

TOWN OF ASHFIELD

ZONING BYLAWS



These zoning bylaws passed unanimously under Article 1 at a Special Town Meeting held in the Town of Ashfield on April 19, 1995.

Approved by the Attorney General's Office on May 19, 1995.

The previous zoning bylaws, also known as the protective bylaws, were repealed at the same Special Town Meeting under Article 2 on April 19, 1995.

Attest: Anne Yuryan
Anne Yuryan / Town Clerk

The following is a True Copy of the vote taken under Article 11 at a Special Town Meeting conducted in the Town of Ashfield on March 16, 1998.

VOTED: To amend Ashfield Zoning Bylaw, Section IIIA2, by replacing the words..." in the Building Inspector's written opinion such change is trivial, ..." with the following:

"such change does not significantly increase the non conformity of the use, structure, or lot...."

PASSED BY 2/3 MAJORITY YES 19 NO 6

A True Copy.

Attest: Anne Yuryan
Anne Yuryan, Town Clerk

Take Notice

These Bylaws have been approved by the Attorney General. With this posting of the Bylaws, they become law, retroactive from the date of the meeting at which they were passed - Dec. 15, 1999.

Amendment to the Zoning Bylaws, Section II and Section VI

Amendment to the Ashfield Zoning Bylaws, Section V.

The Back Lot By Law was passed by a majority vote at a Special Town Meeting held in the Town of Ashfield on June 24, 2002. It was approved by the Attorney General on October 3, 2002 and is retroactive to the date of the meeting at which it was passed - June 24, 2002.

Attest: Maryellen Risser
Maryellen Risser - Ashfield Town Clerk

ASHFIELD ZONING BYLAWS

Section I	Purpose
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SECTION I: PURPOSE

The primary purposes of these by-laws are to promote and enhance the Town's rural atmosphere and character and to protect the health, safety, and general welfare of the inhabitants of the Town of Ashfield. Additional purposes are: to encourage agricultural activity; to reduce the hazard from fire, flood, and other hazards by regulating the location and use of buildings and the area around them; to encourage the appropriate use of land; to minimize congestion in the streets; to conserve the physical characteristics of neighborhoods; to promote the conservation of natural resources and to prevent pollution of the environment.

SECTION II: DEFINITIONS

General: As used in these bylaws, and unless the context of usage clearly indicates another meaning, the following terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "buildings," "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. The masculine gender shall include the feminine.

Abandonment: the voluntary relinquishment or cessation for a period of two (2) years of a use of property, unless the owner demonstrates by physical evidence during that period the intent either to transfer rights to another owner or resume that use.

Accessory: Any use, structure, or building which is customarily associated with or enhances the function of or extends the amenities of a principal use, structure or building but is incidental to and subordinate to said principal use, structure, or building. If the accessory use, structure or building is residential or agricultural in nature, it need not exist on the same premises as its principal use, structure or building.

Acre: A unit of land measure equal to 43,560 square feet.

Agriculture: A use, whether principal or accessory, which has a primary purpose the raising of agricultural products or their byproducts.

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

Building: A structure having a combination of any materials making an enclosure within exterior walls and roof for the shelter of persons, animals, or property.

Building Lot: Any lot, or combination of adjacent lots, which meets the requirements of these by-laws together with other state and local regulations for constructing a dwelling or other principal building thereupon.

Common Driveway: A driveway serving two (2) or more adjoining lots.

Cottage Industry: Any incidental occupational use conducted by a resident of the premises in a detached structure accessory to a dwelling.

Driveway: A private way providing vehicular access for a lot.

Dwelling: A privately or publicly owned permanent structure which is occupied in whole or part as the residence of one (1) or more persons. The terms "one family," "two family," "three family" or "multi family" dwelling shall not include hotel, lodging house, hospital, membership club, mobile home, or dormitory.

Dwelling, One Family: A detached building containing one dwelling unit, also referred to as a "single family dwelling."

Dwelling, Two Family: A detached building containing two (2) dwelling units.

Dwelling Unit: One (1) or more living and sleeping rooms providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provision for living, sleeping, eating, cooking, and sanitation.

Hazardous Material: Any chemical substances or mixture of substances which is listed in the Massachusetts substance list compiled in compliance with the provisions of the state Right to Know Law, M.G.L. Chapter 111F, Section 4, and which is manufactured, processed, used or stored in the workplace, but which shall not include alcoholic beverages, or articles intended for the personal consumption of employees in the workplace, or consumer articles packaged for distribution to, and used by, the general public, or articles sold or used in retail food establishments and all other retail trade establishments, exclusive of articles used in processing and repair areas, or substances being transported in interstate commerce.

Hazardous Waste: A waste which is hazardous to human health or the environment as designated either by the U.S. Environmental Protection Agency under 40 CFR 250 or the Regulations of the Massachusetts Hazardous Waste Management Act, M.G.L., Chapter 21C. This includes, but is not limited to, inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium and arsenic and their common salts; lead, nickel and mercury and their inorganic salts or metallic-organic derivatives; coal,

tar acids such as phenol and cresols and their salts and all radioactive materials.

Home Occupation: Any incidental occupational use conducted entirely within the principal dwelling by a resident thereof.

Lot: An area or parcel of land, or any part thereof, with definite boundaries recorded with the Registry of Deeds.

Lot Frontage: The uninterrupted length of the front lot line, as defined herein, whether straight or not.

Lot Line, Front: One property line dividing a lot from a single public way.

Lot Line, Rear: Property line most nearly opposite from the front lot line.

Lot Line, Side: Any property line not a front or rear lot line.

Mobile Home: Manufactured housing with at least one dwelling unit and built in accordance with the National Housing Construction and Safety act (Title VI of Public Law 93-383, 88 Stat. 700, 42 U.S.C. 5401 et seq.) as regulated by the United States Department of Housing and Urban Development (HUD) and not otherwise regulated by the state building code.

Outward Manifestations: Any conspicuous feature of a lot or use of a lot that in the opinion of the Planning Board identifies the premises as having an occupational use.

Owner: The duly authorized agent or any person having vested or equitable interest in the use structure or lot in question.

Physical Characteristics: Attributes that include views, cleared land, land contours, historical and cultural resources, wildlife habitats, locally prevalent architecture style and structure density, road style and locations, traffic densities; patterns and speeds, audible noise levels and types, uses (such as income producing, common land, bedroom, recreational, religious, public, and educational), pathways, trails, and features of interest such as stone walls, exposed rocks and waterfalls.

Pollution: The introduction of any hazardous material or waste into the air, soil, or water of Ashfield.

Pre-Existing Lawfully Non-conforming Lot: Any lot created before December 12, 1967 with at least 50 feet of frontage, 5000 square feet of area and not contiguous with another commonly owned lot, or any lot created since that date in conformance with the then existing zoning regulations and which does not now conform in all respects to present zoning requirements.

Pre-Existing Lawfully Non-conforming Structure: Any structure under construction before December 12, 1967 or any structure created since that date in conformance with the then existing zoning regulations and which does not now conform in all respects to present zoning requirements.

Principal (use, building, or structure): The main or primary purpose for which a use, building or structure is designed or customarily designed that is neither incidental to nor subordinate to another

use, building or structure.

Public Way: A State, County, or Town road that has not been abandoned by vote or law.

Receipt: For the purposes of these bylaws, receipt shall be the specific time when a board or agency or duly authorized agent has possession, as evidenced by an official signature, of properly and fully completed documents together with any required fees and supporting documents.

Setback: The minimum distance from a lot line to a building placed thereon, or feature thereof as measured in a straight line perpendicular to a lot line.

Setback, Front: Setback required from a front lot line and from any side lot line along a public way.

Setback, Rear: Setback required from a rear lot line.

Setback, Side: Setback required from a side lot line.

Sign: Anything deliberately placed to advertise or inform, visible from a public way.

Sign, Surface Area: For a sign, either free-standing or attached, the area shall be considered to include all letters, designs, symbols and background, whether open or enclosed, but not including any supporting framework and bracing, which are incidental to the display itself. For a sign consisting of individual letters, designs and symbols attached to or painted directly on the surface of a building, wall, window, awning/canopy or other surfaces, with no other background, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.

Special Permit Granting Authority (hereinafter SPGA): That board empowered to grant Special Permits, which may be the Zoning Board of Appeals, or the Planning Board. Where no specific board is named, the Planning Board shall have jurisdiction.

Special Permit: An authorization by the SPGA for an applicant to conduct a particular use or extend, alter or change a non-conforming lot or structure, subject to the Section authorizing the Special Permit as intended by M.G.L. Chapter 40A, Sections 6 and 9.

Structure: A combination of materials for permanent or temporary occupancy or use with a vertical dimension of at least 2 feet and at least one dimension over six (6) feet, such as, but not limited to, a building, tower, tank, tunnel, platform, swimming pools, shelters, piers, wharves, bins, recreational courts, satellite dishes. Fences shall be excluded.

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

Use: The purpose for which a structure or lot is arranged, designed, or intended, or maintained.

Use, Accessory: see Accessory.

Use, Non-conforming: A use lawfully existing at the effective date of these bylaws, or any subsequent amendment thereto, which, does not conform to one (1) or more provisions of these bylaws.

Use, Principal: see Principal:

Variance: An exemption from the terms of these bylaws as the Zoning Board of Appeals; upon petition or appeal, is empowered to grant under the terms of these bylaws and M.G.L., Chapter 40A, Section 10.

SECTION III: GENERAL REGULATIONS:

A. Pre-Existing Uses, Structures, and Lots

1. Continuation and Restoration

Any use or structure, whether conforming to these bylaws or not, may be continued and maintained if that use or structure was lawfully existing or begun at the time these or previous bylaws made it non-conforming. Necessary repairs and rebuilding of non-conforming structures after damage by fire, storm, or similar disaster, are permitted provided that a building permit for construction or restoration is obtained within 12 months and the construction or restoration is completed within 24 months of the disaster, and does not substantially change the character, size or use of the structures.

2. Alteration (as intended by M.G.L. C. 40A, Sec. 6)

a. Lawful non-conforming structures or lots or use of structures or land may be extended, altered, or changed, provided that no such extension, alteration or change shall be permitted unless:

- A Special Permit from the Zoning Board of Appeals is granted, or
- Such change does not significantly increase the non-conformity of the use, structure, or lot (adopted 3/16/1998)

b. A Special Permit may be granted if the extension, alteration or change will not be substantially more detrimental to the neighborhood than the existing non-conforming use, lot or structure. To determine whether or not a given extension alteration or change is substantially more detrimental, the Board shall consider the following factors in conjunction with criteria listed herein under "Special Permits":

- **Dimensional Non-Conformity:** Whether or not the extension, alteration or change of the lot or structure significantly increases the degree to which it is non-conforming, or
- **Use Non-Conformity:** Whether or not the use shall be extended, altered or changed so as to increase the objectionable quality of the original non-conforming use. The Board shall consider impacts on traffic, parking, noise, light, hours of operation, unsightly storage or conditions, objectionable odors, neighborhood character, safety, overcrowding, and pollution.

3. Abandonment

A non-conforming use, which has been abandoned, shall not be reestablished and any future use shall conform with these bylaws.

B. Conformance

Construction or operations under a Building Permit or Special Permit shall conform to any subsequent amendment of these bylaws 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.

C. Sign Regulations

1. General Sign Regulations

- a. Lighting shall be arranged so that light visible from any public way is diffused. No sign or its source of illumination shall be mechanically or electronically driven to flash or move.
- b. No sign, except those customarily associated with mailboxes, temporary routing directions, and posted warnings, shall be placed within a public right-of-way, nor shall be placed within any side or rear lot setback, except by Special Permit issued by the Planning Board after good cause is shown. No sign, other than warning signs as barricades, shall impair pedestrian or vehicular traffic flow or sight.
- c. Double-sided signs with equal and parallel faces shall be measured on one side only in determining square footage.
- d. Freestanding signs may be not more than ten (10) feet in height above the road measured from the average road grade within twenty-five (25) feet of the sign.
- e. A sign may be affixed to, suspended from or incorporated as part of a building providing it meets all other pertinent criteria. Signs attached perpendicular to a building shall not project above the roofline or more than three (3) feet from the vertical wall plane.

D. Driveways

1. Each building lot shall have a frontage suitable for a driveway, in the opinion of the Planning Board, adequate for use by emergency vehicles whether or not said frontage is actually used for a driveway.
2. A common driveway may be allowed by Special Permit from the Planning Board. This subsection shall apply only to shared driveways constructed after (4/19/95), and to lawfully existing driveways changed after that date to connect with or serve one or more additional lots. It must conform as follows:
 - a. Up to three (3) lots may be connected to or otherwise share the same driveway.
 - b. The part of a driveway considered to be common driveway shall begin at the public way and extend to the final boundary entering the last lot served and otherwise to points on the driveway where it serves only one lot.
 - c. Common driveways shall have a maximum grade of fifteen (15) percent, and shall have a minimum cleared width of twelve (12) feet.
 - d. Maintenance of a common driveway shall be assured by a recorded deed, covenant, or landowner's association or other lawful agreement binding upon those served by the common driveway.

3. Driveways shall not obstruct or defeat existing drainage ditches and drainage features along public and private ways. Slopes and drainage features of driveways shall be designed, built and maintained such that washed and eroded materials and flooding from driveways will not enter travel lanes of public ways.

SECTION IV: DIMENSIONAL REQUIREMENTS

A. Lot Size

Only one (1) dwelling or other principal building or structure or use shall be located on a lot. No dwelling or other principal building or structure shall be located on a lot having less than the requirements for a minimum lot unless the lot qualifies as a Pre-existing Lawfully Non-conforming Lot.

A minimum lot shall have:

1. an area of at least two (2) acres within the Town of Ashfield and shall not include land under permanent water bodies, and land within public ways, and
2. A lot frontage of at least two hundred (200) continuous feet within the Town of Ashfield.

B. Setbacks

1. The minimum distance between the front lot line and any building shall be twenty-five (25) feet;
2. The minimum distance between the side lot line and any building shall be twenty-five (25) feet; and
3. The minimum distance between the rear lot line and any building shall be twenty-five (25) feet.

C. No existing lot with a dwelling or other principal building on it shall be changed as to size or shape so as to result in violation of the requirements set forth in the above regulations for lot size and setbacks except as allowed by M.G.L. c. 41, sec. 81L.

D. No building or structure shall exceed fifty (50) feet in height above the average grade within twenty-five (25) feet of the building or structure.

E. Back Lots

(adopted June 24, 2002)

1. Purpose

The purpose of this sub-section is to help preserve the rural and agricultural character and the natural resources of the town's roadsides by encouraging development removed from road frontage. The sub-section permits the creation of certain building lots ("back lots") whose frontage and dimensional requirements differ from those set forth above.

2. Eligible Parcels

Land eligible shall be limited to parcels that are already eligible for ANR development pursuant to M.G.L. Chapter 41, Section 81 et.seq., with roadside frontage of at least 400 feet, and sufficient acreage to accommodate back-lot development as specified below. The owner or prospective developer of such a parcel may petition for a special permit from the Planning Board to create back lots meeting the following description:

Each lot shall be at least one acre in area, shall have no roadside frontage, and shall be accessible from a public way by means of a deeded right of way. If two or more lots are created on a tract, they shall be served by a common driveway. All back lots shall be designed to minimize the impact on farmland and natural resources whenever possible. In exchange for a special permit to create back lots, the applicant shall place permanent conservation restrictions on roadside land that would otherwise have been eligible for ANR development. See "Conserved Front Lots" below.

3. Developed Back Lots

A special permit may be granted by the Planning Board if it finds that the applicant's proposal would serve the purposes set forth above better than an ANR division of land, and would meet the general criteria for special permits set forth in the Zoning Bylaws, and would meet the following additional, criteria.

a. No more than four back lots shall share a common driveway. Common driveways created under this section shall not cross wetlands (as defined by C.M.R. 10.00) within the conserved front lot acreage. Common driveways shall otherwise conform to the specifications set forth in section 3, (d) paragraphs 2 and 3. Approval of a common driveway design shall precede the granting of a special permit for back lot development.

b. No point on a back lot boundary shall be closer than 200 feet to the road on which the conserved land fronts, and the SPGA may require greater distances according to the configuration of the site. The principal structure on a back lot shall be at least 200 feet from any public way.

c. Back lots shall be created with an effort to minimize fragmentation of natural resources, including, but not limited to, wetlands, wildlife habitat, existing farm fields, arable land, and historic sites.

d. Setback lines shall be 15 feet, but no building shall be sited closer than 25 feet to a common driveway.

e. All buildings and common driveways shall be sited with an effort to minimize negative impact on farmland and other natural resources, as enumerated above. Applicants are encouraged to integrate dwellings and other structures into the landscape.

f. Applications shall be accompanied by a written rationale explaining why the proposal is consistent with the goals of this section, and is preferable to ANR development.

g. Once created, no back lot may be further divided.

4. Conserved Front Lots

a. For every back lot created, at least two acres of roadside land, including at least 150 feet of frontage, shall be placed under conservation restriction, preservation restriction, watershed preservation restriction, or agricultural preservation restriction, as defined by M.G.L. Chapter 184, Section 31. Total road frontage conserved shall in no case be less than 400 feet.

b. No roads or driveways shall cross conserved lands other than common driveways serving back lots.

SECTION V: DISTRICTS

A. The entire Town of Ashfield is a rural residential and agricultural district.

B. Flood Hazard District

(adopted 12/15/1999)

A flood hazard district is hereby created as an overlay district comprising all areas designated as Zone A on the Town of Ashfield Flood Insurance Rate Maps, dated September 7, 1985, and on file with the Town Clerk. These maps are incorporated by reference. The following requirements apply in the Flood Hazard District:

1. Within Zone A, the applicant for a building permit shall obtain any existing base flood elevation data and submit it to the Building Inspector.
2. The Building Inspector shall determine whether the proposed project is within a Flood Hazard Zone.
3. The Building Inspector shall determine whether the proposed project meets elevation or flood proofing requirements of the State Building Code.
4. The Building Inspector shall inform the Conservation Commission of the proposed building activity within the overlay district.

SECTION VI: USE REGULATIONS

A. Uses

1. Single family and two family dwellings and their accessory buildings, uses and structures are allowed by right.
2. Buildings existing prior to 1975 may be altered for additional dwelling units by Special Permit from the ZBA. In addition to hereinafter listed Special Permit Criteria, a Special Permit for additional dwelling units shall require:
 - a. that the perimeter and height of the building not be substantially altered to incorporate the additional apartments and shall be as existing prior to (4/19/1995),
 - b. that each dwelling unit have separate sanitary facilities, and

- c. That at least two off street parking places be available for each dwelling unit. Said parking places shall not be within the required frontage setback.
3. Industrial, Commercial and Business Enterprises, including political and government purposes, and their related facilities may be located, expanded or constructed within the Town by Special Permit granted by the Planning Board except as hereinafter provided.
4. Land used for religious purposes and educational purposes protected by c. 40A of the General Laws and their related facilities may be located, expanded or constructed within Town provided:
 - a. compliance is maintained with before stated Dimensional Requirements,
 - b. buildings and paved areas shall not cover more than 50% of the lot area and,
 - c. Off street parking shall be provided for all patrons.

B. Public Nuisances

1. Accumulated or scattered junk, trash, debris, scrap materials or any other objectionable objects shall be stored safely and screened from view of public ways by natural evergreen barriers or fencing or being within buildings.
2. Any item, which constitutes a hazard to safety, shall be adequately fenced, covered, marked or otherwise secured to prevent injury. This includes, but is not limited to, such things as old refrigerators, machinery, swimming pools and wells (in use, or abandoned).

C. Building Requirements

1. A temporary dwelling, or mobile home, may be used during construction of a permanent residence in Ashfield, whether new or on the site of a residence which has been destroyed by fire or other natural holocaust, for a period of no longer than three (3) years from the date construction is commenced, provided construction starts within six (6) months of the granting of a building permit, and conforms to these bylaws. Any such temporary mobile home shall be subject to provisions of the State Sanitary Code.
2. Mobile homes will be otherwise permitted to rest in the Town of Ashfield for not more than six (6) months in any calendar year.

D. Cottage Industries and Home Occupations

1. Ashfield residents who intend to operate a Cottage Industry or Home Occupation shall file a notice with the Planning Board.
2. Cottage Industries and Home Occupations may be conducted within the town of Ashfield, but if the use has any outward manifestations that suggest occupational use, the following requirements apply and a permit must be obtained from the Building Inspector prior to the commencement of the activity. The Building Inspector shall adopt rules, with the approval of the Planning Board, for the size, form, and content of the plans, drawings, and procedures for the submission and approval of such permit. These rules shall not be inconsistent with the General Laws or the provision of these bylaws. The Building Inspector may from time to time, with the

approval of the Planning Board, amend these submission rules. Copies of the rules and application forms shall be on file and available for review at the office of the Town Clerk. For a permit:

- a. a Home Occupation shall have not more than two (2) non-resident employees, shall be characterized by outward manifestations, such as, but not limited to, traffic generation, noise, odor, public service and utility demand, not unlike those of a dwelling in the neighborhood, shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and shall not change the character thereof,
 - b. a Cottage Industry shall not have more than four (4) non-resident employees and shall require no significant exterior changes to the buildings or structures,
 - c. there shall be no display visible from public ways other than an identification sign pursuant to the sign regulations of these bylaws,
 - d. adequate off street parking shall be available, and
 - e. If the Building Inspector rejects the application on the above criteria or for any other reason, the applicant may apply for a Special Permit from the Planning Board.
3. Before permit approval, any workplace to be doing tasks which may generate hazardous wastes or use hazardous materials shall have a handling, storage and disposal plan deemed satisfactory by the Hazardous Waste Coordinator, and the Building Inspector shall be provided sufficient evidence of such plan.

E. Prohibited Uses

The following uses are prohibited: non-municipal landfills, and junkyards.

F. Telecommunication Facilities;

(adopted 12/15/1999)

1. General Provisions:

Telecommunication facilities may be allowed by special permit from the Planning Board pursuant to Section VII Special Permit. The general intent of the following conditions is to minimize the number of such facilities, as well as to minimize their adverse visual impact.

2. Conditions: The following shall apply:

- a. To the maximum extent possible, facilities shall be located on pre-existing structures, and all service providers shall co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this condition is to reduce the number of towers within the town.
- b. No facility shall exceed 80 feet in height as measured from the mean finished grade at the facility base. Exterior lighting of the tower and accessory structures shall be prohibited.
- c. New towers shall be freestanding mono-poles or other designs approved by the S.P.G.A.
- d. Facilities shall not be located within 100 feet of the crest or ridgeline or 500 feet of a summit of a hill and shall be located in such a way as to minimize the visual impact of the facility when viewed offsite. Notwithstanding the previous sentence, if in the opinion of the Planning Board such other location would be the least detrimental to the overall purpose of this section (6F), then such siting may be allowed.
- e. No tower, inclusive of any attachments, shall be erected nearer any property line than the distance equal to 125% of its vertical height.
- f. Fencing or other means shall be provided to control access to the telecommunication facil-

- ities and shall be compatible with the scenic character of the neighborhood and landscape.
- g. Existing on site vegetation shall be preserved to the maximum extent possible.
 - h. All facilities shall be painted, or otherwise colored, so that they will blend in with the surrounding landscape or the structure on which they are located, including using a different color scheme below or above the tree or building line, as appropriate.
 - i. There shall be no exterior storage of equipment on the site without the written approval of the S.P.G.A.
 - j. To the extent feasible, all network intercommunications and power lines, to and from the facility, shall be underground.
 - k. All facilities, attachments, and necessary structures, which have not been used for a period of one (1) year, shall be dismantled at the owner's expense. Such expense shall be secured with a performance guarantee in the amount determined by the Planning Board and posted in the name of the town.
 - l. The Planning Board may require additional condition or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

3. Special Permit Submittal Regulations - Telecommunication Facilities:

The following materials shall be submitted with the Special Permit Application:

- a. Site plan shall include four (4) view lines in a one (1) mile radius from the proposed site, shown beginning at True North and continuing clockwise at 90 degree intervals. The site plan shall include property lines, topography, roads, wetlands and other water bodies, vegetation, utilities and other important site features. In addition, the applicant shall set a six (6) foot diameter balloon at the location and height of the proposed towers for two (2) weeks prior to the public hearing.
- b. A report from a registered landscape architect or engineer shall:
 - i. demonstrate that the facility complies with all applicable standards of the State and Federal governments;
 - ii. describe the capacity of the tower or facility including the number and type of transmitter/receivers that it can accommodate;
 - iii. Describe all planned layout of all facilities in Ashfield and abutting towns.
 - iv. Describe all accessory structures to be constructed on site.
- c. A copy of the requests made by the applicant to the Federal Aviation Administration (FAA) and Massachusetts Aeronautics Commission, including responses from those agencies, demonstrating compliance with applicable regulations related to the facility.
- d. A locus map at an appropriate scale showing all buildings within five hundred (500) feet of the proposed facility.
- e. A copy of any co-location agreements.
- f. Independent professional verification of any material or data submitted as part of an application to the Planning Board shall be accomplished at the expense of the applicant.
- g. All applicable Federal Permits.

SECTION VII: SPECIAL PERMIT

A. Intent

1. Special Permits are intended to provide detailed review of certain uses, structures, or development, which may have substantial impact upon traffic, municipal services and the community character, among other considerations. The Special Permit review process is intended to insure that the proposed use, structure or development is consistent with the purpose and intent of these bylaws.
2. Special Permits shall be issued, denied, or issued with conditions by the Special Permit Granting Authority according to the provisions of Chapter 40A of the Massachusetts General Laws.

B. Special Permit Granting Authority (SPGA)

Pursuant to Section 9 of Chapter 40A of the Massachusetts General Laws, the SPGA shall adopt rules relative to issuing Special Permits. These rules and regulations may relate to the size, form, content and style of the plans and procedures for submission and approval of such Special Permits, and shall not be inconsistent with the General Laws or with provisions of this bylaw. The SPGA may from time to time amend these rules, Copies of the rules shall be on file and available for review at the office of the Town Clerk.

C. Receipt of Application

The time periods specified in M.G.L. Chapter 40A Section 9 shall commence upon receipt of the application. See definition of receipt.

D. Waiver

Upon written request from the applicant prior to the filing of an application, the SPGA may waive the submission of such materials, plans, studies, and analysis or parts thereof, as may not be needed for, or germane to, consideration of the application, if, in the opinion of the SPGA, the potential impact of the proposed use, structure, or development is minimal.

E. Impact Statement/Site Plan

Unless waived, the Special Permit application must be accompanied by an impact statement and a site plan which conform to the Rules and Regulations of the SPGA.

F. Review by SPGA

The SPGA will review both the site plan and the impact statement, giving weight to the criteria outlined below as they affect the future of the Town and of the neighborhood adjacent to the project site. It may ask for further information where necessary to review the application adequately, and may make recommendations for modifications to the proposed project as it thinks proper to protect Town interests and physical characteristics.

G. Public Hearing

The SPGA shall hold a hearing under this section, in conformity with the provisions of M.G.L. Chapter 40A. The decision of the Board, and any extension, modification, or renewal of a decision, shall be filed in conformity with M.G.L., Chapter 40A.

H. Criteria

Before granting a Special Permit, the SPCA shall review the activity, traffic, site plan, and

building design and shall find all of the following general conditions to be fulfilled:

1. the proposal will not overload any public water, drainage or sewer system or any other municipal services to such an extent that the Town will be unduly subjected to hazards affecting health, safety, or general welfare;
2. the impact on adjoining premises of sound, light, odor, noise, and other disturbances is avoided or minimized;
3. the proposal will avoid or minimize topographic change, unnecessary removal of mature trees, shrubs, or other botanical assets, erosion or siltation, storm water runoff, or displacement of rare or natural wildlife habitats;
4. the proposal will not cause surface or groundwater pollution, surface or subsurface drainage detrimental to abutting properties, or other adverse effects upon the natural environment' in the area where the use is located;
5. there is adequate traffic safety at entrances to public ways;
6. the proposal is compatible with the neighborhood character; and
7. Additional requirements before listed under General Regulations for Alterations, Off Premises Signs, and Driveways, and under Use Regulations for Residential Uses and for Cottage Industries and Home Occupations are met.

L. Lapse of Special Permit

Except for good cause, if substantial use or construction under a Special Permit has not commenced within one (1) year of the date of issuance of the Special Permit, that Permit shall lapse.

SECTION VIII: ADMINISTRATION

A. Enforcement

The Building Inspector shall administer and enforce these bylaws. If the Building Inspector ceases to serve, the Board of Selectmen shall administer or enforce these bylaws. Applicants who wish to construct, alter, or change a use or structure are urged to consult with the Building Inspector to insure that all necessary permits have been received from those local, state, and federal agencies from which approval is required.

B. Penalty

Any person violating any of the provisions of these bylaws may be fined not more than three hundred dollars (\$300) for each offense. Each day that such violation continues shall constitute a separate offense.

C. Zoning Board of Appeals (ZBA)

1. There is hereby established a Zoning Board of Appeals consisting of three members and two associate members, to be appointed by the Selectmen for a term of three (3) years in the manner specified by M.G.L, Chapter 40A.

2. The Zoning Board of Appeals shall have the following powers:
 - a. to hear and decide appeals as provided in M.G.L, Chapter 40A, Sections 8 and 13, and these bylaws;
 - b. to hear and decide on the granting of variances including use variances, from the requirements of these by laws as provided in M.G.L, Chapter 40A, Section 10, and these bylaws;
 - c. to hear and decide upon the granting of Special Permits as provided in. M.G.L.; Chapter 40A, Section 9, and these bylaws; and
 - d. In exercising these powers, the Board may impose such limitations and conditions, as it deems appropriate.
3. The Zoning Board of Appeals shall adopt rules not inconsistent with these bylaws for the conducting of its business and otherwise carrying out its responsibilities and shall file copy of such rules with the Town Clerk.

D. Appeals

Appeals may be made to the Zoning Board of Appeals by any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L., Chapter 40A, or the provisions of these bylaws.

E. Special Permit Granting Authority

The Special Permit Granting Authorities (SPGA) shall be the Planning Board and the Zoning Board of Appeals. Special Permits shall be granted only for proposals in compliance with the provisions of these bylaws, and of M.G.L., Chapter 40A, and upon written determination by the SPGA that the proposal will not have adverse effects which outweigh its beneficial effects on the Town, as measured by the purposes of these bylaws. In acting on Special Permits, the SPCA shall apply the Special Permit Criteria listed herein and any additional criteria contained in the Section under which a Special Permit is sought.

F. Withdrawal of Application

Any application for a Special Permit or petition for a variance may be withdraw without prejudice by the applicant prior to the publication of the public hearing notice, but thereafter may be withdrawn without prejudice only with SPGA or permit granting authority approval.

G. Validity

The invalidity of any section or provision of these bylaws shall not invalidate any other section or provision thereof.

H. Applicability

Where the application of these bylaws imposes greater restrictions than those imposed by any other governmental regulations, permits, restrictions, easements, covenants, or agreements, the provisions of these bylaws shall control.

I. Amendments

These bylaws may be amended from time to time in the manner prescribed in M.G.L., Chapter 40A. Page numbers, line numbers, section numbers and paragraph numbers are reference only and may be changed at the convenience of the Planning Board.

ASHFIELD TOWN BYLAWS

Bylaws relating to the keeping of UNREGISTERED MOTOR VEHICLES and STRIPPING LAND OF SOIL AND LOAM adopted in Town Meeting, December 12, 1967 and approved by the Attorney General on May 2, 1968.

UNREGISTERED MOTOR VEHICLES

SECTION 1. The keeping of more than one unregistered motor vehicle, assembled or disassembled, except by a person licensed under General Laws, Chapter 140, Section 59, on any premises shall not be permitted unless said motor vehicle is stored within an enclosed building.

SECTION 2. A special permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building, after a duly held public hearing to which all abutters to the premises have received notice, may be granted by the Board of Selectmen, if it finds that such keeping (1) is in harmony with the purposes and intent of this By-Law; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

SECTION 3. All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

SECTION 4. This article shall not apply to motor vehicles which are designed and used for farming purposes, nor shall this article apply to landowners or tenants who store motor vehicles out of sight of both abutters and public ways.

SECTION 5. Whoever violates any provisions of this Article of the By Laws shall be liable to a penalty of Five Dollars (\$5.00) per day for each day of violations, commencing ten days following date of receipt of written notice from the Board of Selectmen.

STRIPPING LAND OF SOIL AND LOAM

SECTION 1. No person, firm or corporation shall strip, sever, remove or convey away any soil, loam, sand or gravel from any land in the Town not in public use, unless and until such stripping, severance, removal or conveyance away, is first authorized by a permit issued by the Selectmen of Ashfield, except in conjunction with construction or a building on the parcel or except in conjunction with the development, improvement or landscaping of said land, or except for the continued operation of an existing sand and gravel pit. No such permit shall be issued unless and until, an application therefore has been filed with the Board. Said Board shall then hold a public hearing on the application, and notice of the filing of the application and the date and the time of the holding of the public hearing thereon, shall be advertised, forthwith, at the expense of the applicant, in a newspaper, published in the County, seven days, at least, before the meeting.

SECTION 2. The penalty for violation of this By-Law shall be as follows; For the first offense, fifty (\$50.00); for the second offense, one hundred dollars (\$100.00); and for each subsequent offense, two hundred dollars (\$200.00).