

AT TRUE COPY, ATTEST:
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 TOWN CLERK-WHITMAN

Chapter 240

ZONING

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[HISTORY: Adopted by the Town Meeting of the Town of Whitman 6-2-2021 ATM by Art. 22, AG approved 9-24-2021, eff. 6-2-2021. Amendments noted where applicable.]

ARTICLE I
Title, Authority and Purpose

§ 240-1.1. Adoption.

The Town of Whitman Protective Zoning Bylaw, effective March 29, 1960, subsequent amendments thereto, is hereby amended in total and a revised Town of Whitman Protective Zoning Bylaw, hereinafter called "this 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 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 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 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 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 — 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 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.

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, 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 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 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 separate 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.

DWELLING, MULTIFAMILY — A building containing three or more dwelling units constructed on a single lot (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 bylaw only upon application to and the approval of the Zoning Board of Appeals and in accordance with provisions of this 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 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.

GUYED TOWER — A monopole or lattice tower that is tied to the 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.

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 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 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 FRONTRAGE — 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 line 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 on the roof of a building.

B. Side-mounted: mounted on the side of a building.

C. Ground-mounted: mounted on the ground.

D. Structure-mounted: mounted on a structure other than a building.

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 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 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 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.

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

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 — 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 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 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 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 hereafter made through the amendment of this bylaw shall be indicated by the alteration of such map and the map thus altered as declared to be part of the 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 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 bylaw.

- 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 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 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 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 bylaw or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

§ 240-4.2. Applicability.

Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this 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.

§ 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 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 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 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 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 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 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. (Reserved)

§ 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

P	=	Permitted
SP	=	Special Permit
N	=	Not Permitted

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HD	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	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 the 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
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	N	N	N	N	N	N	N	N
10) Trailer park or mobile home park	N	N	N	N	N	N	N	N
11) Campgrounds	N	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	P	P	P	P	P	P	P	SP
2) Religious, sectarian and nonsectarian denominational, or private school not conducted as a private business for gain	P	P	P	P	P	P	P	SP

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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 utilities	SP	SP	SP	SP	SP	SP	SP	SP
6) Private nonprofit libraries or museums	SP	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 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 club, golf, swimming, outdoor tennis 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, sport arena, skating rink or tennis courts, 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 municipal uses	SP	SP	SP	SP	SP	SP	SP	SP
C. Agricultural Uses								
1) Farming-agricultural, 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	P	N	P

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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 and/or engaging in body piercing, branding, scarring or any other form 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 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

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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 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 or 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 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

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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 § 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 § 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
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

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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	N	N	SP	P	SP
6) Wholesale business and storage in a roofed structure	N	N	N	P	SP	P	P	SP
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 industrial park; cafeterias 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 parks	N	N	N	SP	N	SP	SP	SP
11) Research parks	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 subsection, "renewable energy," "alternative energy," "research and development facilities" and "manufacturing 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	N	N	N	N
2) Open-lot storage of transport vehicles and trailers	N	N	N	SP	N	SP	P	SP
3) Truck and trailer bodies stored or used for storage	N	N	N	SP	N	SP	P	SP
4) Open-lot storage or sale of junk or salvaged materials	N	N	N	N	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	N	SP	SP	SP

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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	P	P	P	SP
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	N	SP	N	
8) Airport for the service of small private craft, 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 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
4) A private swimming pool, provided that it meets the requirements of § 240-7.5 of this bylaw	P	P	P	P	P	N	SP	

Principal Uses	Whitman Zoning Districts							
	A-1	A-2	GR	HB	GB	LI	I	FP
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
7) The use of a portion of a dwelling or accessory building thereto by a resident skilled tradesperson, draftsperson 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 the regulations set forth in this subsection, as well as all other relevant provisions of the Zoning 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 supersede the requirements of Article VIII of this Zoning 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 zone.

(4) **Uses.** The following are specifically allowed within the zone, 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 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] No units are located on street level or within a basement.
 - [3] There shall be no more than two bedrooms per unit.
 - [4] 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.
 - [5] 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 bylaw in the following respects.
- (b) Parking spaces shall be provided as follows:
 - [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. (Reserved)¹

1. Editor's Note: Former § 240-5.5, Marijuana establishments prohibited, was repealed 5-2-2022ATM by Art. 41, AG approved 11-10-2022, eff. 5-2-2022.

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 Bylaw, in the districts as set forth below, except as may otherwise be provided elsewhere in the Town of Whitman Protective Zoning 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 to any side or rear lot line, no closer than 10 feet 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 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 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.

Zoning District	Minimum Lot Size (square feet)	Contiguous 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	0	0	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.
- (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 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 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. [Amended 5-2-2022ATM by Art. 43, AG approved 10-5-2022, eff. 5-2-2022]

- A. **Definition.** An accessory apartment is a subsidiary dwelling unit created within or as an extension to a single-family dwelling or above a structure accessory thereto, complete with its own means of egress, sleeping, cooking and sanitary facilities.
- B. The construction of accessory apartments, as defined by the Protective Zoning Bylaw, can be commenced only with the issuance of a 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 on any lot.
- 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 or to the rear and side of an accessory structure.
 - (2) Any enlargements or extensions of the dwelling in connection with any accessory apartment must comply with building, safety and health codes and Town 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 with Article VIII of this Protective Zoning Bylaw.
- F. Regulations of the Board of Health and other boards as required must be met and the Massachusetts State Building Code² regulations must be met.
- G. A 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 special permit restrictions imposed by the Board of Appeals.
- H. Zoning districts in which the special permit may be granted are A-1, A-2, and 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 by the Board of Appeals and a building permit by the Building Commissioner/Inspector of Buildings.
- J. Occupancy permits shall only be issued upon confirmation that both the main dwelling and the accessory apartment are in compliance with the approved plans, all applicable provisions of this Protective Zoning Bylaw, the terms and conditions of the 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 for an accessory apartment is sold, the new

2. Editor's Note: See MGL c. 143, § 1 et seq.

owners, if they wish to continue to exercise the special permit, must, within 90 days of the sale, apply to the Board of Appeals for a new 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 accessory apartments and the approved special permit.

- L. The Board of Appeals may waive requirements for a floor plan, elevation and plot plan.

ARTICLE VII
Special Provisions

§ 240-7.1. Permitted uses.

The uses outlined in this 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 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 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 shall evaluate the application and site plan with regard to the conditions and standards set forth in the 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 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 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 plan required in this section. Planning Board endorsement of the information submitted under this bylaw, however, shall not constitute approval under the Subdivision Control Law. The 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. 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.
- (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 by the Zoning Board of Appeals, pursuant to § 240-7.2, Site plan approval, and subject to the dimensional requirements of § 240-6.5, Table of Dimensional and Density Regulations. Said 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 approval by the Zoning Board of Appeals. For the purposes of this section, "renewable energy," "alternative energy," "research and development facilities" and "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:
 - (1) At least 50 feet from any lot line that abuts the proposed development;
 - (2) At least 50 feet from any street line;
 - (3) 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 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, or muck or borrow, as shown on the current Plymouth County Soil Survey issued by the United States Department of Agriculture, 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.

§ 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. [Amended 6-2-2021 ATM by Art. 27, AG approved 9-24-2021, eff. 6-2-2021]

A. Statement of purpose.

- (1) The purposes of the Floodplain District are to:
 - (a) Ensure public safety through reducing the threats to life and personal injury;
 - (b) Eliminate new hazards to emergency response officials;
 - (c) Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;
 - (d) Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
 - (e) Eliminate costs associated with the response and cleanup of flooding conditions; and
 - (f) Reduce damage to public and private property resulting from flooding waters.
- (2) The purposes of the Watershed Protection District are to:
 - (a) Preserve, protect 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.
 - (b) 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.

B. District boundaries.

- (1) Floodplain District boundaries and base flood elevation data.
 - (a) The Floodplain District is herein established as an overlay district. The Floodplain District includes all special flood hazard areas within Whitman designated on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the district shall be defined by the one-percent-chance base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Board of Health.
 - (b) The floodplain management regulations found in the Floodplain District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
 - (c) The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
 - (d) If any section, provision or portion of this bylaw is deemed to be unconstitutional or

invalid by a court, the remainder of the bylaw shall be effective.

- (e) The Town of Whitman hereby designates the Building Commissioner to be the official Floodplain Administrator for the Town.
- (2) The Watershed Protection District is herein established as an overlay district to all other districts. The Watershed Protection District includes:
 - (a) All areas designated as Qs and/or Q1 on the Floodplain and Watershed Protection District Map dated May 1, 1973;
 - (b) One hundred feet horizontally landward from any bank of the Schumatuscasant River and the Meadow Brook and all their respective tributaries; and
 - (c) One hundred feet horizontally landward from the 100-year flood elevation of the Schumatuscasant River and the Meadow Brook and all their respective tributaries, or whatever is the greater distance of Subsection B(2)(a) or (b) above.
- (3) In the Floodplain District and Watershed Protection District, the applicable use and other provisions of the Town's bylaw shall continue in force, subject to all provisions of this section.

C. New technical data. If the Town acquires data that changes the base flood elevation in the FEMA mapped special flood hazard areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief

99 High Street, 6th Floor

Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator

MA Department of Conservation and Recreation

251 Causeway Street

Boston, MA 02114

D. Variances to Building Code floodplain standards.

- (1) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the Town's files.
- (2) The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a Town official, that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) Such construction below the base flood level increases risks to life and property.

(3) Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain District.

E. Variances to Town of Whitman Protective Zoning Bylaw. A variance from this bylaw must meet the requirements set out by state law, and may only be granted if:

- (1) Good and sufficient cause and exceptional nonfinancial hardship exist;
- (2) The variance will not result in additional threats to public safety, extraordinary public expense or fraud or victimization of the public; and
- (3) The variance is the minimum action necessary to afford relief.

F. Permits.

- (1) The Town of Whitman requires a permit for all proposed construction or other development in the Floodplain District and/or Watershed Protection District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties, except any use specifically authorized and exempt from such permits by law.
- (2) Whitman's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the Floodplain District and/or Watershed Protection District. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.
- (3) The Board of Appeals shall have the authority to issue permits hereunder, after hearing with due notice given as provided by MGL c. 40A, § 4. Such permit shall state the conditions under which the permit is issued.
- (4) Permit procedure.
 - (a) Any person desiring to undertake an action described in this section 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 forty-eight 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 is to be situated. Such plans shall conform to the requirements of the Rules and Regulations Regulating the Subdivision of Land for the Town of Whitman, as may be amended or recodified from time to time.
 - (b) 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.

(c) 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 public generally or of other land or buildings, and the permit otherwise complies with the requirements of this bylaw. In deciding applications for a permit under this section, the Board shall be satisfied:

- [1] That the basement floor level shall be above the elevation of the nearest Floodplain District and/or Watershed Protection District boundary.
- [2] 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 District and/or Watershed Protection District.
- [3] That safe vehicular and pedestrian movement to, over and from the premises shall be provided over ways having an elevation above the nearest Floodplain District and/or Watershed Protection District boundary.
- [4] 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 District and/or Watershed Protection District boundary.
- [5] 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 District as a floodplain and/or water retention area.
- [6] That the land is not subject to seasonal or periodic flooding.
- [7] That the portion of any lot within a Floodplain District and/or 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 district.

(d) Nothing in this section shall limit the authority of the Board of Health with respect to premises in the Floodplain District and/or Watershed Protection District or affect the applicability of the State Building Code to any building in such district(s).

(e) Nothing 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 such statute.

G. Subdivision.

- (1) All subdivision proposals and development proposals in the Floodplain District and/or Watershed Protection District shall be reviewed to assure that:
 - (a) Such proposals minimize flood damage.
 - (b) Public utilities and facilities are located and constructed so as to minimize flood damage.
 - (c) Adequate drainage is provided.
- (2) When proposing subdivisions or other developments greater than 50 lots or five acres

(whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

H. Unnumbered A Zones.

- (1) In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state or other source as criteria for requiring new construction, substantial improvements or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level and for prohibiting encroachments in floodways.
- (2) In Zones A, A1-30 and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (3) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

I. (Reserved)

J. Watercourse alterations or relocations in riverine areas. In a riverine situation, the Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- (1) Adjacent communities, especially upstream and downstream.
- (2) Bordering states, if affected.
- (3) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, 8th floor, Boston, MA 02114.
- (4) NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110.

K. Recreational vehicles. In A1-30, AH, AE Zones, V1-30, VE and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

L. Enforcement. This bylaw shall be enforced by the Floodplain Administrator or other enforcing officer designated by the Board of Selectmen, legal proceedings and fines shall be in accordance with Article XII, §§ 240-12.5 and 240-12.6 of the Town of Whitman Protective Zoning Bylaw, as may be amended or recodified from time to time.

M. Definitions.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD BOUNDARY AND FLOODWAY MAP — An official map of a community issued by

FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY — The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59; also Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;

- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY — See "floodway."

SPECIAL FLOOD HAZARD AREA — The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION —

- (1) The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.
- (2) Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION — When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

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 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 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 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 article; provided this regulation shall not require the maintenance of more parking or loading spaces than are required according to the tables.

§ 240-8.3. Space area requirements.

- A. Off-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

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 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 industrial		
One-way	12	20
Two-way	24	30

§ 240-8.8. Surfacing requirements.

Off-street parking areas shall be paved with 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 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
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 "Business, professional and other offices" entry below.
Bowling alley	3 spaces per alley plus 1 space per employee
Business, professional and other offices	1 space for each 300 square feet of gross floor area

Uses	Number of Parking Spaces Per Unit
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 theater	Refer to the State of Massachusetts Building Code.
Dwellings (1-family detached)	2 spaces per dwelling unit
Dwellings (single-family attached and multifamily)	Each 1-bedroom unit, 1.3 spaces Each 2-bedroom unit, 2.0 spaces Each 3-bedroom unit, 2.6 spaces Each 4-bedroom unit, 3.0 spaces
Food and beverage establishment	1 space for each 3 seats or 1 space for each 50 square feet of gross floor area, whichever is greater
Gasoline service station and repair garage	2 spaces for each lubrication pit, lift or bay and 1 space for each employee
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
Hospital	1 space for each bed
Hotel/Motel	1 space for each unit, plus additional spaces for any public eating or assembly spaces as required in the "Food and beverage establishment" entry above
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
Medical and dental clinics and offices	1 space for each 200 square feet of gross floor area
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
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
Sanitariums, rest homes, nursing homes	1 space for each 2 beds
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 bylaw.

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

Uses	Loading Spaces Required per 1,000 Square Feet of Floor Area				
	2-14	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 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 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 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.
- 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 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.

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 freestanding 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 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. Customary signs necessary to the operation of a filling or service station, including lettering over entrance doors not exceeding 10 inches in height and signs as part of the gas pumps and other signs required by law.
- 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 article apply to all developments under this 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 article.

§ 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 Protection. The proposed method of sanitary sewage 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 24%, sod, or established vegetation or seedlings in association with webbing material placed over the soil.
 - (4) Slopes between 4% and 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 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 bylaw.
- D. Established business and industrial properties actively engaged in business at the time of acceptance of this bylaw 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 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 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 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 the current edition of the Massachusetts Fire 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 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 article apply to nonconforming uses, structures and lots as created by the initial enactment of this 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 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.

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 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 Bylaw for the zoning districts in which such property is located.

§ 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 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.

§ 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.

No nonconforming structure shall 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.

§ 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 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 bylaw; and
- B. The Board of Appeals shall rule that such alteration or enlargement will not be detrimental or injurious to the neighborhood.

ARTICLE XII
Administration and Enforcement

§ 240-12.1. Administration officer; duties.

This bylaw shall be administered by the Building Commissioner/Inspector of Buildings except as otherwise stipulated in this bylaw or in Chapter 40A of the General Laws. Duties of the Building Commissioner/Inspector of Buildings under this 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 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 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 accompanied by three copies of a plot plan of the proposed development. This plot plan shall be drawn to a usable 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 sewage 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 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 Commissioner/Inspector of Buildings may reasonably require, including a plan of the entire subdivision in the case of single-family homes.

- (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 bylaw 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 Bylaw 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 bylaw:
 - (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 bylaws.

§ 240-12.5. Enforcement.

- A. This bylaw 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 bylaw. Whenever any permit or license is refused because of some provision of this bylaw, the reason therefor shall be clearly stated in writing.
- B. The enforcing officer shall institute appropriate legal proceedings to enforce the provisions of this bylaw 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 bylaw.

§ 240-12.6. Violations and penalties.

Penalties for violations of any provision of this bylaw may, upon conviction, be affixed in an amount not to exceed \$300 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 bylaw 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 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 bylaw.
 - (2) **Special permits.** To grant a special permit for an exception as provided by sections of this bylaw. In applying for a special permit, the applicant need not demonstrate specific hardship. In granting a special permit, the Board, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall 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 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 permit in the 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, 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 all interested parties to grant upon appeal or upon petition with respect to particular land or

structures a variance from the terms of this 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 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 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, giving 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 or 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 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 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.

§ 240-12.8. Validity.

- A. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.
- B. When this bylaw imposes a greater restriction 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 bylaw shall control.

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 Act of 1996. 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 or 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 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. Such facilities may locate by 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 set forth in § 240-13.4 of this bylaw.
- (3) A personal wireless service facility that exceeds the height restrictions of Subsection C(1) through (3) may be permitted by 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 set forth in Subsection C and § 240-13.4 of this 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 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.

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: 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. 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. These taller structures shall be of non-guyed design, and shall comply with all setback and special permit regulations set forth in this 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.

- (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 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 set forth in this section.

A. Design standards.

- (1) **Visibility/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 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-candle 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 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 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 antenna.

C. Safety standards.

- (1) Radio frequency radiation (RFR) 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. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

§ 240-13.5. Special permit application procedures.

- A. Special 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 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 for the 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.

(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 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, showing what can currently be seen from any public road within 300 feet of the proposed wireless facility.
- [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 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 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 of this bylaw.

(6) Radio frequency radiation (RFR) 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 of this bylaw.

(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 I, § 1.1301 et seq. (47 CFR Subpart I administers NEPA.), 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.
- [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 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 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 permit shall

indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit.

§ 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 permit when the following events apply:

- A. The applicant and/or co-applicant wants to alter the terms of the 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 an RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the radio frequency standards section of this 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 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 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 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 co-location, 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 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 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 bylaw to regulate 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 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 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 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 may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this 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 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.

All terms used in this Article XIV shall be as defined in Article II, Definitions, of this bylaw.

§ 240-14.4. Special permit required.

No adult entertainment establishment shall commence operations without first applying for and receiving a special permit from the Board of Appeals.

§ 240-14.5. Special permit conditions.

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

A. Distance requirements.

- (1) All 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 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 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 may be located within a building.

D. A material condition to any 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 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. Zoning Board of Appeals approval of the site plan must be obtained before a special permit may be granted.

G. All signs for any adult use must meet the requirements of the Whitman Sign Bylaw.³ 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 shall be presented for review.

H. No applicant may be issued a special permit if they, or any members of the board of directors, or investors of a 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 permit for an 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

3. Editor's Note: See Art. IX, Signs.

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 permit for an 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 special permit under MGL c. 40A, § 9A within 90 days of the adoption of this Article XIV.

§ 240-14.7. Severability.

In the event any one or more provisions of this 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 bylaw, which provisions will remain in full force and effect.

ARTICLE XV
Marijuana Businesses

[Added 5-2-2022ATM by Art. 41, AG approved 11-10-2022, eff. 5-2-2022]

§ 240-15.1. Purpose; scope.

- A. The purpose of this article is to allow for the placement of recreational and medical marijuana businesses in suitable locations within the Town of Whitman in accordance with and subject to the provisions of MGL c. 40A, MGL c. 94G, and MGL c. 94I, and to impose reasonable safeguards to minimize potential adverse impacts of marijuana businesses on adjacent properties, residential neighborhoods, schools and other places where children congregate and other land uses potentially incompatible with adult use marijuana activities, and to ensure proper consideration of public health, safety, well-being, and undue impacts on the built and natural environments.
- B. This article shall not restrict the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to MGL c. 128, §§ 116 through 123. Nothing in this article shall be construed to supersede federal and state laws governing the possession, sale and/or distribution of marijuana.

§ 240-15.2. Definitions.

The terms used in this article shall have the definitions set forth in MGL c. 94G, § 1 and MGL c. 94I, § 1, as may be amended from time to time, which are incorporated herein by reference, unless a contrary definition clearly applies or is otherwise specified herein. In addition, the following terms used in this article are further defined as follows:

MARIJUANA BUSINESS — Includes both "marijuana establishments" as defined by MGL c. 94G, § 1 and "medical marijuana treatment centers" as defined by MGL c. 94I, § 1.

RECREATIONAL MARIJUANA ESTABLISHMENT — A "marijuana establishment" as defined by MGL c. 94G, § 1.

RECREATIONAL MARIJUANA RETAILER — A "marijuana retailer" as defined by MGL c. 94G, § 1.

§ 240-15.3. Designated locations for marijuana businesses.

The locations designated by the Town of Whitman where marijuana businesses may be sited are as follows:

- A. Marijuana businesses may be sited in the Highway Business District and that portion of the Industrial District to the north of South Avenue, as shown on the Zoning Map pursuant to MGL c. 40A, § 4, subject to the issuance of a special permit in accordance with § 240-12.7E(2) and site plan approval in accordance with § 240-7.2.
- B. Marijuana businesses are prohibited in all other zoning districts within the Town of Whitman.
- C. The total number of recreational marijuana establishments under MGL c. 94G and medical marijuana treatment centers under MGL c. 94I permitted to be located within the Town shall not exceed a maximum of five, of which no more than three may be recreational marijuana retailers under MGL c. 94G.

§ 240-15.4. General requirements.

The following general requirements are established for all proposed operations of marijuana businesses:

- A. Permanent location. Each marijuana business and any part of its operation, including, but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location within a fully enclosed building and its operations shall not be visible from the exterior of the premises. No marijuana business shall be permitted to operate from a movable, mobile or transitory location.
- B. Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted.
- C. Hours of operation. Hours of operation of marijuana businesses shall be specified in the Host Community Agreement required by § 240-15.8D. Set hours of operation shall apply to all sales, delivery, and dispensing activities for the business.
- D. Signage.
 - (1) Marijuana businesses may develop a logo to be used in labeling, signage, and other materials. Use of medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in signs visible from the exterior of the building.
 - (2) A marijuana business shall not display on the exterior of the facility advertisements for marijuana or any brand name, and may only identify the building by the registered name.
 - (3) A marijuana business shall not utilize graphics related to marijuana or paraphernalia on the exterior of the marijuana business or the building in which the marijuana business is located.
 - (4) All signage and advertising for marijuana businesses shall comply with all applicable state laws, as well as the provisions of Article IX of this chapter and all other applicable provisions of this Code and any relevant regulations promulgated by the Cannabis Control Commission. All signs shall also be subject to approval by the Board of Appeals.
- E. On-site consumption of marijuana. The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of any marijuana business is prohibited.
- F. Visibility of activities. All activities of any marijuana business, including any recreational marijuana retailer or marijuana product manufacturer, shall be conducted indoors.
- G. Paraphernalia. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers, may lawfully be sold at a recreational marijuana retailer. No retail marijuana, marijuana products, or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside the licensed premises.
- H. Control of emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana store or marijuana manufacturing or testing facility, the owner of the subject premises and the licensee shall be liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
- I. Special permit and site plan approval. Marijuana businesses shall be required to obtain a special permit and site plan approval in accordance with the provisions of this article and § 240-7.2 and § 240-12.7E(2). Applications for special permits and site plan approvals for marijuana businesses will

be processed in the order that they are filed with the Town. Special permits and site plan approvals shall be transferable to another marijuana business owner only with the approval of the Board of Selectmen.

- J. Contacts. Prior to the commencement of the operation or services provided by a marijuana business, it shall provide the Board of Selectmen, Police Department, Fire Department, Zoning Enforcement Officer and the Board of Appeals with the names, phone numbers and email addresses of all management staff and keyholders, including a minimum of two operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the business. The marijuana business shall provide to such official a written update to such contact information immediately upon any changes to keep it current and accurate.
- K. Notification. The marijuana business shall notify the Board of Selectmen, Zoning Enforcement Officer, Board of Health, Police Department, Fire Department and Board of Appeals in writing immediately following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the marijuana business.
- L. Violations. Any violation will be corrected within 30 days and, if not corrected within the required time, all operations of the marijuana business shall be suspended until the violation is corrected.

§ 240-15.5. Special permit required.

No recreational marijuana retailer or independent testing laboratory shall be operated without first obtaining a special permit in accordance with this section. The special permit granting authority for purposes of this article shall be the Board of Appeals. In addition to the standard requirements for the issuance of a special permit, issuance of a special permit under this article is subject to the following:

- A. Prior to the issuance of a special permit hereunder, the Board of Appeals must find:
 - (1) The marijuana business is consistent with and does not derogate from the purposes, intent, conditions and requirements of this article and the Protective Zoning Bylaw;
 - (2) The marijuana business meets or exceeds all the applicable permitting requirements of all applicable agencies within the Commonwealth of Massachusetts;
 - (3) The marijuana business facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
 - (4) The marijuana business provides adequate security measures to ensure that no customers will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery; and
 - (5) The marijuana business facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.
- B. In the event that the commonwealth's licensing authority suspends the license or registration of a marijuana business operating under a special permit, the special permit shall be so suspended by the Town until the matter is resolved to the satisfaction of said licensing authority.

§ 240-15.6. Site plan required.

All proposed uses under this article shall be subject to the Board of Appeals' site plan approval process

pursuant to § 240-7.2. In addition to the standard application requirements for site plan approval, such applications for marijuana businesses shall include the following:

- A. The name and address of each owner of the facility/operation.
- B. A copy of an approved Host Community Agreement.
- C. A copy of the license or registration as a recreational marijuana establishment or medical marijuana treatment center, as applicable, from the Massachusetts Cannabis Control Commission or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a certification of registration and meet all of the requirements of a recreational marijuana establishment or medical marijuana treatment center, as applicable, in accordance with the regulations adopted by the Commission, as amended.
- D. Evidence that the applicant has site control and the right to use the site for a marijuana business.
- E. As part of the applicant's site plan, details showing all proposed exterior security measures for the premises, including lighting, fencing, gates and alarms, etc., ensuring the safety of employees, patrons, and the public and to protect the premises from theft or other criminal activity.
- F. The proposed plan shall provide appropriate landscaping and urban design features to harmonize the proposed project with abutting uses so as to protect and enhance the aesthetics and architectural look and character of the surrounding neighborhood.
- G. The Board of Appeals may require a traffic study that includes an analysis of on-site circulation and parking demand to justify the number of proposed parking spaces and the optimum configuration for site ingress and egress.
- H. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administration of odor control, including maintenance of such controls.
- I. A management plan including a description of all activities to occur on-site, including all provisions for the delivery of marijuana and related products to the marijuana business or off-site direct delivery.

§ 240-15.7. End of use.

- A. Special permits and site plan approvals under this article shall lapse/expire if:
 - (1) The marijuana business ceases operation (not providing the operation or services for which it is permitted) for 365 days; and/or
 - (2) The marijuana business's registration/license by the Cannabis Control Commission expires or is terminated.
- B. Any marijuana business under this article shall be required to remove all material, marijuana products, equipment, signs, and other paraphernalia in compliance with regulations established by the Cannabis Control Commission prior to expiration of its license or immediately following the lapse, cessation, discontinuance, expiration or revocation of its use, licensure and/or registration. The license holder shall notify the Whitman Board of Selectmen's Office, the Zoning Enforcement Officer, and the Board of Appeals in writing within 48 hours of such lapse, cessation, discontinuance, expiration or revocation.

§ 240-15.8. Other laws remain applicable.

- A. Business license required. At all times while a permit is in effect, the licensee shall possess a valid business license as required by the Whitman Town bylaws.
- B. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale, distribution or testing of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the business or operation of any recreational marijuana retailer in the Town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
- C. The issuance of any license pursuant to this article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.
- D. Prior to the issuance of a special permit or site plan approval, the marijuana business must have entered into a Host Community Agreement with the Town. If, upon review by the Board of Selectmen, the marijuana business is found to not be fully in compliance with the Host Community Agreement, any local licenses and/or permits may be suspended or rescinded.



OFFICE OF THE TOWN CLERK

TOWN HALL
P.O. Box 426
54 South Avenue
WHITMAN, MASSACHUSETTS 02382
(781) 618-9710 / FAX (781) 618-9791

September 25, 2025

To whom it may concern,

I hereby certify that the submitted Town of Whitman Bylaws is a true copy.

A True Copy Attest:

Dawn M. Varley
Dawn M. Varley
Whitman Town Clerk