12. Table of Off-Street Parking Regulations.

When the computation of parking spaces results in the requirement of fractional space, any fraction over one-half shall require one space.

Uses	Number of Parking Spaces Per Unit
A) Gasoline Service Station and Repair-Garage 2 spaces for each lubrication pit, lift or bay and 1 space for each employee. B) Bank	1 parking space for each 175 square feet of gross floor area on the lobby floor. Office area not on the lobby floor shall be treated in the same manner as business and professional offices. Refer to D) <u>"Business, professional and other offices"</u> entry below.
C) Bowling Alley	3 spaces per alley plus 1 space per employee.
D) Business, professional, and other offices	1 space for each 300 square feet of gross floor area.
E) Church, or other place of worship, college, or other institutions of higher learning, business, trade, or other schools, libraries, housing for the elderly, accessory uses to such facilities, schools, stadiums, and places of public assembly, or theatre.	Refer to the State of Massachusetts Building Code.

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Uses	Number of Parking Spaces Per Unit
F) — Dwellings (1-family detached)	2 spaces per dwelling unit
G) — Dwellings (single-family attached and multifamily)	Each 1-bedroom unit, 1.3 spaces; e Each 2-bedroom unit, 2.0 spaces; e Each 3-bedroom unit, 2.6 spaces; e Each 4-bedroom unit, 3.0 spaces.
H) — Food and Beverage- Establishment <u>beverage establishment</u>	1 space for each 3 seats or 1 space for each 50 square feet of gross floor area, whichever is greater
I) — <u>Gasoline service station and repair garage</u>	<u>2 spaces for each lubrication pit, lift or bay and 1 space for each employee.</u>
General business, commercial or personal services, service establishment catering to the retail trade, including stores, department stores, or drugstores.	1 space for each 300 square feet of gross floor area
J) — Hospital	1 space for each bed.
K) — Hotel/Motel	1 space for each unit, plus additional spaces for any public eating or assembly spaces as required in H -the " <u>Food and beverage establishment</u> " entry above
L) — Manufacturing uses and processing plants, excluding warehouse area	1 parking space for each 2 employees during the shift of maximum employment or 1 space for each 600 square feet of open or enclosed area devoted to the compounding, manufacturing, or processing of any goods or articles, whichever is less, plus 1 space for each vehicle used in conjunction with the business
M) — Medical and dental clinics and offices	1 space for each 200 square feet of gross floor area
N) — Mortuary	1 space for each 3 seats within the chapel or 1 space for each 20 square feet of floor space not containing fixed seats within the chapel plus 1 parking space for each 400 square feet of gross floor area within the building outside the chapel
O) — Rooming houses, lodging houses, and clubs and fraternities having sleeping rooms	2 spaces for each structure, plus 1 space for each guest room or sleeping unit
P) — Sanitariums, rest homes, nursing homes	1 space for each 2 beds
Q) — Warehouse and storage building	1 space for each 4,000 square feet of gross floor area, plus 1 space for each 400 square feet of office area

§ 240-8.13. Location of loading spaces.

The loading spaces required for the Table of Off-Street Loading Requirements shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this ~~By-Law~~bylaw.

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§ 240-8.14. Table of Off-Street Loading Regulations.

Loading Spaces Required per 1,000 Square Feet of Floor Area					
Uses	2-15 14	15-50	51-100	101-150	Over 150
Retail trade, wholesale, and storage, industry, communication and utilities	1	2	3	4	1 space for each additional 150,000 square feet
Consumer services, hotel and dormitory, institutional, educational	1	1	2	3	

**ARTICLE IX
Signs**

§ 240-9.1. Administration.

- A. No sign, including mobile and movable signs, as defined by this ~~By-Law~~ bylaw, in excess of four square feet in area shall be erected, replaced, located or relocated within the Town of Whitman without first obtaining a sign erection permit from the Building Commissioner/Inspector of Buildings.
- B. Applications for signs not in accord with the specification set forth in this ~~section~~ article shall be referred by the Building Commissioner/Inspector of Buildings to the Board of Appeals for a special permit.

§ 240-9.2. General regulations.

- A. All signs shall be ~~non-animated, non-flashing~~ nonanimated, nonflashing, and permanently fixed. Exceptions may be permitted for short-term displays such as fairs, carnivals, parades, and seasonal celebrations not to exceed 14 days each year.
- B. In all zoning districts, for safety reasons, signs or their illuminator, shall not by reason of their location, shape, size, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking.
- C. No sign shall obstruct visibility in such a way as to constitute a hazard to the safety of persons traveling upon a public way.
- D. No commercial advertising shall be affixed upon or painted upon any rock, tree, or utility pole within the Town of Whitman.
- E. Signs may be placed along traveled ways for the purpose of indicating directions to business or institutional facilities by special permit of the Board of Appeals which shall, in addition to other requirements for the granting of special permits, allow such signs only if they are reasonably needed for directional purposes.
- F. Signs may be no higher than 20 feet in height.

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- G. Private signs shall not project over public streets and no more than four feet over public walks. No signs, whether permanent or temporary, shall be erected or affixed to any object in a public right-of-way. The lowest point of the sign shall be at least 10 feet - zero inch above the finished grade.
- H. All signs, whether erected before or after the effective date of this ~~By-Law~~bylaw, shall be maintained in a safe condition to the satisfaction of the Building ~~Commissioner~~/Inspector ~~of Buildings~~.

§ 240-9.3. Signs in residential districts.

In all residential districts, signs may be permitted as follows:

- A. One sign displaying the street number or name of the occupant on premises, or both, not exceeding two square feet in area. Such sign may be attached to a building or may be on a rod or post not more than six feet high and not less than three feet from the street line. Such sign may include identification of an accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses, including customary home occupations.
- B. One bulletin or announcement board or identification sign for a permitted nonresidential building or use, not more than 10 square feet signboard area. For churches and institutions, membership clubs, funeral establishments, hospitals, other places of public assembly, community facilities or public utilities, one bulletin or announcement board or identification sign is permitted on each building.
- C. A "For Sale" or "For Rent" sign, not to exceed six square feet in area.
- D. A sign bearing the name of a subdivision or multifamily housing development located on the premises at the street entrance, limited to announcing the name of the subdivision or multifamily housing development. Such a sign shall not exceed 20 square feet in area.
- E. Contractor's, owner's, designer's, or engineer's signs associated with actual construction on a site, such signs to be removed immediately upon completion of construction.
- F. No sign or advertising device shall be illuminated after 11:00 p.m.

§ 240-9.4. Signs in business and industrial districts.

~~Signs~~In business and industrial districts, signs and or advertising devices are permitted only as follows:

- A. As permitted in residential districts.
- B. Wall signs.
 - (1) One sign paralleling the street and attached flat to the facade of the establishment advertised as long as such sign does not exceed one square foot in area for each horizontal foot of building frontage and as long as such sign does not project more than 12 inches perpendicularly from the facade.
 - (2) Open lot businesses, such as auto sales, in which the surrounding unenclosed property serves as a major display area for a relatively small building, may base such sign area on lot frontage such that the sign area does not exceed one square foot per foot of lot frontage, but not to exceed 32 square feet for each 100 feet of frontage.
 - (3) One sign not to exceed 40 square feet in area on either side, perpendicular to the associated street or sidewalk and located immediately adjacent to or over the entrance to the store or business. Such sign shall not project more than five feet from the face of the building. If such establishment maintains a parking facility, this sign may be ~~free-standing~~freestanding

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immediately adjacent to the parking lot entrance.

- C. Iconic or symbolic signs such as barber poles, clocks, etc., that carry no printed advertising and whose cross-sectional area does not exceed 15 square feet may be displayed in addition to those heretofore described.
- D. Stores of businesses sharing common private parking facilities such as shopping centers may cooperatively display one sign next to the public way not to exceed 100 square feet in area. Such sign shall be located adjacent to the parking entrance, shall be no taller than 20 feet nor lower than eight feet from the ground. A directory of participating stores or businesses may be associated with such sign, each store or business to be allotted not more than four square feet of space.
- E. Where a structure is set back at least 30 feet from the curbline, a ~~free-standing~~freestanding sign of an area not in excess of 100 square feet on each side may be placed in such a manner that the edge of the sign is not less than 10 feet from the lot line and not higher than 20 feet nor lower than eight feet from the ground.
- F. There shall not be more than three exterior signs for each store or business, excluding exit and entrance signs.

§ 240-9.5. Special signs.

The following signs are exempt from the requirements of Article IX:

- A. Interior window displays or signs.
- B. A community bulletin board for the purpose of displaying notices such as public events, schedules and personal notices. Such bulletin boards are not to be used for the purposes named in § 240-9.3B. Bulletin boards may be 10 square feet on each side.
- C. ~~The following Customary signs, customary and necessary to the operation of a filling and/or service stations: Lettering on buildings displayed station, including lettering over individual entrance doors consisting of the words "washing", "lubrication", "repairing", or words of similar import, provided that there shall be not more than one such sign over each entrance, and that the letters not exceed not exceeding 10 inches in height; lettering or and signs as part of the gas pumps and other insignia, which are a structural part of a gasoline pump, consisting only of a brand name, lead warning sign and other signs, as signs required by law; a credit card sign not exceeding two square feet in area, affixed to the building or permanent sign structure.~~
- D. A memorial sign or tablet indicating the name of a building or the date of its erection when cut into any masonry surface or constructed of bronze or other incombustible material.

ARTICLE X

Environmental Performance Standards

§ 240-10.1. Applicability.

The requirements and regulations set forth in this ~~section~~article apply to all developments under this ~~By-Law~~bylaw. In addition, there are additional requirements for certain uses as set forth in Article VII as well as requirements for parking (Article VIII) and signs (Article IX). Provisions in Articles VII, VIII, and IX shall be in addition to the requirements of this ~~section~~article.

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§ 240-10.2. Sewerage.

The disposal of sanitary wastes shall be accomplished in a safe and adequate manner subject to rules and regulations of the Whitman Board of Health and the Massachusetts Department of Environmental ~~Quality Engineering Protection~~. The proposed method of sanitary sewerage disposal shall be shown precisely on plans.

§ 240-10.3. Surface water drainage.

All surface water drained from roofs, parking lots, streets, and other site features shall be disposed of in a safe and efficient manner which shall not create problems of water runoff or erosion on the site in question or on other sites. Insofar as possible, natural drainage courses, swales properly stabilized with plant materials or paving when necessary, and drainage impounding areas shall be utilized to dispose of water on the site through natural percolation.

§ 240-10.4. Erosion control.

- A. All slopes shall be stabilized by adequate ground cover or other approved means to prevent erosion and to retard excessive runoff. Means of preventing erosion during construction shall be specified to the satisfaction of the Building ~~Commissioner/Inspector of Buildings~~.
- B. Natural slopes shall be retained insofar as possible when siting structures. Finish contours shall direct surface drainage around structures rather than directly against them, using swales or other approved means.
- C. No portion of any lot whose slope equals or exceeds 15% shall have any structure built on it.
- D. Upon completion of grading and replacement of topsoil, slopes shall be appropriately stabilized according to the following guidelines:
 - (1) Slopes greater than 35% should be avoided in most cases.
 - (2) Slopes between 25% and 35%, rip-rap or terracing should be used.
 - (3) Slopes between 10% and ~~25~~24%, sod, or established vegetation or seedlings in association with webbing material placed over the soil.
 - (4) Slopes between 4% and ~~10~~9%, plant seed in association with webbing placed over the soil, or heavy mulch or gravel.

§ 240-10.5. Vegetation.

- A. Natural tree coverage and other desirable natural foliage shall be preserved on all lots to the maximum extent possible.
- B. Outside of areas of actual construction activity, all trees of greater than five inches breast height diameter should be preserved. If a lot is covered with mature trees of greater than five inches breast height diameter, they should not be thinned by more than 50%.
- C. In all residential areas, upon completion of construction, there shall be an average minimum of four trees per dwelling unit, at least two of which shall be on each lot or, in the case of multifamily residential, within 50 feet of each dwelling unit. Such trees shall be of a species suited to the soil and climate of the area, shall be in healthy condition, and shall be a minimum of 12 feet in height. Such trees may be planted by the developer if existing trees cannot be saved, and shall be properly planted. A greater number of trees which are less in height than those required but which are a minimum of

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five feet in height and which furnish, or can be expected to furnish, a comparable tree coverage may be authorized at the discretion of the Building Commissioner/Inspector of Buildings.

§ 240-10.6. Buffer strips.

In order to protect residential land uses from potential noxious or disruptive effects of adjacent land uses of different character, the following buffer areas shall be provided, unless other provisions of this bylaw include different buffer requirements:

- A. Where business, apartments, or industrial uses adjoin existing residential properties or residential districts, whether developed or undeveloped, adequate buffering shall be provided along all lot lines adjoining the residential properties.
 - (1) A buffer strip of at least 20 feet in width shall be reserved and screening shall be provided in the form of a natural growth of trees, if existing; or a natural growth of trees and thick planting; or a double row of evergreen trees not less than eight feet in height and not more than 20 feet apart, the spacing of one row centered on the spacing of trees in the other; or a solid screen type fence six feet in height complemented by suitable plantings.
- B. Buffer strips shall be in conformance with the provisions of § 240-6.3.
- C. The owner of property adjacent to residential properties shall cause the buffer zones to be provided and constructed at such time as the property is developed as permitted under this By-Law.
- D. Established business and industrial properties actively engaged in business at the time of acceptance of this By-Law shall not be required to provide the buffer zone construction until such time that additions or alterations are made to such properties.
- E. The owner of said properties shall be required to maintain buffer strips in a clean and safe manner. Any trees or plantings which die must be replaced.

§ 240-10.7. Other site features.

All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities, or other utility facilities shall be located or visually screened so as not to create hazards or visual or other nuisances. Light fixtures, walls, fences, benches, recreation facilities, and other such site appurtenances shall be harmoniously designed, constructed, and located in relation to other site features.

§ 240-10.8. Control of air pollution.

Except as in herein provided, all use and conditions of land, buildings and structures shall be in conformance with the Regulations as amended for the Control of Air Pollution in the Metropolitan Boston Massachusetts Air Pollution Control District, adopted by the Bureau of Air Quality Control, Division of Environmental Health, Department of Public Health, Commonwealth of Massachusetts, as amended to become effective September 1, 1972 and amendments thereto. Enforcement of the Regulations if provided for in Regulation 52.4-regulations of the Environmental Protection Agency under the Clean Air Act and the Massachusetts DEP's Division of Air Quality under the state Clean Air Act.

§ 240-10.9. Heat, glare and vibration.

No heat, glare, or vibration shall be discernible from the outside of any structure. In no case shall vibration be permitted which is discernible to the human sense of feeling for three minutes or more duration in any one hour of the day between the hours of 7:00 a.m. and 7:00 p.m., or of 30 seconds or more duration in any

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one hour between the hours of 7:00 p.m. and 7:00 a.m.

§ 240-10.10. Waste disposal, water supply and water quality.

Regulations of the State Department of Public Health for waste disposal, water supply and water quality shall be met and, when required, approval shall be indicated on the approved site plan. In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the ~~Commonwealth of Massachusetts, Water Resources Commission, Division of Water Pollution Control as published and entitled "Water Quality Standards", filed with the Secretary of State on March 6, 1967, and amendments thereto, for streams and water bodies within the Town.~~Massachusetts DEP wastewater programs and 310 CMR 22 regarding drinking water regulations.

§ 240-10.11. Storage.

- A. All materials, supplies and equipment not intended for retail sale shall be stored in accordance with ~~Fire Prevention Standards~~the current edition of the ~~National~~Massachusetts Fire ~~Protection Association~~Code and shall be screened from view from public ways and abutting properties.
- B. Materials shall be covered as necessary so that dust shall not be emitted from the stored material.
- C. The storage, utilization or manufacture of materials or products which decompose by detonation shall be in accordance with standards as adopted by the Massachusetts Department of ~~Public~~Fire Safety.
- D. The storage, utilization or manufacture of solid materials which are active to intense burning or of flammable liquids or gases shall be subject to conditions of a permit issued by the Fire Chief.

§ 240-10.12. Exterior lighting.

No exterior lighting other than streetlighting approved by the Selectmen shall be directed on adjacent properties or towards any street in such a manner as to create a nuisance or hazard.

ARTICLE XI Nonconforming Uses

§ 240-11.1. Applicability.

The provisions of this ~~section~~article apply to nonconforming uses, structures and lots as created by the initial enactment of this ~~By-Law~~bylaw or by any subsequent amendment.

§ 240-11.2. Existing nonconforming uses.

Any lawful building or use of a building or land or any part thereof existing at the time of the adoption or amendment of this ~~By-Law~~bylaw may be continued although not conforming to the provisions hereof, provided such use has not been abandoned for a continuous period of two years or more.

§ 240-11.3. Abandonment ~~or sale.~~

~~A. — Abandonment.~~ If any nonconforming development or use of land or of a building be discontinued for a period of two years or more, which in the terms of this ~~By-Law~~bylaw shall constitute abandonment of nonconforming usage, such land or building shall thereafter be used or developed only in accordance with the terms of the Whitman Zoning ~~By-Law~~Bylaw for the zoning districts in which such property is located.

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§ 240-11.4. Restoration.

In the event of the interruption of the use of any such building or land caused by the destruction of or damage to any building by fire, explosion or other catastrophe, by ~~75%, % or more~~, such building may be rebuilt or restored at the same location and such use of land resumed, provided that:

- A. The rebuilding shall, as far as possible, conform to this ~~By-Law~~bylaw and be completed within two years after the occurrence of such fire, explosion or other catastrophe; ~~and;~~
- B. Such building or use of land as restored or resumed shall be no greater in area except as the Board of Appeals may allow by ~~Special Permit~~special permit.

§ 240-11.5. Reduction or increase.

- A. Any nonconforming lot or open space on the lot (yards, setbacks, courts; or building area) if already smaller or greater, as the case may be, than that required, shall not be further reduced or increased so as to be in greater nonconformity.
- B. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

§ 240-11.6. Change in use.

- A. The Board of Appeals may by special permit allow any nonconforming use to be changed to any other use, provided the Board shall rule that such use is not more detrimental or injurious to the neighborhood.
- B. If any nonconforming use is changed to a conforming use, it shall not thereafter be put into any nonconforming use without approval by the Zoning Board of Appeals.

§ 240-11.7. Moving structures.

~~Any~~No nonconforming structure shall ~~not~~ be removed to any other location on the lot or any other lot without the approval of the Zoning Board of Appeals unless every portion of such structure, the use thereof; and the lot shall be conforming ~~without the approval of the Zoning Board of Appeals.~~

§ 240-11.8. Unsafe structures.

Any structure determined to be unsafe may be restored to a safe condition. Such work on any nonconforming structure shall not place it in greater nonconformity.

§ 240-11.9. Enlargement.

Any nonconforming use of building or land may be altered or enlarged up to 25% of the original floor area of a building or land area in use at the time of the adoption of this ~~By-Law~~bylaw, and to a greater extent when approved by the Board of Appeals, provided:

- A. The alteration or enlargement is on the same or an adjacent parcel of land in the same ownership of record at the time of the adoption or amendment of this ~~By-Law~~bylaw; and
- B. The Board of Appeals shall rule that such alteration or enlargement will not be detrimental or injurious to the neighborhood.

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ARTICLE XII
Administration and Enforcement

§ 240-12.1. Administration officer; duties.

This ~~By-Law~~bylaw shall be administered by the Building ~~Commissioner~~/Inspector ~~of Buildings~~ except as otherwise stipulated in this ~~By-Law~~bylaw or in Chapter 40A of the General Laws. Duties of the Building ~~Commissioner~~/Inspector ~~of Buildings~~ under this ~~By-Law~~bylaw shall include the receiving of applications, issuing building and use permits, inspection of premises, issuing certificates of occupancy, action on violations, and any other lawful actions necessary to assure conformance with this ~~By-Law~~bylaw.

§ 240-12.2. Permits.

- A. It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Building ~~Commissioner~~/Inspector ~~of Buildings~~ a building permit.
- B. Such permits shall be applied for in writing to the Building ~~Commissioner~~/Inspector ~~of Buildings~~. The Building ~~Commissioner~~/Inspector ~~of Buildings~~ shall not issue any such permits unless the plans for the buildings, and the intended use thereof, in all respects fulfill the provisions of this ~~By-Law~~bylaw, except as may have been specifically permitted otherwise by action of the Board of Appeals, provided a written copy of the terms governing any such permission be attached to the application and to the resulting permit issued. One copy of each permit issued, including any conditions or exceptions attached thereto, shall be kept on file in the Office of the Building ~~Commissioner~~/Inspector ~~of Buildings~~; one copy sent to the applicant; and one copy sent to the Board of Assessors.
- C. Permit application contents.
 - (1) Each application for a permit to build, alter, or move a building shall be ~~accomplished~~ by three copies of a plot plan of the proposed development. This plot plan shall be drawn to a ~~useable~~ scale, normally not larger than one inch equals 10 feet for small proposals, or one inch equals 40 feet for large proposals. The plot plan shall include:
 - (a) Actual size and shape of lot and structures, including foundation tops;
 - (b) Dimensions, areas and location of sewerage disposal systems;
 - (c) Abutting streets and ways, including approved street grades;
 - (d) Existing sanitary sewers, storm drains and water pipes in any street shown;
 - (e) Location of existing buildings on adjacent lots;
 - (f) Existing conditions and features of the proposed lot, including contours at two-foot intervals;
 - (g) Parking, screening, landscaping and other site elements required under this ~~By-Law~~bylaw;
 - (h) Proposed finish grading at two-foot contour intervals, and all provisions for drainage affecting the site or adjacent properties;
 - (i) Such other information as the Building ~~inspector~~~~Commissioner~~/Inspector ~~of Buildings~~ may reasonably require, including a plan of the entire subdivision in the case of single-family homes.

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- (2) Any of these requirements may be waived by the Building Commissioner/Inspector of Buildings, if in his/her opinion he/she feels they are unnecessary.
 - (3) For additions to existing single-family homes, or for additions to other uses which would be less than 750 square feet in area, which would not be in any required yard, the Building Commissioner/Inspector of Buildings may require only the size and shape of the lot, the existing structure, and the proposed addition.
- D. Construction or operations under a building or special permit shall conform to any subsequent amendment of the By-Lawbylaw unless the use or construction is commenced within a period of six months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

§ 240-12.3. Certificates of occupancy.

- A. It shall be unlawful to occupy any structure or lot for which a building or use permit is required herein without the owner applying for and receiving from the Building Commissioner/Inspector of Buildings a certificate of occupancy.
- B. The certificate of occupancy shall state that the building and use comply with the provisions of the Zoning By-LawBylaw and of the Building Code in effect at the time of issuance. The Building Commissioner/Inspector of Buildings shall consult with the Board of Health or its designated agent prior to issuing said certificate and, in the case of structures in a subdivision undergoing development, with the Planning Board.
- C. A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this By-Lawbylaw:
 - (1) Occupancy and use of a building hereafter erected or structurally altered.
 - (2) Change in use of an existing building or the use of land to a use of a different classification.
 - (3) Any change in use of a nonconforming structure or use.

§ 240-12.4. Permit and certificate fees.

The Board of Selectmen, with recommendations from the Building Commissioner/Inspector of Buildings, shall have the authority, from time to time as circumstances indicate, to determine and set reasonable fees for building permits, sign permits, occupancy permits or other fees required by the State Building Codes or Town of Whitman By-Lawsbylaws.

§ 240-12.5. Enforcement.

- A. This By-Lawbylaw shall be enforced by the Building Commissioner/Inspector of Buildings or other enforcing officer designated by the Board of Selectmen, who shall grant no permit for the construction, alteration, relocation, occupancy or use of any building, structure or premises in violation of any provision of this By-Lawbylaw. Whenever any permit or license is refused because of some provision of this By-Lawbylaw, the reason therefor shall be clearly stated in writing.
- B. The enforcing officer shall institute appropriate legal proceedings to enforce the provisions of this By-Lawbylaw or to restrain by injunction any violation thereof, or both, and shall do all further acts, revoke the permit for occupancy, institute and take any and all such action as may be necessary to enforce the provisions of this By-Lawbylaw.

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§ 240-12.6. Violations and penalties.

Penalties for violations of any provision of this ~~By-Law~~ may, upon conviction, be affixed in an amount not to exceed \$50300 for each offense. Each day, or portion of a day, that any violation is continued shall constitute a separate offense.

§ 240-12.7. Board of Appeals.

- A. Membership. There shall be a Board of Appeals of five members and three associate members.
- B. Appointment. Members of the Board in office at the effective date of this ~~By-Law~~ shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act. All members of said Board shall be residents of the Town.
- C. Rules. The Board shall adopt rules to govern its proceedings pursuant to Chapters 40A and 40B of the General Laws. Such rules shall be public and a copy of same shall be filed with the Town Clerk.
- D. Site plan requirements. Refer to Article VII, §§ 240-7.1, and 240-7.2, for site plan requirements for special permits and variances.
- E. Powers. The Board of Appeals shall have the following powers:
 - (1) Appeals. To hear and decide upon appeal by any office or ~~B~~board of the Town, or by any person aggrieved by any order or decision of the Building Commissioner/Inspector of Buildings, or Selectmen, in violation of any provision of Chapter 40A of the General Laws of the Commonwealth of Massachusetts or any amendments thereto, or any provisions of this ~~By-Law~~.
 - (2) Special permits. To grant a ~~S~~special permit for an exception as provided by sections of this ~~By-Law~~. In applying for a ~~Special Permits~~special permit, the applicant need not demonstrate specific hardship. In granting a ~~Special Permits~~special permit, the Board, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall take into consideration the fulfillment of the following general conditions in addition to other appropriate safeguards as determined by the Board of Appeals. If rights authorized by a ~~Special Permits~~special permit are not exercised within one year of the date of grant of such special permit, they shall lapse and may be re-established only after notice and a new public hearing.
 - (a) The use requested is listed in Table of Use Regulations as a ~~Special Permits~~special permit in the ~~D~~district for which application is made.
 - (b) The requested use will not overload any public water or drainage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
 - (c) Any special regulations for the use, set forth in Article VII are fulfilled.
 - (d) The requested use is essential or desirable to the public convenience or welfare.
 - (e) In case of conflict ~~Chapter 808 Acts of 1975 as amended the Commonwealth of Massachusetts, MGL c. 40A, § 9~~ shall govern.
 - (3) Variances. The Board shall have the power to authorize a variance for a particular use of a parcel of land or to an existing building thereon after public hearing for which notice has been given by publication and posting as provided in Subsection F of this section and by mailing to

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all interested parties to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of this ~~By-Law~~bylaw where the Board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ~~By-Law~~bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially deviating from the intent of this ~~By-Law~~bylaw. The Board may impose conditions, safeguards, and limitations both of time and for use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. If rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse and may be re-established only after notice and a new public hearing; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one-year period. If the permit granting authority does not grant such extension within 30 days of the date of application therefor, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.

- F. Public hearings. Within 65 days of receipt of an appeal or petition, or a request for a special permit, the Board of Appeals shall hold a hearing, giveing notice thereof in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication being not less than 14 days before the hearing, and by mailing a copy of such advertisements to the applicant and to each owner as appearing on the most recent tax list of land directly opposite on any public or private street or way and owners of land within 300 feet of the property lines.
- G. Decisions.
- (1) The Board of Appeals shall make a decision on the appeal ~~o~~for petition within 100 days of filing, and on the request for a special permit within 90 days following a public hearing.
 - (2) The decision of the Board of Appeals shall be filed with the Town Clerk along with detailed reasons therefor and all plans as finally approved. Copies shall be sent to the Building Commissioner/Inspector of Buildings, the Planning Board, and to the applicant.
 - (3) No appeal or petition from the terms of this ~~By-Law~~bylaw with respect to a particular parcel of land or the building thereon and no application for a special exception to the terms of this ~~By-Law~~bylaw which has been unfavorably acted upon by the Board of Appeals shall be considered on its merit by said Board within two years after the date of such unfavorable action except with the consent of all but one of the members of the Planning Board.

~~H.~~ § 240-12.8. Validity.

- ~~(1)A.~~ The invalidity of any section or provision of this ~~By-Law~~bylaw shall not invalidate any other section or provision thereof.
- ~~(2)B.~~ When this ~~By-Law~~bylaw imposes a greater restriction ~~o~~on the use of buildings, structures, or premises, or on height of buildings, or requires larger yards, or open spaces than are imposed or required by any regulations or permits, or by any restrictions, easements, covenants, or agreements, the provisions of this ~~By-Law~~bylaw shall control.

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**ARTICLE XIII
Personal Wireless Service Facilities**

§ 240-13.1. Purpose and intent.

It is the express purpose of this bylaw to minimize the visual and environmental impacts of personal wireless service facilities, consistent with the provisions of Sections 253 and 704 of the Federal Telecommunications ~~a~~Act of 1996. ~~The Bylaw~~This bylaw enables the review and approval of personal wireless service facilities by the Town's Zoning Board of Appeals in keeping with existing bylaws and historic development patterns. It sets standards which are intended to preserve the safety, character, appearance, property values, natural resources and historic sites of the Town, mitigate any adverse visual effects through proper design, location and screening of structures; and to encourage co-location of antennas where feasible in order to minimize the total number of sites required.

§ 240-13.2. Scope.

This Article XIII shall apply to all wireless telecommunications antennas and towers and related equipment, fixtures and enclosures, including any modifications to any of the preceding, but shall not apply to fire, police, ambulance and other safety communications antennas; amateur (ham) radio or citizens band radio antennas, or to non-transmitting television antennas.

§ 240-13.3. Use regulations; location; dimensional requirements.

Applications for personal wireless service facilities will only be considered in ~~LIMITED INDUSTRIAL~~Limited Industrial or ~~INDUSTRIAL~~Industrial zoned districts—~~(.]~~[Reference § 240-5.4, Subsection D~~(6)-:-).]~~.

- A. Use regulations. A personal wireless service facility shall require a building permit in all cases, and may be permitted as follows:
- (1) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Subsection C(2) below. Such installations shall not require a ~~Special Permits~~special permit but shall require site plan approval by the Zoning Board of Appeals.
 - (2) A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a ~~Special Permit~~special permit. Such facilities may locate by ~~Special Permits~~special permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements of Subsection C and all of the ~~Special Permit Regulations~~special permit regulations set forth in § 240-13.4 of this ~~B~~bylaw.
 - (3) A personal wireless service facility that exceeds the height restrictions of Subsection C(1) through (3) may be permitted by ~~Special Permits~~special permit in a designated Wireless Service Overlay District, provided that the proposed facility complies with the height restrictions of Subsection C(4), and with all of the setback and ~~Special Permit Regulations~~special permit regulations set forth in Subsection C and § 240-13.4 of this ~~B~~bylaw.
- B. Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:
- (1) If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers and related facilities, provided that such installation preserves the character and

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integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant may have the burden of proving that there are no feasible existing structures upon which to locate.

- (2) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees to create an effective year-round visual buffer.
- (3) The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of application for a building and/or ~~Special Permit~~special permit.

C. Dimensional requirements. Personal wireless facilities shall comply with the following requirements:

- (1) Height, general. The height of a personal wireless service facility shall not exceed by more than 10 feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.
- (2) Height, existing structures. New antennas located on any of the following structures existing on the effective date of this bylaw shall be exempt from the height restrictions of this bylaw: ~~W~~water towers, guyed towers, lattice towers, fire towers and monopoles, provided that:
 - (a) Location on existing water towers will be subject to approval of the proposed attachment methods and maintenance procedures by the Water Department and Board of Health.
 - (b) There is no increase in height of the existing structure as a result of the installation of a personal wireless service facility.
- (3) Height, existing structure, (utility). New antennas located on any of the following existing structures shall be exempt from the height restrictions of this bylaw, provided that there is no more than a twenty-foot increase in the height of the existing structure as a result of the installation of a personal wireless service facility: ~~;~~electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in Historic Districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic viewsheds.
- (4) Height, ~~wireless facility overlay districts~~Wireless Facility Overlay Districts. Within the Wireless Facility Overlay District (as designated on the Town Zoning Map), personal wireless service facilities of up to 150 feet are permitted by ~~Special Permit~~special permit. These taller structures shall be of non-guyed design, and shall comply with all setback and ~~Special Permit Regulations~~special permit regulations set forth in this ~~B~~bylaw.
- (5) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:
 - (a) The minimum distance from the base of any ground-mounted personal wireless service facility to any property line, public way, habitable dwelling, shall be three times the height of the facility/mount, including any antennas or other appurtenances.

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- (b) In the event that an existing structure is proposed as a mount for a personal wireless service facility, the setback provisions of the underlying zoning district shall apply. In the case of preexisting nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any nonconformities, except as provided in Subsection C(5)(c) below.
- (c) Flexibility. In reviewing a ~~Special Permits~~special permit application for a personal wireless service facility, the Zoning Board of Appeals may reduce the setback by as much as 1/3 of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Zoning Board of Appeals shall consider both the visual and safety impacts of the proposed use.

§ 240-13.4. Performance standards.

All personal wireless service facilities shall comply with the ~~Performance Standards~~performance standards set forth in this section.

A. Design standards.

- (1) Visibility/~~e~~Camouflage. Personal wireless service facilities shall be camouflaged as follows:
 - (a) Camouflage by existing buildings or structures:
 - [1] When a personal wireless service facility extends above the roof height of a building on which it is mounted, every reasonable effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
 - [2] Personal wireless service facilities which are side-mounted shall blend with the existing building's architecture and, if over five square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.
 - (b) Color.
 - [1] Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
 - [2] To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding them, they shall be painted in a light grey or light blue hue which blends with sky and clouds to the extent that such requirements do not violate applicable FAA regulations.
- (2) Equipment shelters. Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:
 - (a) Equipment shelters shall be located in underground vaults; or
 - (b) Equipment shelters shall be designed to be consistent with the architectural styles, materials and roof design typical of the district in which the facility is located.
 - (c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer and/or wooden fence, equal to the height of the proposed building. The Zoning Board of Appeals shall determine the style of fencing and/or landscape buffer that is

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compatible with the neighborhood.

- (3) Lighting and signs.
 - (a) Personal wireless facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the property to be developed, and foot-candle measurements at the property line shall be 0.0 initial foot-candles when measured at grade.
 - (b) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All such signs shall comply with the requirements of these ~~B~~bylaws.
- (4) Historic buildings and districts.
 - (a) Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods or original historic materials of the building.
 - (b) Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
 - (c) Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- (5) Scenic landscapes and vistas.
 - (a) Equipment shelters shall not be located within open areas that are visible from public roads or residential development. As required in ~~the Section~~ Subsection A(1), a buffer of dense tree growth shall surround all ground-mounted equipment shelters, which are not camouflaged by existing buildings or structures.
 - (b) Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the Town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this bylaw will apply.

B. Environmental standards.

- (1) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.
- (2) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- (3) Stormwater run-off shall be contained on-site.
- (4) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at the property line.
- (5) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the

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antenna.

C. Safety standards.

- (1) Radio ~~Frequency Radiation~~frequency radiation (RFR) ~~S~~standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.
- (2) A security barrier shall surround all ground-mounted personal wireless service facilities.

D. Application Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

§ 240-13.5. Special permit application procedures.

~~Special Permit Granting Authority. The A.~~ Special Permit Granting Authority ~~Special Permit Granting Authority~~ permit granting authority. The special permit granting authority for personal wireless service facilities shall be the Zoning Board of Appeals (ZBA).

B. Application filing requirements. The following shall be included with an application for a ~~Special Permit~~special permit for all personal wireless service facilities:-:

- (1) General filing requirements:-:
 - (a) Name, address and telephone number of applicants and any co-applicants as well as any agents for the applicants or co-applicants.
 - (b) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
 - (c) A licensed carrier shall either be an applicant or a co-applicant.
 - (d) Original signatures for the applicant and all co-applicants applying ~~off~~for the ~~Special Permit~~special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.
- (2) Location filing requirements:-:
 - (a) Identify the subject property by including the Town as well as the name of the locality; name of the nearest roads or roads and street address, if any.
 - (b) Tax Map and parcel number of subject property.
 - (c) Zoning district designation for the subject parcel. (Submit copy of Town Zoning Map with parcel identified~~.)~~)
 - (d) A line map to scale showing the lot lines of the subject property and the location of all buildings, including accessory structures, on all properties shown within 300 feet of the proposed wireless facility.
 - (e) The proposed locations of all existing and future personal wireless service facilities in the Town on a Town-wide map for this carrier.

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(3) Siting filing requirements:

(a) A one-inch-equals-40 feet vicinity plan showing the following:

- [1] Property lines for the subject property.
- [2] Property lines of all properties adjacent to the subject property within 300 feet of the property line.
- [3] Tree cover on the subject property and adjacent properties within 300 feet of the proposed wireless facility, by dominant species and average height, as measured by or available from a verifiable source.
- [4] Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet of the proposed wireless facility.
- [5] Proposed location of antenna, mount and equipment shelter(s).
- [6] Proposed security barrier, indicating type and extent as well as point of controlled entry.
- [7] Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet of the proposed wireless facility, including driveways proposed to serve the personal wireless service facility.
- [8] Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
- [9] Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet of the property line.
- [10] All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- [11] Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
- [12] Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed ~~from "Sight Lines" sub-section~~ from Subsection B(3)(b) regarding sight lines below).

(b) Sight lines and photographs as described below:

- [1] Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet, to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one -inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet, there shall be at least two sight lines from the closest habitable structures or public roads, if any.
- [2] Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph, ~~of~~ showing what can currently be seen from any public road within 300 feet of the proposed wireless facility.

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- [3] Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- (c) Siting elevations, or views at-grade from the north, south, east and west for a fifty-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
- [1] Antennas, mounts, and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
- [2] Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
- [3] Any and all structures on the subject property.
- [4] Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- [5] Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
- (4) Design filing requirements.
- (a) Equipment brochures for the proposed personal wireless service facility, such as manufacturer's specifications or trade journal reprints, shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs and security barrier, if any.
- (b) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs and security barrier, if any.
- (c) Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (d) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (e) Appearance shown by at least two photographic superimposed of the personal wireless service facility within the subject property. The photographic superimpose shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs and security barrier, if any, for the total height, width and breadth.
- (f) Landscape plan, including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- (g) Within 30 days of the pre-application conference, or within 21 days of filing an application for a ~~Special Permits~~ special permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation

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in the Town at least 14 days, but not more than 21 days, prior to the test.

- (h) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminous proposed.
- (5) Noise filing requirements.
- (a) The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels (logarithmic scale, accounting for greater sensitivity at night), for the following:
 - [1] Existing or ambient: the measurements of existing noise.
 - [2] Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
 - (b) Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the ~~Noise Standards~~noise standards of this Bbylaw.
- (6) Radio ~~Frequency Radiation~~frequency radiation (RFR) ~~Filing Requirements~~filing requirements. The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility; for the following situations:
- (a) Existing or ambient: the measurements of existing RFR.
 - (b) Existing plus proposed personal wireless service facilities; estimate of the maximum of RFR from the proposed personal wireless service facility plus the existing RFR environment.
 - (c) Certification signed by an RF engineer stating that RFR measurements are accurate and meet FCC Guidelines as specified in the ~~Radio Frequency Radiation Standards subsection~~radio frequency radiation standards subsection of this Bbylaw.
 - (d) The applicant is required to certify that it has complied with all other requirements of the FCC and FAA.
- (7) Federal environmental filing requirements.
- (a) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. The FCC, via procedures adopted as Subpart ~~1, Section I,~~ § 1.1301 et seq. (47 ~~CFR Ch~~CFR Subpart I administers NEPA. ~~I. The FCC.~~), requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
 - [1] Wilderness areas.
 - [2] Wildlife preserves.
 - [3] Endangered species habitat.
 - [4] Historical site.

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- [5] Indian religious site.
 - [6] Floodplain.
 - [7] Wetlands.
 - [8] High-intensity white lights in residential neighborhoods.
 - [9] Excessive radio frequency radiation exposure.
- (b) At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC.
- (c) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.
- (8) The Zoning Board of Appeals may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

§ 240-13.6. Co-location.

- A. Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a ~~Special Permits~~special permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
- (1) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
 - (2) Contact with all the other licensed carriers for commercial mobile radio services operating in the Town; and
 - (3) Providing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- B. In the event that co-location is found to be not feasible, a written statement of the reasons shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a ~~Special Permits~~special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
- C. If the applicant does not intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.
- D. If the ZBA approves co-location for a personal wireless service facility site, the ~~Special Permits~~special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the ~~Special Permits~~special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved ~~Special Permits~~special permit shall require a new ~~Special Permits~~special permit.
- ~~F. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.~~

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§ 240-13.7. Modifications.

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and require a ~~Special Permits~~special permit when the following events apply:

- A. The applicant and/or co-applicant wants to alter the terms of the ~~Special Permits~~special permit by changing the personal wireless service facility in one or more of the following ways:
 - (1) Change in the number of facilities permitted on the site.
 - (2) Change in technology used for the personal wireless service facility.
 - (3) Additional equipment shelter.
- B. If the applicant and/or co-applicant would like to add any equipment or additional height not specified in the original design filing.

§ 240-13.8. Monitoring and maintenance.

- A. Within 90 days of the beginning of operations, and annually thereafter, the applicant shall submit measurements of RFR from the personal wireless service facility and copies to be submitted to the Town Whitman. Such measurements shall be signed and certified by ~~a~~an RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the ~~Radio Frequency Standards~~radio frequency standards section of this ~~B~~bylaw.
- B. The applicant and co-applicants shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer areas and landscaping.

§ 240-13.9. Abandonment or discontinuation of use.

- A. At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- B. Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - (1) Removal of antennas, mounts and equipment shelters and security barriers from the subject property.
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. If a carrier fails to remove a personal wireless service facility in accordance with this section of this ~~B~~bylaw, the Town shall have the authority to enter the subject property and physically remove the facility. The Zoning Board of Appeals shall require the applicant to post a bond at the time of

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construction to cover costs for the removal of the personal wireless facility in the event the Town must remove the facility.

§ 240-13.10. Reconstruction or replacement of existing towers and monopoles.

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this ~~Bylaw~~ may be reconstructed, altered, extended or replaced on the same site by ~~Special Permits~~special permit, provided that the Zoning Board of Appeals finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the ZBA shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for collocation, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than 20 feet not to exceed the 150 feet permitted in § 240-13.3C(4).

§ 240-13.11. Documentation required for decision not to grant permit.

The Zoning Board of Appeals will need to justify any decision not to grant a permit, in writing.

§ 240-13.12. Term of special permit.

A ~~Special Permits~~special permit issued for any personal wireless service facility over 50 feet in height shall be valid for 20 years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new ~~Special Permits~~special permit shall be required.

§ 240-13.13. Proximity to other towers.

No towers shall be constructed closer than 5,280 feet (one mile) to another existing tower.

ARTICLE XIV Adult Entertainment

§ 240-14.1. Purpose and intent.

- A. It is the intent and purpose of this ~~By Law~~bylaw to regulate ~~Adult Entertainment Establishments~~adult entertainment establishments to promote the health, safety and general welfare of the citizens of Whitman.
- B. It is also the purpose and intent of this ~~By Law~~bylaw to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses referenced and defined herein. Such secondary effects have been shown to include increased traffic, noise, loitering, crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties and adverse impacts on the quality of life in the Town, all of which secondary impacts are adverse to the health, safety and general welfare of the Town of Whitman and its inhabitants.
- C. The provisions of this ~~By Law~~bylaw have neither the purpose nor the intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this ~~By Law~~bylaw to restrict or deny access by adults to adult entertainment establishments and to sexually oriented matter or materials protected by the Constitution of the United States of America and of the Commonwealth of Massachusetts, nor restrict or deny rights that distributors or exhibitors of such matter or materials

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may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this ~~By Law~~bylaw to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

§ 240-14.2. Permitted districts.

Adult ~~Entertainment Establishments~~entertainment establishments are prohibited in any zoning district within the Town of Whitman except for the Industrial District and Limited Industrial District as noted on the Town of Whitman Street Map dated May 1, 1973.

§ 240-14.3. Definitions.

~~Adult Entertainment Establishments~~All terms used in this Article XIV shall include the following:

~~ADULT BOOKSTORE~~—An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitementbe as defined in Massachusetts General Laws, Chapter 272, Section 31.

~~ADULT MOTION PICTURE THEATER~~—An enclosed building or drive in theater used for presenting motion pictures, slides, photo displays, videos or other material for viewing distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

~~ADULT PARAPHERNALIA STORE~~—An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

~~ADULT VIDEO STORE~~—An establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

~~LIVE ADULT ENTERTAINMENT ESTABLISHMENT~~—Establishments which feature persons, entertainers or employees who appear or work in a state of nudity, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.Article II, Definitions, of this bylaw.

§ 240-14.4. Special permit required.

No ~~Adult Entertainment Establishment~~adult entertainment establishment shall commence operations without first applying for and receiving a ~~Special Permits~~special permit from the Board of Appeals.

§ 240-14.5. Special permit conditions.

All of the ~~Speeial Permits~~special permit conditions of this ~~By Law~~bylaw, and the ~~Speeial Permits~~special permit conditions of the Whitman Zoning ~~By Law~~Bylaw, § 240-12.7E(2), must be met in order for an applicant to be granted a ~~Speeial Permits~~special permit for an ~~Adult Entertainment Establishment~~adult entertainment establishment. A public hearing shall be held within 65 days of application, and action shall be taken within 90 days of application.

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- A. Distance requirements.
- (1) All ~~Adult Entertainment Establishments~~adult entertainment establishments proposed to be located in the Industrial District and Limited Industrial District must meet the following minimum distance requirements from:
 - (a) Residential zone: 1,000 feet.
 - (b) State-certified public or private school: 1,000 feet.
 - (c) State-licensed day-care centers: 1,000 feet.
 - (d) Religious institutions: 1,000 feet.
 - (e) Public libraries: 1,000 feet.
 - (f) Other adult entertainment establishments: 1,000 feet.
 - (g) Land or buildings used for municipal governmental purposes: 1,000 feet.
 - (h) All parks, reservations or recreation areas: 1,000 feet.
 - (2) Adult ~~Entertainment Establishments~~entertainment establishments proposed in the Industrial District and the Limited Industrial District must also meet the following distance requirement from:
 - (a) The property lines of a parcel of land two acres or less, on which a residence is located: 400 feet.
 - (b) A residential structure located on a property which is greater than two acres: 600 feet.
- B. Adult ~~Entertainment Establishments~~entertainment establishments shall be located in stand-alone facilities and shall not be allowed within a building containing other retail, consumer, residential uses, etc.
- C. Only one ~~Adult Entertainment Establishment~~adult entertainment establishment may be located within a building.
- D. A material condition to any ~~Adult Entertainment Establishment~~adult entertainment establishment shall be that such an establishment must cease its operations between the hours of 1:00 a.m. and 10:00 a.m. each day.
- E. Each applicant for an ~~Adult Entertainment Establishment~~adult entertainment establishment must provide a plan, submitted with its application, showing the required parking on the same lot as said establishment.
- F. The applicant must present a plan to the Zoning Board of Appeals to be reviewed under ~~Site Plan Review~~site plan review. Zoning Board of Appeals approval of the site plan must be obtained before a ~~Special Permits~~special permit may be granted.
- G. All signs for any ~~Adult~~adult use must meet the requirements of the Whitman Sign ~~By Law~~Bylaw. In addition, no advertisement, display or other promotional material which contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public way, including, but not limited to, sidewalks, pedestrian walkways, highways, railways or from abutting private property. All proposed permanent signage for ~~Adult Entertainment Establishments~~adult entertainment establishments shall be presented for review.

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- H. No applicant may be issued a ~~Special Permits~~special permit if they, or any members of the ~~B~~board of ~~D~~irectors, or investors of a ~~Corporation, Partnership~~corporation, partnership, etc., have been convicted of violating the provisions of MGL c. 119, § 63, or MGL c. 272, § 28.
- I. Lapse of special permit.
- (1) A ~~Special Permits~~special permit for an ~~Adult Entertainment Use~~adult entertainment use shall lapse within one year if substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause; excepting only any time required to pursue or await the determination of an appeal from the grant thereof.
 - (2) A ~~Special Permits~~special permit for an ~~Adult Use~~adult use shall lapse within one year from the time in which it is discontinued, abandoned or not used.

§ 240-14.6. Nonconforming uses.

Any existing adult bookstore, adult motion-picture theater, adult paraphernalia store or adult video store must apply for a ~~Section 9A Special Permits~~special permit under MGL c. 40A, § 9A within 90 days of the adoption of this ~~Zoning By Law by the Town of Whitman~~Article XIV.

§ 240-14.7. Severability.

In the event any one or more provisions of this ~~By Law~~bylaw are found or determined to be illegal or unenforceable by the Massachusetts Appeals Court or the Massachusetts Supreme Judicial Court, then the illegality of any such provision shall not affect the validity of any other provision of this ~~By Law~~bylaw, which provisions will remain in full force and effect.