

ZONING BYLAWS

Town of Montague



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Effective: **DRAFT FOR PUBLIC COMMENT**

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SECTION 1. PURPOSE

The Purpose of this Zoning Bylaw (this “Zoning Bylaw” or “Bylaw”) is to promote the health, safety, convenience, amenities, and general welfare of the inhabitants of the Town of Montague, through encouraging the most appropriate use of the land as authorized by Article 89 of the Amendments to the Massachusetts Constitution (the Home Rule Amendment) and Chapter 40A of the Massachusetts General Laws with the following objectives:

To conserve health; to secure safety from fire, flood, panic and other dangers; to lessen congestion in the streets and ways; to provide adequate light and air; to prevent overcrowding of land; to avoid any undue concentration of population; to recognize the need for housing for persons of all income levels; to facilitate the adequate provision of transportation, water supply, drainage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town, including consideration of town plans and programs, and to preserve and increase amenities available to the citizens of Montague.

SECTION 2. DEFINITIONS

In this Bylaw the following terms shall have the meaning here assigned to them. Additional definitions relating to specific sections of these bylaws can be found in their respective sections.

BUILDING: an enclosed structure, either a principal building or shed, garage, stable, greenhouse, or other accessory building.

BUILDING, PRINCIPAL: a building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING, ACCESSORY: any subordinate building located on the same lot with the principal building or use, the use of which is customarily incidental to that of the main building or to use of the land. Any accessory structure shall not include any structures which are attached to the principal building.

BUILDING HEIGHT: shall mean the vertical distance from the mean finish grade of the ground adjoining the building at the street side to the highest point of the ridge. Not included are spires, cupolas, TV antennae, or other parts of structures which do not enclose potentially habitable floor space.

DRIVE-THROUGH: shall mean the provision of retail sales or services to customers who remain in their vehicles.

DWELLING: shall mean a building designed or used exclusively as the living quarters for one (1) or more families.

DWELLING UNIT: shall mean living quarters for a single family plus not more than two (2) boarders or lodgers, with cooking, living sanitary and sleeping facilities, independent of any other unit.

FAMILY: any number of individuals related by blood, marriage, or law or not more than five (5) individuals not so related, living together, as a single housekeeping unit. Groups of more than five (5)

unrelated individuals living together as a single housekeeping unit shall be considered to be multiple families.

FRONTAGE: the uninterrupted length of the front lot line, as defined herein, whether straight or not, which conforms to the minimum lot frontage requirement and is on:

- A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
- A way shown on a previously approved subdivision plan which has been constructed to the standards required when subdivision approval was granted; or
- A way that predates subdivision control that has, in the Planning Board's opinion, suitable width, grades, and construction adequate and reasonable for vehicular traffic, including emergency vehicles and snow removal vehicles, and the installation of utilities.

For the purposes of this bylaw, if a lot has frontage on more than one street, frontage on only one street shall be used to satisfy the minimum lot frontage requirement.

HOTEL: a building designed as a temporary abode for more than twelve (12) persons or providing six (6) or more sleeping rooms in which lodging is provided with or without meals.

LODGING HOUSE: shall mean living quarters, accommodating more than five unrelated individuals, whether as a licensed lodging house, dormitory, co-op, commune or similar arrangement. It does not include hotels or group residences regulated by agencies of the Commonwealth under § 71 of chapter 111.

LOT: a parcel of land held in fee simple ownership designated on a plan or deed filed with the Franklin County Registry of Deeds or Land Court; however, contiguous lots in common ownership may not be divided except in conformance with these bylaws. Two or more contiguous lots in common ownership may be treated as one lot for the purposes of this chapter; provided that the combined lots are used as a single lot would customarily be used. The following shall not be counted toward land within the minimum lot area: land under permanent water bodies; land within public ways, and land within private ways and rights-of-way where the general public has the right of access by automotive vehicles.

LOT LINE: a line dividing one lot from another, or from a street or any public place.

OPEN RECREATIONAL ENTERPRISE--shall include golf courses, ski facilities, picnic areas, campgrounds or similar activities with structures and paving covering not more than 5% of lot area.

PUBLIC UTILITY: shall include power lines, power transmission, power generation facilities, and telecommunication facilities (See Section §8.6) but shall exclude solar energy facilities and installations (See §8.10). A public utility may be privately owned but is otherwise regulated by the Mass Department of Public Utilities, the Federal Communications Commission, the Federal Energy Regulatory Commission, or other governmental agencies.

SELF-SERVICE STORAGE FACILITY: a business establishment consisting of a structure or group of structures containing separate storage spaces leased to individuals for storage of goods, products, materials or other objects.

SPECIAL PERMIT: a permission granted in writing by the Special Permit Granting Authority for a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would be compatible with the

public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special permits, if specific provision for such special permits is made in this Zoning Bylaw.

STREET RIGHT-OF-WAY: a general term denoting land, property, or interest therein, usually a strip acquired for or devoted to a planned roadway. A street right-of-way should be sufficient to accommodate the ultimate roadway, including, but not limited to: the street pavement, shoulder, grass strip, sidewalk, public utility facilities, street trees, and snow storage.

VARIANCE: a grant of relief from the requirements of this Bylaw which permits construction in a manner that would otherwise be prohibited by the Bylaw.

SECTION 3. ADMINISTRATION

3.1 Building Permits

A building permit shall be issued for construction, alteration or moving of a building or structure which as constructed, altered, or moved would be in conformance with this Bylaw. No building or foundation permit shall be issued for any parcel of land not serviced by the municipal sewage disposal system until the applicant has obtained a Disposal Works Construction Permit or the Board of Health or its agent determines and informs the Inspector of Buildings that an existing sewerage disposal system is adequate for the proposed construction or alteration or change of use. The Inspector of Buildings may require the applicant to obtain a determination by the Board of Health as to the adequacy of the existing sewerage disposal system for any proposed alteration or addition to an existing residence or structure.

3.2 Enforcement and Penalty

3.2.1 Enforcement Authority

The Inspector of Buildings, acting as the Zoning Enforcement Officer, shall be charged with the enforcement of this Zoning Bylaw and shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered, or moved would, in any way, violate the provisions of this Bylaw. No permits shall be granted for any new use of a building, structure, or land if such use would be in violation of this Bylaw.

3.2.2 Enforcement Request

If the Inspector of Buildings is requested in writing to enforce the provisions of this Bylaw against any person allegedly in violation of this Bylaw and the Inspector of Buildings declines to act, he shall notify, in writing, the party requesting such enforcement of any action, or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

3.2.3 Appeals

Any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from the Inspector of Buildings or other administrative officer under the provisions of this Bylaw, or any person including an officer or board of the Town, aggrieved by an order of decision of the Inspector of Buildings, or other administrative officer, in violation of the provisions of Chapter 40A of the General Laws or any provision of this Bylaw, may file an appeal to the Zoning Board of Appeals in accordance with the provisions of Chapter 40A of the General Laws.

3.2.4 Penalty

Whoever violates any provision of this Bylaw shall be punished by a fine imposed by a Court of Law not exceeding three-hundred (\$300) dollars for each offense and each day that such a violation continues shall constitute a separate offense.

3.3 Zoning Board of Appeals

There is hereby established a Zoning Board of Appeals (ZBA) of five members and three associate members, to be appointed by the Selectboard, which Board of Appeals shall act on all matters within its jurisdiction under this Bylaw, and Chapter 40A of the Massachusetts General Laws in the manner prescribed by the said law and this Bylaw. The Zoning Board shall adopt rules governing the conduct of its business and shall place said rules on file with the Town Clerk. The Zoning Board of Appeals shall have the following powers:

- (a) Appeals. To hear and decide appeals, as provided in MGL c 40A, including an appeal taken by any person aggrieved by his inability to obtain a permit or enforcement action
- (b) Special Permits. To hear and decide applications for special permits as provided in this Zoning Bylaw. See §9.
- (c) Variances. To authorize upon application a variation from the terms of this Zoning Bylaw except that no variation to the district boundaries or uses permitted therein shall be allowed.

3.4 Planning Board

There is hereby established a Planning Board of five members and one associate member, to be appointed by the Selectboard, which Planning Board shall act on all matters within its jurisdiction under this Bylaw, and Chapter 40A of the Massachusetts General Laws in the manner prescribed by the said law and this Bylaw. The Planning Board shall adopt rules governing the conduct of its business and shall place said rules on file with the Town Clerk. The Planning Board shall have to power to hear and decide application for special permits as provided in the Zoning Bylaw. See §9.

3.5 Amendment

This Bylaw may be amended from time to time at any annual or special town meetings in accordance with Chapter 40A of the Massachusetts General Laws.

3.6 Validity

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

3.7 Effective Date

Upon its effective date, **X/X 2019**, this Bylaw shall amend and be substituted for the existing Zoning Bylaw of the Town of Montague, but shall not affect such rights or duties that have matured, penalties that were incurred, proceedings that were begun or appointments made before its effective date, pursuant to the previously effective Zoning Bylaw, except as otherwise provided by Chapter 40A of the General Laws.

SECTION 4. ESTABLISHMENT OF DISTRICTS

4.1 Types of Districts

For the purposes of this Zoning Bylaw, the Town of Montague is hereby divided into the following districts:

Abbreviation	District Name	Statement of Purpose
AF	Agriculture Forestry	to ensure viability of farming and forestry, protect natural resources, and preserve rural character
AF-2	Agriculture Forestry- 2	to ensure viability of farming and forestry, protect natural resources, and preserve rural character
AF-4	Agriculture Forestry- 4	to ensure viability of farming and forestry, protect natural resources, and preserve rural character
RS-1	Residential -1	to provide livable and walkable residential neighborhoods on smaller lots serviced by municipal sewer
RS-2	Residential -2	to provide livable and walkable residential neighborhoods that are not serviced by municipal sewer
RB	Rural Business	to allow small and natural resource based businesses that are compatible with existing agricultural and residential uses and scenic character
NB	Neighborhood Business	To ensure compatibility of residential and business uses in village areas
CB	Central Business	to provide for pedestrian-oriented downtown areas with mixed-use buildings and a range of retail and commercial services
GB	General Business	to provide commercial activity that enables access to a broad range of products and services
ID	Industrial	to provide high quality employment opportunities through manufacturing, production, and research
HI	Historic Industrial	to encourage adaptive reuse of historic industrial buildings and sites
Overlay Districts		
FP	Flood Plain	to prevent loss of life, damage to private property, and lessen the impacts of flooding
WSP	Water Supply Protection	to prevent contamination of the surface water and ground water resources providing present and significant potential public water supplies for the Town of Montague
AB	Agricultural Business	to maintain the viability of agricultural businesses by conserving land with productive soils in large, contiguous blocks and minimizing conflicts between agricultural operations and residential uses, and to identify an area of town where other policies should be developed to promote and facilitate commercial agriculture

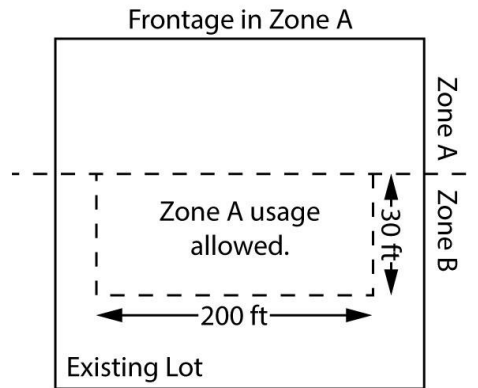
4.2 District Boundaries

The boundaries of these districts are defined and bounded as shown on the map entitled "Official Zoning Map," Montague, MA dated _____, 2018, approved by Town Meeting, which map is on file with the Town Clerk's office. The map, as revised, and all explanatory matter therein are made a part of this Zoning Bylaw. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad or

utility easement center or layout lines, boundary or lot lines, water body shoreline or the channel of a stream shall be construed to be actually at those lines. When shown approximately parallel, perpendicular or radial to such lines, they shall be construed to be actually parallel, perpendicular or radial thereto. When not located in any other way, boundaries shall be determined by scale from the map.

4.2.1 Existing lots

Where a zoning district boundary line divides any lot existing at the time such line is adopted, a use and principal structure permitted in one (1) district may be extended into the other district in which the lot has lot frontage, no more than thirty (30) feet with a width of no more than two hundred (200) feet.



SECTION 5. DISTRICT REGULATION

5.1 Existing Uses, Structures, and Lots

The lawful use of any structure or lot existing at the enactment or subsequent amendment of this Bylaw may be continued although such structure or use does not conform with the provisions of this Bylaw, subject, however, to the following exceptions:

5.1.1 Restoration

In any event that a non-conforming structure is destroyed by fire or other natural cause, the same may be reconstructed or repaired at the same location for the same non-conforming use, provided the new building will be equal in appearance and character to the original structure and that such construction is commenced within twenty-four (24) months from the occurrence of such natural cause.

5.1.2 Abandonment

A non-conforming use which has been abandoned or not utilized for a period of twenty-four (24) months shall not be re-established.

5.1.3 Alterations

No non-conforming use shall be changed or extended, and no non-conforming building or structure shall be altered or replaced by a new building, except as authorized in §5.1.1 and 5.1.2, or unless granted a Special Permit by the Board of Appeals subject to a finding that the alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

5.2 Use Regulations

5.2.1 Prohibited uses in all districts

- (a) Collection, treatment, storage, burial, incineration, or disposal of radioactive wastes, including, but not limited to low-level waste.

5.2.2 Permitted Uses in all districts

- (a) Agriculture and forestry on parcels of land exceeding 5 acres
- (b) Religious and educational uses expressly exempt under M.G.L. Chapter 25A
- (c) Governmental facilities and services
- (d) Public Parks and off-road recreational paths for walking and cycling

5.2.3 AF, AF-2, AF-4. Agriculture-Forestry Districts

Purpose: To ensure viability of farming and forestry, protect natural resources, and preserve rural character.

- (a) Permitted Uses:
 - i. Agriculture and forestry
 - ii. Single family dwellings

- (b) Uses allowed by Special Permit:
 - i. Educational uses not exempt by M.G.L. Chapter 40A
 - ii. Two-family dwellings
 - iii. Retail sales and services accessory to agriculture or forestry as primary use
 - iv. Social club or lodges
 - v. Open recreational enterprises
 - vi. Earth removal, per §8.9.3
 - vii. Public utilities
 - viii. Cemeteries
 - ix. Marijuana Cultivation
 - x. Other uses not listed here if similar to uses allowed in §5.2.3 (b) in externally observable attributes and compatibility with rural environs.

5.2.4 RS-1, RS-2. Residential Districts

Purpose: To provide livable and walkable residential neighborhoods.

- (a) Permitted Uses:
 - i. Single family dwellings
- (b) Uses allowed by Special Permit:
 - i. Educational uses not exempt by M.G.L. Chapter 40A
 - ii. Two family dwellings
 - iii. Multi-family dwellings not exceeding 4 units
 - iv. Agriculture and forestry on 5 acres or less
 - v. Social club or lodges
 - vi. Cemeteries
 - vii. Public utilities (power lines, transmission and generation facilities excluding solar)

5.2.5 RB. Rural Business District

Purpose: To allow small and natural resource-based businesses that are compatible with existing agricultural and residential uses and scenic character.

- (a) Permitted Uses:
 - i. Single family dwellings
 - ii. Two family dwellings
 - iii. Agriculture and forestry
 - iv. Agricultural or forestry products processing with cumulative building area of up to 5,000 square feet
 - v. Retail sales and services with cumulative building area of up to 5,000 square feet and without an accessory drive-through component
 - vi. Craft workshops or light assembly shops with cumulative building area of up to 5,000 square feet
 - vii. Open recreational enterprises with cumulative building area of up to 5,000 square feet
 - viii. Uses customarily accessory to the above, including parking areas with up to 25 spaces to the rear or side of the principal building

- (c) Uses allowed on Special Permit:
 - i. Permitted uses in section (a) with cumulative building area exceeding 5,000 square feet
 - ii. Multi-family dwellings not exceeding 4 units
 - iii. Business, professional, or medical offices
 - iv. Hotels
 - v. Earth removal, per §8.2.3
 - vi. Public utilities
 - vii. Self-service storage facilities, per §8.8
 - viii. Marijuana cultivation or production, per §8.11
 - ix. Other uses similar to §5.2.5(a) in externally observable attributes.
- (d) Special requirements
 - i. Accessory parking areas exceeding 25 spaces require a Special Permit
 - ii. Accessory parking area to the front (facing the street) of the principal building require a Special Permit

5.2.6 NB. Neighborhood Business District

Purpose: To ensure compatibility of residential and business uses in village areas.

- (a) Permitted Uses, in accordance with §8.7.2:
 - i. Single and two family dwellings
 - ii. Retail sales and services less than 1,000 gross square feet of floor area and without an accessory drive-through component
 - iii. Business, professional, or medical office less than 1,000 gross square feet of floor area
- (b) Uses allowed on Special Permit from the Board of Appeals, in accordance with §8.7.3:
 - i. Non-residential uses in § 5.2.6(a) exceeding 1,000 square feet of floor area
 - ii. Multi-family dwellings
 - iii. Lodging houses
 - iv. Hotels
 - v. Non-profit clubs or lodges
 - vi. Parking lots or parking garages
 - vii. Craft workshop or light assembly shop
 - viii. Farming and forestry on less than 5 acres of land
 - ix. Public utilities
 - x. Other non-industrial uses if similar to the above in externally observable attributes and compatibility with residential environs.
- (c) Special Requirements
 - i. See §8.7 “Business and Mixed Uses in Neighborhood Business District”

5.2.7 CB. Central Business District

Purpose: To provide for pedestrian-oriented downtown areas with mixed-use buildings and a range of retail and commercial services.

- (a) Permitted Uses:

- i. Mixed-use with the street level as a commercial use and up to 4 dwelling units on upper floors
 - ii. Retail sales and services of 5,000 square feet or less of floor area, without an accessory drive-through component
 - iii. Restaurants without an accessory drive-through component
 - iv. Business, professional, or medical offices
 - v. Social clubs or lodges
- (c) Uses allowed on Special Permit from the Board of Appeals:
- i. Mixed-use with the street level as a commercial use and 5 or more dwelling units on upper floors
 - ii. Retail sales and services that involve construction or alteration of more than 5,000 square feet of floor area, without an accessory drive-through component
 - iii. Craft workshops or light assembly shops, with retail component
 - iv. Hotels
 - v. Parking lots or parking garages
 - vi. Public utilities
 - vii. Marijuana retailers, per §8.11
 - viii. Other uses similar to §5.2.7 (a) in externally observable attributes.

5.2.8 GB. General Business District

Purpose: To provide commercial activity that enables access to a broad range of products and services.

- (a) Permitted Uses:
- i. Business, professional, or medical offices, no more than 5,000 square feet of floor area
 - ii. Retail sales and services that involve no more than 5,000 square feet of floor area
 - iii. Restaurant
 - iv. Social clubs or lodges
 - v. Farming and forestry on land less than 5 acres, with a retail component
- (b) Uses allowed on Special Permit from the Planning Board
- i. One family dwellings
 - ii. Two family dwellings
 - iii. Multi-family dwellings, including mixed use
 - iv. Hotels
 - v. Retail sales and services that involve construction or alteration of over 5,000 square feet of floor area or that includes an accessory drive-through component
 - vi. Business, professional, or medical offices that involve construction or alteration of over 5,000 square feet of floor area.
 - vii. Lodging houses
 - viii. Open recreational enterprises
 - ix. Public utilities
 - x. Self-service storage facilities, per §8.8
 - xi. Marijuana retailer, medical marijuana treatment center, cultivation, production, research or testing, per §8.11
 - xii. Craft workshops or light assembly shops
 - xiii. Manufacturing, processing, or research

- xiv. Other non-industrial uses if similar to §5.2.8 (a) in externally observable attributes

5.2.9 ID. Industrial District

Purpose: To provide high quality employment opportunities through manufacturing, production, and research.

- (a) Permitted Uses:
 - i. Business office or professional office
 - ii. Manufacturing, processing, or research
 - iii. Bulk storage, warehousing, distribution
 - iv. Agriculture or forestry products processing
- (b) Uses allowed on Special Permit from the Planning Board
 - i. All uses in §5.2.9(a) that involve the construction or alteration of over 20,000 square feet of floor area or the development of over 217,800 square feet (5 acres) of land.
 - ii. Solar energy facilities, per §8.10
 - iii. Self-service storage facilities, per §8.8
 - iv. Retail sales and services
 - v. Hotels
 - vi. Earth removal, per §8.2
 - vii. Open recreational enterprises
 - viii. Public utilities
 - ix. Marijuana cultivation, production, research, or testing, medical marijuana treatment center, or retail if accessory to cultivation or production as a primary use, per §8.11
 - x. Other uses similar to §5.2.9(a) in externally observable attributes.

5.2.10 HI. Historic Industrial District

Purpose: To encourage adaptive reuse of historic industrial buildings and sites.

- (a) Permitted Uses:
 - i. Business, professional, or medical office in an existing building
 - ii. Retail sales and services in an existing building
 - iii. Manufacturing, processing, or research in an existing building
 - iv. Bulk storage, warehousing, distribution in an existing building
 - v. Craft workshop or light assembly shop in an existing building
- (b) Uses allowed on Special Permit from the Planning Board:
 - i. Uses listed in Section (a) that are in new structures
 - ii. Multi-family dwelling
 - iii. Hotels
 - iv. Public utilities
 - v. Solar energy facilities, per §8.10
 - vi. Marijuana retailer, medical marijuana treatment center, cultivation, production, research or testing, per §8.11
 - vii. Self-service storage facilities, per §8.8
 - viii. Open recreational enterprises

- ix. Agriculture and forestry on 5 acres or less
 - x. Other uses similar to Section (a) in externally observable attributes.
- (d) Special Requirements
- i. Demolition of an existing structure requires a special permit from the Planning Board

5.3 Multiple Principal Uses

Multiple principal uses on one lot are permitted provided that the dimensional requirements of § 5.5 are met for each building without counting any area, frontage or minimum side yard or minimum front or rear yard setback requirements twice. Setback requirements must be met for each building from property lines and from other building setback lines. Not more than one principal building shall be erected on a lot unless each such building has adequate access and services determined by the Planning Board to be functionally equivalent to those required for separate lots by the Planning Board in its Subdivision Regulation.

5.4 Accessory Uses

Any use which is, in Franklin County, customarily accessory and incidental to a permitted Principal Use shall be permitted on the same lot with said Principal Use, or on a lot adjacent thereto in the same ownership, subject to the general limitation that it shall not be detrimental to the neighborhood or the property in the vicinity, and subject further to the following provision: wherever a Principal Use is allowed by Special Permit then Accessory Uses to the Principal Use shall be subject to a Special Permit, unless otherwise provided in the bylaws. The following accessory uses have specific requirements in Section 8 SPECIAL REGULATIONS:

- Trailers, Mobile Homes, and Campers, §8.1
- Home Occupations, §8.3
- Boarding of Animals, §8.4
- Accessory Dwelling Units, §8.5
- Solar energy installations §8.10

5.5 Dimensional Requirements

5.5.1 Dimensional requirements schedule, principal use buildings

	Minimum Lot Size (square feet)	Minimum Lot Frontage (linear feet)	Minimum Front Yard and Street Line Setback (a) (linear feet)	Minimum Side Yard Setback (linear feet)	Minimum Rear Yard Setback (b) (linear feet)	Maximum Building Height (linear feet)
AF	43,560, plus 22,500 per dwelling unit after first	150	25	15	30	28
AF-2	87,120	200	25	15	30	28
AF-4	174,240	250	25	15	30	28
RS- 1	15,000	100	15	10	30	28
RS-2	22,500, plus 22,500 per dwelling unit after first	150	25	15	30	28
RB	43,560, plus 22,500 per dwelling unit after first	200	25	50	30	28
NB	10,000	75	15	10	30	28
CB	5,000	50	Edge of sidewalk, OR 10 if no sidewalk	0, if there is access to rear of lot over a drive at least 12 in width	15	36
GB	10,000	50	25	0, if there is access to rear of lot over a drive at least 12 in width OR 30 where a new commercial use abuts an existing residential use	30	36
ID	87,120	50	25	15 OR 50 where a new industrial use abuts an existing residential use	30	50
HI	10,000	50	25	0, if there is access to rear of lot over a drive at least 12 in width	15	50

(a) No building need provide a street line setback greater than that of the principal buildings on 3 out of 4 adjoining properties on the same side of the street. Shaded boxes indicate that dimensional requirement relief may be granted by Special Permit per § 5.5.3

5.5.2 Dimensional Requirements, Accessory Structures

Accessory structures are any subordinate building or structures located on the same lot with the principal building or use, the use of which is customarily incidental to that of the main buildings or to use of the land. Any accessory structure shall not include structures which are attached to the principal building.

- (a) The minimum front yard and street line setback shall be the same as that for a principal building, per §5.5
- (b) The minimum side yard and rear yard setback from the property line shall be 10 feet.
- (c) Sheds less than 120 square feet in floor area may have a minimum rear and side yard setback of 3 feet.

5.5.3 Dimensional Relief

- (a) Minimum lot size and/or minimum frontage
Relief may be granted by Special Permit for lots in the Residential-1 (RS-1), Neighborhood Business (NB), Industrial (ID), Historic-Industrial (HI), General Business (GB) and Central Business (CB) Districts if the relief given will not derogate from the public health, safety, or welfare or neighborhood character.
- (b) Minimum front yard, street line, side yard, rear yard or building height
Relief may be granted for principal and accessory structures by Special Permit where special circumstances exist and can demonstrate that the improvement will not derogate from the public health, safety, or welfare or neighborhood character.
- (c) Special Permit Granting Authority
The Zoning Board of Appeals shall be the Special Permit Granting Authority for dimensional relief pursuant to § 5.5 except the Planning Board shall be the Special Permit Granting Authority for dimensional relief in the Industrial (ID), Historic-Industrial (HI) and General Business (GB) Districts.

SECTION 6. OVERLAY DISTRICTS

The following Districts shall be superimposed on the other districts established by the Zoning Bylaw. All uses, dimensional requirements and other provisions of the Town of Montague Zoning Bylaw applicable to such underlying districts shall remain in force and effect, except that where the overlay district imposes greater or additional restrictions and requirements, such restrictions or requirements shall prevail. Any uses not permitted in the underlying districts shall remain prohibited.

6.1 Agricultural Business Overlay District

6.1.1 Purpose

The purpose of the Agricultural Business Overlay District is to maintain the viability of agricultural businesses by conserving land with productive soils in large, contiguous blocks and minimizing conflicts between agricultural operations and residential uses, and to identify an area of town where other policies should be developed to promote and facilitate commercial agriculture. The district is configured to include those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farmland, and lack of protection under existing zoning, comprise the critical agricultural areas of the Town of Montague.

6.1.2 Permitted uses

All uses, dimensional requirements and other provisions of the Montague Zoning Bylaw applicable to the underlying districts shall remain in full force and effect, except where conflicting provisions are applied by the overlay zone. Any uses not permitted in the underlying district shall remain prohibited unless stated otherwise.

6.1.3 Uses allowed by Special Permit from the Planning Board

- (a) The rendering impervious of more than 25% of the area of any single lot or more than 21,780 square feet, whichever is less, for non-agricultural use.
- (b) Back Lot Development, pursuant to §8.7.
- (c) Governmental facilities and services
- (d) All uses allowed on Special Permit in the underlying district, with the exception that Earth Removal is not permitted except as accessory to agricultural uses.

6.1.4 Special Permit Standards

Special Permits and Site Plan Approval for uses in the Agricultural Business District may be granted upon a finding by the Special Permit Granting Authority that the proposed use meets the following standards and is otherwise consistent with the purposes of this section and the Special Permit section of the Montague Zoning Bylaws.

Proposed uses shall:

- (a) Be located on areas of the site with soils least suitable for agriculture

- (b) Minimize non-agricultural uses of prime and unique soils and soils of statewide and local importance
- (c) Maximize the distance of non-agricultural uses from permanently protected farmland and active agricultural operations and use buffering to avoid conflicts
- (d) Maximize the amount of contiguous farmland undisturbed by non-agricultural uses
- (e) Minimize impact on agricultural infrastructure, including barns and other agricultural buildings, farm roads, drainage, irrigation, etc.
- (f) Maintain views of open agricultural land from public ways
- (g) Be designed so that non-agricultural structures are integrated into the landscape

6.2 Flood Plain Overlay District

6.2.1 Purpose

The purpose of the Floodplain Overlay District is to prevent loss of life, damage to private property, and lessen the impacts of flooding.

6.2.2 Applicability

The flood plain district includes all special flood hazard areas designated as Zone A and A-1-30 on the Town of Montague Flood Insurance Rate Maps, and the Flood Boundary and Floodway Maps, dated August 15, 1979 as amended by the Federal Emergency Management Agency February 12, 1982.

6.2.3 Standards

The following requirements apply in the Flood Plain District:

- (a) Within Zone A, where the base flood elevation is not provided on the Flood Insurance Rate Maps, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Inspector of Buildings for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- (b) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood.
- (c) Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.

6.3 Water Supply Protection District

6.3.1 Purpose

To protect the public health, safety and welfare by preventing contamination of the surface water and ground water resources providing present and significant potential public water supplies for the Town of Montague.

6.3.2 Definitions

AQUIFER RECHARGE AREA: Any area determined by a hydrological study to be of porous, permeable geologic deposits, especially, but not exclusively, deposits of stratified sand and gravel, through which water from any surface drains into an aquifer, and which includes any wetland or body of surface water surrounded by or adjacent to any such area.

HAZARDOUS MATERIAL: Any substance or combination of substances which, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of into or on any land or water in this town. Any substance designated a hazardous waste by the U.S. Environmental Protection Agency under 40 CFR 261 and the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C shall also be deemed a hazardous material for the purposes of this bylaw.

IMPERVIOUS SURFACE: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

INTERIM WELLHEAD PROTECTION AREA: The area encompassed by a 2,640 foot radius from a public water supply well for which a hydrological study has not been done

LEACHABLE WASTES: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

6.3.3 Applicability

The district consists of the following areas referenced on the Official Zoning Map:

- (a) The aquifer recharge area for the Turners Falls Public Water Supply Tolan Well
- (b) The aquifer recharge area for the Turners Falls Public Water Supply Hannegan Brook Well
- (c) The Interim Wellhead Protection Area encompassed by a 2,640 foot radius from the Montague Center Public Water Supply Well

6.3.4 Prohibited uses

- (a) Business and industrial uses, not including permitted agricultural uses, which manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity or in amounts exceeding the minimum threshold amount requiring compliance with Massachusetts Department of Environmental Protection Hazardous Waste Regulation 310 CMR 30. These uses include, but are not limited to:
 - i. dry cleaning
 - ii. metal plating, finishing or polishing
 - iii. chemical or bacteriological manufacturing

- iv. electronic circuit assembly
 - v. photographic processing
 - vi. wood preserving
 - vii. furniture stripping
 - viii. printing
 - ix. auto body repair
 - x. machine shops
- (b) Business and industrial uses, not including permitted agricultural uses, which involve the on-site disposal of hazardous wastes from operations.
 - (c) Motor vehicle gasoline sales.
 - (d) Commercial and self-service laundries, unless connected to municipal sewer lines.
 - (e) Sanitary landfills, dumps, septage lagoons, wastewater treatment facilities for municipal or industrial wastes, junk and salvage yards.
 - (f) Disposal of liquid or leachable wastes, except for:
 - i. residential subsurface waste disposal systems;
 - ii. normal agricultural operations; and
 - iii. business or industrial uses which involve the on-site disposal of wastes from personal hygiene and food preparation for patrons and employees.
 - (g) Underground storage of oil, gasoline, or other petroleum products excluding liquified petroleum gas. Underground storage of any other hazardous materials.
 - (h) Outdoor storage of salt, de-icing materials, pesticides or herbicides.
 - (i) Disposal of snow from outside the WSPD.
 - (j) The use of septic system cleaners.

6.3.5 Uses allowed by Special Permit

The Planning Board may grant Special Permits for the following uses within WSPD according to the procedures specified in §6.3.8:

- (a) The rendering impervious of more than 20% of the area of any single lot.
- (b) Any use retaining less than 50% of the lot area, regardless of size, in its natural vegetative state with no more than minor removal of existing trees and vegetation.
- (c) Trucking or bus terminals.
- (d) Commercial car and other motor vehicle washes.
- (e) Commercial motor vehicle, airplane or boat repair.

6.3.6 Restricted Uses

The following uses are allowed in all zones of the WSPD if in compliance with the stated restrictions and if permitted in the underlying zone:

- (a) Excavation for removal of earth, sand, gravel and other soils pursuant to §8.2 Earth Removal Regulations shall not extend closer than six (6) feet above the mean maximum ground water table for the site. This restriction shall not apply to excavations incidental to the permitted uses, including but not limited to, providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits, or on-site sewage disposal.

The owner of the excavation enterprise shall engage a registered professional engineer to determine the mean maximum ground water table for the site. The engineer's report shall include a map of the site detailing the mean maximum groundwater table elevations. The report, stamped, sealed, and signed by the engineer, shall be filed prior to the removal of any materials with the Building Inspector and the Board of Health.

Existing permitted excavation enterprises shall file such a report within 180 days of the passage of this bylaw.

Between March 1st and May 30th of each year of operation of the excavation enterprise, the owner shall employ a registered professional engineer to do a site inspection and issue a certified report concerning the maximum depth of removal or excavation relative to the mean maximum ground water table. The report, stamped, sealed, and signed by the engineer, shall be filed within 30 days of the site inspection with the Building Inspector and the Board of Health. The Building Inspector and a representative of the Board of Health shall accompany the engineer during the site inspection.

- (b) The use of sodium chloride and other deicing materials for ice control shall be minimized, consistent with public highway safety requirements.
- (c) Fertilizers, pesticides, herbicides, and other leachable materials shall not be used in amounts which result in groundwater contamination levels exceeding Massachusetts Drinking Water Standards.
- (d) Any above-ground storage tanks for oil, gasoline, or other petroleum products, or for other hazardous materials, shall be placed on an impermeable surface, diked to 110% of the capacity of the tank, to prevent spills or leaks from reaching the groundwater. Floor faults shall be plugged to prevent discharges or leaks. No floor drains shall be allowed, only sump pumps to allow for pumped removal of any spilled materials into a contained and impermeable vessel for removal purposes.
- (e) Any run-off from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by owner.

- (f) Where the premises are partially outside the WSPD, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

6.3.7 Minimum Lot Area Requirements

In areas within the WSPD which are not served by municipal sewerage systems, the minimum allowable lot size, shall be the greater of the underlying district's requirements if larger, or in accordance with following table:

Use	Minimum lot area (square feet)
Single family dwelling	45,000
Two-family dwelling	67,500
Non-residential use	67,500

6.3.8 Special Permit Procedures

- (a) Required Findings. The Special Permit Granting Authority may grant a Special Permit for uses identified in §6.3.5 only upon finding that the proposed use will:
- In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water available in the Water Supply Protection District (WSPD), and;
 - Be designed to minimize disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- (b) Required Submittals. The plan submitted shall at a minimum include the following information:
- A complete list of the chemicals, pesticides, fuels, and other potentially hazardous materials to be used, stored, or generated on the premises in quantities greater than those associated with normal household use.
 - Those businesses using, storing, or generating hazardous materials shall file a hazardous materials management plan with the Planning Board and Board of Health which shall include:
 - Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.
 - Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
 - Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.
 - Drainage recharge features and provisions to prevent loss of recharge.
 - Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

6.3.9 Non-conforming Uses

Non-conforming uses which were lawfully existing, begun, or in receipt of a building or special permit prior to the first publication of notice of public hearing (June 3, 1991) for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in §5.1 Existing Uses, Structures and Lots, provided that there is finding by the ZBA that such change does not increase the danger of ground water pollution from such use.

SECTION 7. DESIGN REGULATIONS

7.1 Sign Requirements

7.1.1 Applicability

No sign shall be erected except as provided by the Bylaws and after a permit has been issued by the Inspector of Buildings or if required, a special permit has been issued by the Special Permit Granting Authority, notwithstanding exempt signs identified in § 7.1.7. An application for a sign permit shall be made in writing upon forms furnished by the Inspector of Buildings.

7.1.2 Definitions

SIGN: shall mean any device designed to inform or attract attention of persons not on the premises on which it is located, but not including traffic directional signs or signs erected by public agencies.

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

7.1.3 Off-Premises Signs

Billboards or signs whose content does not relate exclusively to the premises on which they are located are prohibited with the exception that portable A- Frame signs (also known as sandwich board signs) no more than six (6) square feet per side may be permitted in the street right of way by license from the Board of Selectmen.

7.1.4 On-Premises Signs

Signs whose content relates exclusively to the premises on which they are located, or to products, accommodations, services, or activities on those premises shall be allowed, subject to the following table. Exceptions are allowed by Special Permit from the Zoning Board of Appeals.

District	Maximum sign size	Allowed signs
Residential and Agricultural Forestry Districts	4 square feet	One free standing OR building sign
All other districts	32 square feet	One free standing sign AND one building sign per business

7.1.5 Sign Standards

- (a) No sign shall swing, flash, or revolve, or consist of pennants, ribbons, spinners, strings of light bulbs, revolving beacons, searchlights.
- (b) No building or free-standing sign shall project above the eave of the roof
- (c) Signs may only be illuminated from external sources directed solely toward said sign, and only white lights shall be used for illumination. The light from any sign shall be so shaded, shielded or directed or shall be maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect the neighboring premises nor the safe vision of operators of vehicles moving on public ways. No sign shall be illuminated between the

hours of 11:00 PM and 7:00 AM, unless relating to an establishment open during those hours. Internally lit or backlight signs may be allowed by Special Permit in the General Business and Historic Industrial District.

- (d) An electric sign on which the message is visible only when the sign is illuminated (including, but not limited to, a changeable electronic variable message sign) is allowed only in the General Business District by Special Permit and shall be equipped with a light detector/photocell, a scheduled dimming timer, or other automatic control by which the sign's brightness can be dimmed when ambient light conditions darken. The Special Permit Granting Authority may condition reasonable standards upon any owner of such a sign regarding the brightness of the sign. A message displayed on a changeable electronic variable message sign shall be composed of one foreground color and one contrasting background color and shall remain fixed for a period of at least ten (10) seconds.

7.1.6. Nonconforming Signs

- (a) Continuation. A nonconforming sign lawfully existing at the time of adoption or subsequent amendment of this Bylaw may continue although such sign does not conform to the provisions of this section, but if a sign has not been utilized because the associated use has been discontinued for a period of two years or more, then the sign must be replaced with a conforming sign.
- (b) Maintenance. Any lawfully existing sign may be maintained, repaired, or repainted, but shall not be expanded, extended, or enlarged, in dimension or use, except in conformance with the provisions of this section.
- (c) Replacement. Any sign replacing a nonconforming sign shall conform to the provisions of this section, and the nonconforming sign shall not thereafter be displayed. If a nonconforming sign is destroyed by vandalism, act of God or other reason beyond the control of the owner, it may be restored or replaced within two years.

7.1.7 Exempt Signs

- (a) Legal notices: identification, informational, or directional signs created or required by governmental bodies.
- (b) Signs directing and guiding traffic and parking, but bearing no advertising matter, including name or products.
- (c) Signs of up to 2 square feet indicating whether an establishment is open or closed, provided the sign does not flash and is not illuminated between the hours of 11:00 PM and 7:00 AM, unless relating to an establishment open during those hours.
- (d) Temporary signs shall not exceed 12 square feet per sign for a total of 16 square feet per location for each of the types of signs listed immediately below. Temporary signs may be used in addition to the other signs, but may not stay up for longer than one month unless expressly identified otherwise.

- i. Public Event Signs. For an event sponsored by a not-for-profit or governmental organization and open to the public. Must be removed within seven days after the event.
- ii. Tag Sale Signs. Allowed only during the period that the sale is in progress. Allowed only for tag sales that occur no more often than once each month.
- iii. Real Estate and Contractor's Signs. Remove within one month after the work, or closing is completed.
- iv. Traffic Control Signs for special events. Remove at the end of the event.
- v. Political Signs. Allowed for no longer than a 90 day maximum length of time and must be removed within five days after the election.

7.2 Parking Requirements

7.2.1 Applicability.

All parking demand created by new structures or uses, expansions of existing structures or uses, and change of use in existing structures shall be accommodated on the premises entirely off-street; provided, however, in the CB District, all non-residential uses are not required to provide off-street parking.

Existing parking areas or any parking areas subsequently provided in accordance with this section, shall not be decreased or discontinued while the structure or use being served is in existence unless a change in use also changes the parking requirements or unless a parking area is provided elsewhere in accordance with this section.

7.2.2 Requirements.

At least the following shall be provided. When the application of a unit of measurement for parking spaces to a particular use or structure results in a fractional space, any fraction under 1/2 shall be disregarded, and fractions of 1/2 or over shall be counted as one parking space.

Principle Use Category	Parking Space Requirement
Dwelling unit in Central Business or Neighborhood Business	1 per unit
Dwelling unit in all other districts	1.5 per unit
Nursing Home	1 per 4 beds plus 1 space per employee on largest shift
Housing for Seniors and Persons with Disabilities	1.2 per unit
Retail or Office	1 per 200 square feet of gross floor area
Hotel or Lodging House	1 per each guest room
Theater, church, restaurant, or other place of assembly	1 per 4 seats
Industrial or Manufacturing	1 per 1,000 square feet of gross floor area or 1 per employee, whichever is greater
Public and Private Educational Institutions	1 per 5 seats in a classroom

7.2.3 Mixed Uses.

Where more than one (1) use occurs on one (1) site, the requirements of this section shall be cumulative unless the Special Permit Granting Authority finds that the periods during which a

given use requires parking will not substantially overlap the parking periods of other uses on the site and accordingly approves a proportional reduction in required spaces. In no case shall the number of spaces be less than the number of spaces required by the use requiring the greatest number of spaces.

7.2.4 Rural Business District Parking Requirements.

A parking area that exceeds 25 spaces or is located between the street and the front of a principal building requires a Special Permit from the Zoning Board of Appeals.

7.2.5 Reduction of Parking Space Requirements.

The required number of spaces may be reduced by Special Permit by the Special Permit Granting Authority if it finds that fewer spaces meet all parking needs.

7.2.6 Off-Site Parking.

Special Permit Granting Authority may grant a special permit to allow off-site parking spaces in a non-municipal lot, provided the following standards are met:

- (a) The off-site parking must be located within 500 feet of the property line of the principle use;
- (b) Safe, well-marked pedestrian walkways, crossings, signage, and adequate lighting are provided between the off-site parking and principle use;
- (c) The amount of required parking spaces being reduced on-site shall be equal to the amount being provided off-site, and can account for up to 100% of the minimum required on-site parking. Where off-site parking is shared by more than one (1) use, the applicant may propose a reduction in parking requirements where peak demands do not overlap, in accordance with § 7.2.2.
- (d) Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that shall be presented to the Special Permit Granting Authority as a condition of approval for a special permit. A Special Permit issued under this provision shall be coterminous with the length of the lease and shall expire if and when the lease for said parking expires.

7.2.7 Parking Design Standards.

Parking areas shall be subject to the following requirements but are not applicable to driveways serving one or two-family dwellings:

- (a) Parking areas shall be designed so that their use does not require backing onto a public way.
- (b) Parking areas shall not be permitted in the required front yard setback or closer than ten (10) feet to the front lot line, whichever is greater.
- (c) Each parking space shall be at least 9 feet x 18 feet in size. Individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.
- (d) Handicapped parking spaces shall be provided and designed in accordance with the Rules and Regulations of the Architectural Access Board of the Commonwealth of Massachusetts Department of Public Safety, as amended. Handicapped spaces shall be clearly identified by

signs indicating that the spaces are reserved for physically handicapped persons. Such spaces shall be located nearest to the handicapped entrance to the use or building served.

- (e) The minimum width of entrance and exit driveways shall be 10 feet for one-way use and 18 feet for two-way use. The maximum width of driveways at the property line shall not exceed 24 feet. There shall be not more than two (2) driveway openings onto any street from any single premises. No driveway side line shall be located within fifty (50) feet of the street line of an intersecting way.
- (f) All parking areas and driveways shall be maintained with a dust free all-weather surface properly drained to dispose of all surface water accumulating within the area. Where soil conditions allow, permeable or porous paving may be used for parking stalls to infiltrate stormwater.
- (g) The layout of parking areas shall allow sufficient space for the storage of plowed snow unless removal from the site is provided.
- (h) Adequate lighting shall be provided for all parking areas to be used at night. All exterior lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light pollution onto any street or abutting property.
- (i) Bicycle parking shall be provided for any new structures or uses, expansion of existing structures or uses, and change of use in existing structures that are required to provide at least 10 parking spaces. The design, location, and number of bike racks shall be approved by the Site Plan Review Authority.
- (j) Permitted accessory uses to parking areas may include, but are not limited to, necessary traffic directional signs, electric vehicle charging stations, solar photovoltaic equipment, and lighting fixtures for illuminating the parking area.

7.2.7 Parking Area Landscaping Standards.

Parking areas shall be screened and landscaped to minimize glare and reflection, to provide shading and heat reduction, to provide noise buffers, to reduce the visual impact on adjacent residential property and public ways, to prevent headlights from shining onto adjacent property, and when feasible to capture, treat, and infiltrate stormwater on-site through Low Impact Development techniques. Parking areas for six or more cars shall be subject to the following requirements:

- (a) Non-residential parking areas adjacent to a residential property shall be set back from the property line by at least ten (10) feet and shall have a continuous border of dense plantings or fencing at least five (5) feet high, maintained to provide an effective visual screen.
- (b) Parking areas shall be separated from the street line by a ten (10) foot landscaped buffer strip including shade trees (at least three-inch caliper at a point 6 inches above the ground) planted every twenty (20) feet on center.
- (c) Parking lots of 15 or more spaces shall provide a minimum of 10 percent of the total parking area (exclusive of perimeter landscaped buffer strips) as landscaped open space. Internal landscaping shall be distributed throughout the lot for maximum shading and aesthetic improvement.

- (d) One (1) shade tree (at least three-inch caliper at a point 6 inches above the ground) shall be planted for every fifteen (15) parking spaces. Preservation of existing trees is desirable and may be substituted for planted trees. Parking spaces covered by solar photovoltaic canopies shall not count towards the shade tree requirement.
- (e) Landscaped islands a minimum of eight (8) feet in width shall be used to break up rows of parking with 15 or more parking spaces in single or double bays. Each island shall incorporate at least two (2) shade trees. A sidewalk a minimum of 5 feet in width may be located within islands, and shall connect to public sidewalks, if applicable.
- (f) To the maximum extent possible, trees and other plant materials shall be native species. Trees, shrubs, ground covers and perennials used within parking lots should be of species able to withstand the harsh conditions and runoff of a parking lot. Any trees and shrubs that do not survive one year after planting shall be replaced in accordance with the requirements of this bylaw.
- (g) Low Impact Development (LID) stormwater management features such as swales, filter strips, structural soils, and bioretention areas that capture, treat, and infiltrate runoff from the parking area are encouraged and may be located within internal landscaping, landscaped islands, buffer strips and setbacks. LID techniques shall comply with the design and implementation guidelines provided in the latest version of the Massachusetts DEP Stormwater Management Manual.

7.3 Loading Requirements

Adequate off-street loading facilities and space must be provided to service all needs created by new structures or uses, additions to existing structures or uses, or change of use. Facilities shall be so sized and arranged so that no trucks need to back onto or off of a public way, or be parked on a public way while loading, or unloading, or waiting to do so. Loading docks may not face a public way unless said public way is considered an alley by the Department of Public Works, or a special permit is granted by the Special Permit Granting Authority

7.4 Lot Access

7.4.1 Driveway Requirements

All new driveways connecting to public way require a driveway permit from the Montague Department of Public Works. The side yard setback for a new driveway shall be at least 15 feet.

7.4.1 Access over front lot line

Vehicular egress and access to a lot must be across the front lot line meeting the minimum frontage requirements. However, the Planning Board may issue a Special Permit permitting vehicular egress/access to a lot over a front lot line having less than the required minimum frontage, or over any side lot line or rear lot line if no other feasible alternative is possible or such egress/ access location would improve public safety.

7.4.2 Access over land zoned for such use

Egress/access to a lot or use must be over land zoned for such use. However, the Planning Board may issue a Special Permit, with appropriate conditions, permitting egress/access over land where the use is not otherwise permitted.

7.4.3 Common Driveways

(a) Purpose

The purpose of Common Driveways is to enhance public safety by reducing congestion entering and leaving roadways, to conserve land and minimize impacts on agricultural and natural resources and to protect the value of real property.

(b) Special Permit Required

A special permit from the Planning Board is required.

(c) Special Permit Standards

- i. Common driveways shall not be used to satisfy lot frontage requirements.
- ii. The Planning Board may grant a special permit for a common driveway if it determines that the Town's interest is better served by a common driveway than by individual driveways or subdivision approval.
- iii. The Planning Board may deny a special permit for a common driveway if it determines that access is not feasible across the frontage of each lot proposed to be served by the common driveway.
- iv. Designs, plans, easements and maintenance agreements for common driveways shall be developed in accordance with Planning Board regulations and shall require a standard of construction, financing and maintenance adequate for the anticipated uses.

7.4.4 Long Driveways

For residences with a setback of 500 feet or more from an accepted way, a driveway for such residence must meet the following standards. Exceptions may be granted by Special Permit from the Planning Board.

- (a) Width shall be no less than 16 feet in width over its entire length
- (b) Grade shall not exceed 10%
- (c) Curve radius must not be less than 30 feet
- (d) Passing turnouts shall be provided with a width of 20 feet and a length of 35 feet and shall be spaced no more than 300 feet between turnouts or terminus of the driveway
- (e) Turn around area with a minimum 30 foot turn around radius at terminus of driveway

SECTION 8. SPECIAL REGULATIONS

8.1 Trailer, Mobile Home, and Camper Regulations

8.1.1 Purpose

To regulate the use of trailers, mobile homes, and campers for residence or business purposes.

8.1.2 Definitions

CAMPER: shall mean a portable dwelling eligible to be registered and insured for highway use, and designed to be used for travel, recreational and vacation use, but not for permanent residence; and included equipment commonly called travel trailers, pickup coaches or campers, motorized campers and tent trailers, but not mobile homes.

MOBILE HOME: shall mean a dwelling built on a chassis, brought to the site containing complete electrical, plumbing, and sanitary facilities, and designed without necessity of a permanent foundation for a year round living.

TRAILER: shall mean a mobile home, or camper, or similar vehicle for non-residential use.

8.1.3 Applicability

The provisions of this section shall not be retroactive to apply to any trailer located in the Town of Montague prior to 6/16/1973.

No person shall park, store or occupy a trailer, mobile, home, camper or similar vehicle for living or business in the Town of Montague except in the following instances:

- (a) The owner of land may permit occupancy by a guest, using a mobile home or camper, for living purposes, for a period not to exceed 90 days in a calendar year, provided that a permit shall first be obtained from the Board of Health if such occupancy exceeds 30 days.
- (b) When a residence has been destroyed by a fire or other natural disaster, the owner or occupier of the residence may reside in a temporary mobile home for up to 24 months while the residence is being rebuilt.
- (c) An office that is incidental to construction or development of a premises on which the trailer is located is permitted, but must be removed within 30 days of receipt of certificate of completion from Building Inspector.

8.1.4 Standards

Wherever a trailer, mobile home, or camper is parked for occupancy, said trailer must conform with local and state sanitation regulations and all trailers are subject to dimensional setback requirements for accessory buildings in the respective zoning district.

8.2 Earth Removal Regulations

8.2.1 Purpose

To preserve Montague's natural resources, protect the environment and water quality through the regulation of earth removal operations

8.2.1 Applicability

The removal from any premises of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, or gravel shall be done only in accordance with § 8.2. except that the following shall be exempted from these provisions:

- (a) The removal of less than 50 cubic yards of such material within any twelve-month period.
- (b) Removal, incidental to construction on the premises, where such removal is explicitly allowed under a currently valid building permit or under agreements governing road construction in an approved subdivision, or as a routine part of normal farming operations.

8.2.2 Special Permit Requirements

Removal shall be allowed only under a special permit issued by the Zoning Board of Appeals following written application, a copy of which shall be forwarded to the Conservation Commission. The following shall be conditions for such issuance.

- (a) The application shall be accompanied by a plan showing all manmade features, property lines, names and addresses of all abutter if available from the Assessor's including those across any street or way, topography at 5 foot contour interval of the site and all land within 100 feet of the area from which the above material is to be removed, together with the lowest grade at which the finished surface will lie, and the proposed cover vegetation and trees. If involving more than five (5) acres and/or 10,000 cubic yards of removal, the plan shall be prepared by a Registered Land Surveyor or Engineer.
- (b) A performance bond in the amount determined by the Zoning Board of Appeals shall be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of this Bylaw and such other conditions as the Board may impose as conditions to the issuance of its permit.

8.2.3 Earth Removal Standards

- (a) Finish grade shall not lie below a level that would reasonably be considered a desirable grade for the later development of the area, or below the grades specified on the plan accompanying the permit application. The Board of Appeals may specify a base grade below which excavation shall in no event take place.
- (b) Provision shall be made for safe drainage of water, and for prevention of wind and water erosion carrying material onto adjoining properties.
- (c) One hundred (100) foot buffer strip shall be maintained at all boundaries, and not excavated unless at the termination of operations in order to improve overall grading.
- (d) The visibility, sound, and airborne particles from processing equipment shall be screened from adjacent premises through the design and location of such equipment, and through the use of natural vegetation planting, overburden piles, and surge piles as screening.
- (f) Dust shall be controlled through watering of roads, or other best practices.

- (g) Excavation for removal of earth, sand, gravel and other soils shall not extend closer than six (6) feet above the mean maximum ground water table for the site in the Water Supply Protection District (§6.3.6).

8.2.4 Restoration Standards

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations or upon completion of earth removal to the extent covered by the performance bond, that entire area shall be restored as follows:

- (a) All land shall be so graded that no slope exceeds one (1) foot vertical rise in three (3) feet horizontal distance and shall be so graded as to provide safety for drainage without erosion.
- (b) All boulders larger than one-half cubic yard shall be removed or buried, and all tree stumps removed.
- (c) The entire area excepting exposed ledge rock shall be covered with not less than four (4) inches of topsoil, which shall be planted with native perennial cover vegetation adequate to prevent soil erosion.

8.2.5 Additional Conditions

Before granting a permit, the Zoning Board of Appeals shall give due consideration to the location of the proposed earth removal, to the general character of the neighborhood surrounding such location, to the protection of water supply, to the general safety of the public on the public ways in the vicinity, and to the recommendation of the Conservation Commission. The Zoning Board of Appeals may set additional conditions to the above, including but not limited to; duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, routes to be used by hauling vehicles, and trees to be planted.

8.2.6 Renewal or Revocation of Permit

No permit term shall be extended under the provisions of § 8.2 for more than one year, but a permit may be renewed upon application for a Special Permit. Prior to renewal, inspection of the premises shall be made by the Building Inspector, or appointed agent of the Zoning Board of Appeals, to determine that the provisions of the Bylaw are being complied with. The Zoning Board of Appeals, after hearing and proof of violation of this Bylaw shall revoke the permit, after which the operation shall be discontinued and the area restored in accordance with § 8.2.4.

8.3 Home Occupations

8.3.1 Purpose

The purpose of permitting home occupations is to allow home-based economic activity compatible with residential environments. It is the intent of this Section that home occupations are to be defined solely by the standards listed in §8.3.3, and not by any particular use.

8.3.2 Applicability

All Home Occupations must receive a permit from the Inspector of Buildings, subject to finding from the Inspector of Buildings that the standards in §8.3.3 are met. Said permits may be revoked at any time by the Inspector of Buildings, if any of the above provided conditions are violated after issuance of the permit. Said permit shall not be transferable between persons or property locations.

8.3.3 Standards

- (a) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- (b) Floor area equal to no more than (25%) of the floor area of the principal building shall be used for the purpose of the home occupation.
- (c) The home occupation shall be accommodated within an existing structure without extension thereof.
- (d) Not more than one person not a member of the household shall be employed on the premises of the home occupation.
- (e) There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or other variation from the residential character of the principal building other than an unlighted sign not to exceed (2) square feet in area.
- (f) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- (g) Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- (h) Parking generated shall be accommodated off-street other than in a required front yard, and shall not occupy more than thirty-five (35%) of lot area.

8.3.4 Relief from Standards

In the event that any person is unable to obtain a permit for a home occupation as defined above because of a failure or inability to meet any one or more of the standards contained in § 8.3.3 the Zoning Board of Appeals may grant a special permit to such person for such use, subject to the provisions of § 5.2 of this Bylaw.

8.4 Boarding of Animals**8.4.1 Purpose**

The purpose of this section is to encourage homesteading and boarding of animals in a manner promotes the welfare of animals and minimizes nuisance to densely developed neighborhoods.

8.4.2 Definitions

KENNEL: A Structure used for the harboring and/or care of more than four (4) dogs, cats, or other pets that are more than twelve (12) months old, whether commercially operated or not, except for farm dogs used for herding or protection of livestock from predators

LIVESTOCK: All cattle or animals of the bovine species; all horses, mules, burros, and asses or animals of the equine species; all llamas or animals of the camelids species; all goats or animals of the caprine species; all swine or animals of the porcine species; and all sheep or animals of the ovine species.

POULTRY: Any domesticated fowl, including, but not limited to chickens, ducks, geese, turkeys, and pheasants (including peafowl)

8.4.3 Keeping of livestock

The raising or keeping of livestock for pets or for use by residents of the premises but not for commercial purposes is permitted on residential parcels with a single family or two family dwelling as follows:

- (a) The keeping of livestock is allowed by right in Rural Business and all Agriculture Forestry Districts. A Special Permit is required to keep livestock in the RS-1 and RS-2 District. The SPGA may impose a limit on the number of livestock animals that may be kept on the property as a condition of approval of a special permit.
- (b) All structures housing or sheltering livestock must comply with minimal dimensional requirements of Section §5.5.2 of the Bylaws and must be located a minimum of 100 feet from any abutting residence, business, school, or church (the principal structure, not the property line or accessory structure).
- (c) All stormwater runoff from the pen or paddock and compost area shall be contained on the premises and must be maintained to control dust and odor so as to not constitute a nuisance or safety hazard.
- (d) In all districts for parcels of 5 or more acres, if the keeping of livestock is an agricultural use, then the provisions of this section shall not apply.

8.4.4 Keeping of poultry

The raising or keeping of poultry for pets or for use by residents of the premises but not for commercial purposes is permitted on residential parcels with a single family or two family dwelling as follows:

- (a) In all districts, the keeping of no more than 6 female adult chickens or 4 of any other poultry is permitted without a special permit. This limitation does not apply to properties in the Agricultural-Forestry or Rural Business Districts.
- (b) The structures housing or sheltering the poultry must comply with the minimal dimensional requirements of Section §5.5.2 of the Bylaws and must be located a minimum of 30 feet from any abutting residence, business, school, or church (the principle building, not the property line or accessory structure)
- (c) The poultry must be restricted to the property.
- (d) All stormwater runoff from the coop, run, and compost area shall be contained on the premises and must be maintained to control dust and odor so as to not constitute a nuisance or safety hazard.
- (e) In all districts, for parcels of 5 or more acres, if the keeping of poultry is an agricultural use, then the provisions of this section shall not apply.

8.4.5 Kennels

Kennels are permitted by Special Permit in the Agriculture- Forestry Districts, Rural Business District and Industrial District provided the following standards are met:

- (a) Any structures housing the animals are either located in an area where sound will be buffered so as to not cause a disturbance to the neighborhood or the buildings are sound insulated and must be located a minimum of 100 feet from any abutting residence

- business, school, or church (the principal building, not the property line or accessory structure).
- (b) All animal wastes shall be collected and properly disposed of in a manner to prevent pollution of surface or groundwaters.
- (c) Dogs shall not be permitted to bark excessively at night (e.g. for periods longer than fifteen minutes) so as to create a nuisance.

8.5 Accessory Dwelling Units

8.5.1 Purpose

The purpose of permitting accessory dwelling units (e.g. accessory apartments or in-law apartments) is to:

- (a) Develop housing units in owner occupied single-family homes that are appropriate for households at a variety of stages in their life cycle;
- (b) Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise leave;
- (c) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to low and moderate income households who might otherwise have difficulty finding housing;
- (d) Provide housing units for persons with disabilities;
- (e) Protect stability, property values, and the residential character of a neighborhood, and
- (f) Encourage increased housing density.

8.5.2 Definitions

ACCESSORY DWELLING UNIT, WITHIN: an Accessory Dwelling Unit that is within a single-family home is a self-contained housing unit incorporated within the single-family home that is clearly a subordinate part of the single-family home and complies with each of the criteria stated in this bylaw.

ACCESSORY DWELLING UNIT, ATTACHED: an attached Accessory Dwelling Unit is a self-contained housing unit added as an addition to a single-family home that is clearly a subordinate part of the single-family home and complies with each of the criteria stated in this Bylaw. This definition does not include a trailer or mobile home, however mounted.

ACCESSORY DWELLING UNIT, DETACHED: a detached Accessory Dwelling Unit is a self-contained housing unit that is located on the same lot as the structure of a single-family home and may be incorporated within a garage or carriage house or other accessory structure or as a standalone structure that is clearly subordinate to the primary use as a single-family home and complies with each of the criteria stated in this Bylaw. This definition does not include a trailer or mobile home, however mounted.

8.5.3 Applicability

- (a) Accessory Dwelling Unit, Within. The Inspector of Buildings may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new owner-occupied, single-family home.
- (b) Accessory Dwelling Unit, Attached. An attached Accessory Dwelling Unit shall require a Special Permit granted by the Zoning Board of Appeals
- (c) Accessory Dwelling Unit, Detached. A detached Accessory Dwelling Unit shall require a Special Permit granted by the Zoning Board of Appeals

8.5.4 Standards

- (a) The Accessory Dwelling Unit shall be a complete, separate housekeeping unit containing both kitchen and bath.
- (b) Only one Accessory Dwelling Unit may be created within a single-family house or on a house lot.
- (c) The owner(s) of the residence in which the Accessory Dwelling Unit is created must continue to occupy at least one of the dwelling units as their primary residence.
- (d) The Accessory Dwelling Unit shall be designed so that the appearance of the building remains that of a single-family residence as much as feasibly possible. Any new entrances shall be located on the side or rear of the building. A detached accessory dwelling unit shall be compatible in design with the primary residence. Any stairways, access, or egress alterations serving the Accessory Dwelling Unit shall be enclosed, screened, or located so that visibility from public ways is minimized.
- (e) The maximum gross floor area of Accessory Dwelling Units shall be no greater than nine hundred (900) square feet.
- (f) Once an Accessory Dwelling Unit has been added to a single-family residence or lot, the Accessory Dwelling Unit shall never be enlarged beyond the square footage of the original permit for the Accessory Dwelling Unit.
- (g) An Accessory Dwelling Unit may not be occupied by more than three (3) people nor have more than two bedrooms.
- (h) A minimum of two (2) but no more than four (4) off-street parking spaces must be available for use by the owner-occupants and tenants.
- (i) The construction of any Accessory Dwelling Unit must be in conformity with the State Building Code, Title 5 of the State Sanitary Code, 527 CMR – MA Fire Prevention Regulations and other local ordinances and regulations.
- (j) Prior to issuance of a Building and/or Special Permit, the owner(s) must send a notarized letter to the appropriate permitting authority stating that the owner(s) will occupy one of the dwelling units on the premises as the owner's permanent/primary residence.

- (k) When a structure which has received a Building or Special Permit for an Accessory Dwelling Unit is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Inspector of Buildings stating that they will occupy one of the dwelling units on the premises as their primary residence. This statement shall be listed as a condition on any Permits which are issued under this Section.
- (l) Building or Special Permits issued under this section shall specify that the owner must occupy one of the dwelling units. The Special Permit and the notarized letters must be recorded in the Franklin County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Inspector of Buildings, prior to the occupancy of the Accessory Dwelling Unit.
- (m) Prior to issuance of a Building or Special Permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.
- (n) For dwellings to be served by on-site septic system, the owner must obtain a letter from the Board of Health stating that the existing sewage disposal system is adequate for the proposed Accessory Dwelling Unit before a Building or Special Permit can be obtained.
- (o) Accessory Dwelling Units in the AF-1, RS-2 and RB districts will not require additional minimum lot size requirements in § 5.5.1, provided that the standard in § 8.5.2 (n) is satisfied.
- (p) In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Inspector of Buildings or the Zoning Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

8.6 Telecommunication Facilities

8.6.1 Purpose

To allow telecommunication and wireless communication services with minimal effect to the safety and general welfare of the public primarily through the following methods:

- (a) Minimizing the required number of such facilities by maximizing the shared use of any new or existing structures.
- (b) Minimizing the adverse visual impacts through careful design, siting, and screening.

8.6.2 Definitions

TELECOMMUNICATION FACILITIES: includes towers, antennas, buildings and accessory structures designed or modified to provide personal communications services, radio and television broadcast or reception, wireless communications, or similar communication services. Not included are antennas used for personal television and radio reception or radio facilities actively used under a Federal Communication Commission amateur radio license or antennas that are located on existing utility poles within a street right of way. A Telecommunication Facility shall be considered a Public Utility for the purposes of this Bylaw (See §2).

8.6.3 Applicability

Telecommunication Facilities may be allowed by Special Permit pursuant to § 5.2 and § 8.6. No Facility shall be located in the RS-1 or RS-2 Residential Districts.

8.6.4 Submittal Requirements

The following materials shall be submitted with the Special Permit application for Telecommunication Facilities:

- (a) A site plan shall be prepared by a registered engineer. The 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 ninety (90) degree intervals. In addition the applicant shall set a balloon at the location and height of proposed towers.
- (b) A report from a registered engineer shall:
 - 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. describes the planned layout of all facilities in Montague and abutting Towns;
 - iv. describes all accessory structures to be constructed on site.
- (c) A copy of the requests made by the applicant to the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission, including responses from those agencies, demonstrating compliance with applicable regulations related to the facility.
- (d) A locus map at an appropriate scale showing all buildings within 500 feet of the proposed facility.
- (e) A copy of the co-location agreements.
- (f) Independent verification of any materials or data submitted as a part of an application to the Special Permit Granting Authority shall be accomplished at the expense of the applicant.

8.6.5 Special Permit Standards

- (a) To the maximum extent possible, all service providers shall co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this standard is to reduce the number of towers located within the Town.
- (b) No Facility shall exceed 200 feet in height as measured from the mean finished grade at the facility base. Exterior lighting of the tower, except as required by the FAA, and lighting of accessory structures shall be prohibited.
- (c) New towers shall be free-standing monopoles.

- (d) Facilities shall not be located within 1,500 feet of the peak of a significant hill or located in such a way as to adversely impact the view of a significant hill in the Town.
- (e) Siting shall be such that the view of the Telecommunication Facility shall be as limited as possible when viewed off site.
- (f) No telecommunication tower, inclusive of any attachments, shall be erected nearer to any property line than a distance equal to 125% of its vertical height.
- (g) Facilities shall be suitably screened from abutters and residential neighborhoods.
- (h) Fencing shall be provided to control access to Telecommunication Facilities and shall be compatible with the scenic character of the neighborhood and landscape.
- (i) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (j) All Facilities shall be painted, or otherwise colored, so that they will blend in with the surrounding landscape or the structure on which they are located. A different coloring scheme shall be used below and above the tree or building line.
- (k) There shall be no storage of vehicles on the site or exterior storage of equipment on the site.
- (l) To the extent feasible, all network interconnections and power lines, to and from the Facility, shall be via underground lines.
- (m) All Facilities, attachments, and accessory structures which have not been used for a period of one (1) year shall be dismantled and removed at the owner's expense. Such expense shall be secured with a performance guarantee in an amount determined by the Special Permit Granting Authority and posted in the name of the Town.
- (n) The Special Permit Granting Authority may require additional conditions or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

8.7 Business and Mixed Uses in Neighborhood Business District

8.7.1 Purpose

To ensure compatibility of business and residential uses in villages.

8.7.2 Standards

In the Neighborhood Business District, business uses are allowed subject to the following standards:

- (a) The size of commercial uses shall not exceed 1,000 square feet.
- (b) Hours of retail operation are limited to the period between 7 a.m. and 9 p.m. Hours of non-retail operation, if wholly contained within the building premises, may extend

beyond the hours of retail operation if the activity has no impact on adjoining residential uses or buildings.

- (c) Exterior lighting and signs may not be illuminated, except for safety, beyond the hours of retail operation. Lighting may not project beyond the sidewalk or roadway immediately in front of the business.
- (d) Noise, vibration, heat, smoke, dust, strong or unhealthy odors, or air pollutants shall be wholly contained within the premises.
- (e) Projected traffic shall not adversely impact the surrounding neighborhood.
- (f) Exterior changes, including but not limited to landscaping and facades, shall be consistent with the surrounding neighborhood.

8.7.3 Relief from Standards

In the instance of failure or inability to meet one or more of the standards in § 8.7.2 above, the Zoning Board of Appeals may grant a Special Permit for such use, subject to these provisions:

- (a) The hours of retail operation shall not adversely impact adjoining residential uses or buildings. Businesses may be granted by Special Permit hours of retail operation that extend into the period between 9 p.m. and 7 a.m. Hours of non-retail operation, if wholly contained within the building premises, may extend into the period between 9 p.m. and 7 a.m. if the operation has no impact on adjoining residential uses or buildings.
- (b) Generated noise, vibration, heat, glare (including exterior and interior lighting), smoke, dust, odors and air pollutants shall not adversely impact the surrounding neighborhood.
- (c) Projected traffic shall not adversely impact the surrounding neighborhood.
- (c) Exterior changes, including but not limited to landscaping and facades, shall be consistent with, and not adversely impact, the character of the surrounding neighborhood.
- (d) Multi-family residential uses shall be accompanied by a management plan approved by the Board of Appeals for the dwelling units.

8.8 Self-Service Storage Facilities

8.8.1 Purpose

To allow for the limited construction and operation and maintenance of self-service storage facilities in areas where such use is not inconsistent with neighborhood character, and will have minimal impact on public health, safety and welfare, the environment and scenic and historic character.

8.8.2 Standards

- (a) No activity other than rental of storage units and pick up and deposit of property shall be allowed at a facility, except for accessory or incidental uses required in administration and security of the site. The use of storage units for any purpose other than storage shall be prohibited.

- (b) All goods, products, materials and other objects stored shall be secured inside storage structures. Outdoor storage shall be prohibited.
- (c) The storage of flammable liquids including petroleum products, highly combustible or explosive materials, corrosive or hazardous chemicals shall be prohibited.
- (d) Servicing or repair of motor vehicles, boats, trailers, lawnmowers or any similar equipment shall be specifically prohibited. Storage of motor vehicles, motor boats and similar equipment shall be prohibited in the Water Supply Protection District.
- (e) Hours of customer access shall be specified by the Special Permit Granting Authority and limited to minimize impact on neighboring properties and public safety services.
- (f) The site shall be secured by fence or other barrier to prevent unauthorized access. The Special Permit Granting Authority may require additional measures to monitor and limit access and ensure security.
- (g) Self-service storage facilities shall be designed and landscaped so that they are not immediately visible from a public way.
- (h) Adequate parking and unit access shall be provided, consisting of paved lanes and a minimum of three (3) spaces, plus one space for every five (5) individual storage units. If the access lane to the units and between structures accommodates temporary parking without blocking travel in the lane, additional per-unit parking is not required.
- (i) Drainage from impervious surfaces shall be fully accommodated onsite.
- (j) The Special Permit Granting Authority shall consider design and appearance of buildings, setbacks, visual impact, lighting, security issues, traffic circulation, consistency with current and abutting land uses and the market demand for self-service storage facilities in determining whether to grant, condition or deny this permit.
- (k) The Special Permit Granting Authority may require additional conditions and set standards for performance and maintenance or vary prescribed conditions upon finding that such action is consistent with accepted engineering and design practices and is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

8.9 Back Lot Development in Agricultural Business Overlay District

8.9.1 Purpose

The purpose of this section is to promote permanent protection of productive agricultural land by allowing landowners to develop property that is not valuable for agricultural purposes.

8.9.2. Applicability

The Planning Board may grant a Special Permit under this section for development of back lots in the Agricultural Business District that do not meet the frontage requirements of the Montague Zoning Bylaws upon finding that the proposed development meets the standards set forth in this

section and § 6.1 (Agricultural Business District) and is otherwise consistent with the purposes of this section and the Montague Zoning Bylaws.

8.9.3 Access Requirements

- (a) Back lots shall have access to a public way or a “way in existence” as defined by Chapter 41, § 81L, “subdivision”, via driveways that are designed to standards adequate to ensure safe access for construction, passenger and emergency vehicles. There shall be no structures located in the driveway.
- (b) Up to four (4) back lots may share a common driveway pursuant to a Special Permit under this section and § 7.4.3 of the Montague Zoning Bylaws. Shared driveways shall meet all standards for Common Driveways under the Montague Zoning Bylaws and regulations of the Planning Board.
- (c) Access driveways may be incorporated into back lots or structured as legal rights-of-way across land of others. Planning Board approval of legal documents creating rights-of-way is required.
- (d) Access driveways may not be located within 250 feet of another access driveway to a back lot developed under this bylaw.

8.9.4 Dimensional Requirements

Minimum lot size (not including access drive)	22,500 square feet
Minimum lot frontage	0 feet
Maximum lot frontage	50 feet
Minimum street line setback	200 feet
Minimum front, side, and rear yard setback	Same as underlying district
Minimum setback from active farming operations	100 feet

8.9.5 Siting of dwelling units and drives

- (a) Back lots shall be located on land that due to soils, topography, location, size or other factors is unsuitable or undesirable for agricultural use. The burden shall be on the applicant to demonstrate that the land to be developed is not valuable for agricultural purposes.
- (b) Dwelling units shall be integrated into the existing landscape through placement of buildings within woodland along the edges of fields or in locations visually screened by natural vegetation or topography to the maximum extent possible.
- (c) The visual impact of back lots and the traffic impact of access driveways on abutting landowners shall be minimized.
- (d) Significant site features, including water courses, floodplains, wetlands, ponds and other water bodies, scenic views and historic sites shall be preserved.

- (e) The Planning Board may require that building envelopes be designated within individual back lots and shown on plans.

8.9.6 Agricultural land protection requirement

For each back lot allowed by Special Permit, the applicant shall secure permanent protection of a parcel of land that is at least two acres or equal to the area of the back lot, whichever is greater, and each with a minimum of 150 feet of frontage on a public way or a way in existence. The land to be protected shall:

- (a) Be located within the Agricultural Business District.
- (b) Be presently and primarily used in producing or raising agricultural, commodities including, but not limited to livestock, poultry, bees, fruits, vegetables, berries, nuts, feed, forage, seed, flowers, sod, greenhouse products and ornamental plants and shrubs.
- (c) Have soils classified as agriculturally "prime," "unique" or of "statewide or local importance" by the Natural Resources Conservation Service.
- (d) Be able to be developed for residential purposes under the Montague Zoning Bylaws and all applicable provisions of local, state and federal law.
- (e) Not include any structures or roads except those used for agricultural purposes.

Applicants are encouraged to protect parcels of land that are adjacent to land already protected by an Agricultural Preservation Restriction or Conservation Restriction. If multiple back lots are proposed, the Planning Board may require that parcels of land protected be contiguous to each other. Protection of land shall be accomplished by recording at the Franklin County Registry of Deeds or Land Court of a permanent agricultural preservation restriction, approved by the Planning Board, limiting use to agriculture and open space. The restriction shall be enforceable by the Town. Land permanently protected may be retained by the property owner or conveyed to others for active agricultural use.

8.9.7 Subdivision

- (a) Back lots with at least 20 feet of frontage
 - i. The Planning Board may approve division of back lots with at least 20 feet of frontage on a public way or a way in existence pursuant to MGL Chapter 41, § 81P and § 3.2 of the Montague Subdivision Regulations, upon finding that access is adequate for the proposed use.
- (b) Back lots with less than 20 feet of frontage
 - i. For back lots with less than 20 feet of frontage on a public way or a way in existence, the applicant may seek (a) Planning Board waiver(s) to divide the lot(s) pursuant to MGL Chapter 41, § 81-P, 81-R and § 3.2 of the Montague Subdivision Regulations. The Planning Board shall hold a public hearing pursuant to MGL Chapter 41, § 81-T on the waiver request; this hearing may be

concurrent with the Special Permit hearing. Waivers may be granted upon finding by the Planning Board that access is adequate for the proposed use.

8.9.8 Special Permit Conditions

The following conditions shall apply to all special permits for back lot developments, in addition to any other conditions imposed by the Planning Board:

- (a) No lot shall be built upon without the provision of potable water and sewage disposal facilities approved by the Board of Health.
- (b) No further subdivision shall occur and the Planning Board shall record such condition on any approved Back Lot Site Plan clearly defining the lots upon which buildings can be placed and noting such condition in any Special Permit granted.
- (c) The access driveway shall provide the only vehicular egress/access to the lots served.
- (d) The Special Permit shall state that the access driveway is not a private road or a public road and that it does not meet the standards for a Town road.
- (e) The Special Permit shall state that the access driveway shall not be accepted as a public way and the Town of Montague shall not under any circumstances be held liable for construction, reconstruction, maintenance or snow removal on any access drive.
- (f) The Special Permit shall state that under no circumstances shall the Town of Montague be held liable in the event that emergency vehicles cannot get to their destination because of improper construction or maintenance of the access drive. It shall be the owners' responsibility to be sure that the driveway is passable for emergency vehicles at all times.
- (g) Each landowner served by the access driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the access drive to which more than one landowner holds a right-of-way.
- (h) Every deed conveying a back lot created under this section shall incorporate by reference the Special Permit authorizing the lot's creation, and all conditions imposed in said permit.
- (i) No building permit shall be issued for any back lot until (1) a Special Permit has been granted; (2) proof of recording at the Franklin County Registry of Deeds of the Special Permit and all required documents approved by the Planning Board, including rights of way, agricultural preservation restrictions, documents creating homeowners associations and maintenance agreements is submitted to the Planning Board and the Building Inspector and (3) the lot has been legally divided and proof of recording at the Franklin County Registry of Deeds is submitted to the Planning Board and the Building Inspector.

8.10 Solar Energy Installations & Facilities

8.10.1 Purpose

To encourage solar energy collection on roofs, over parking lots, and on degraded areas and to minimize the environmental impact when that is not otherwise practical.

8.10.2 Definitions

GROUND MOUNTED SOLAR ENERGY INSTALLATION: A solar energy installation that is mounted on the ground, either directly or on supports which do not constitute a building under the building code. This includes all equipment, machinery, and structures utilized in connection with the conversion of solar energy into electrical power. These are sized primarily to produce electricity to be consumed at the site of generation, up to 125% of the demonstrated peak energy demand which is meant to be the highest electric load measured on any day during the 24 month time period prior to submission of application.

SOLAR ENERGY FACILITY: a ground-mounted solar energy installation that is sized to exceed 125% of on-site energy demand or otherwise exceeds 2,000 square feet of panel surface area. Solar Energy Facilities shall not constitute a Public Utility for the purposes of this bylaw

8.10.3 Building Mounted Solar Energy Installations

Any solar energy installation that is permanently affixed to a building is permitted in all zoning districts.

8.10.4 Ground-Mounted Solar Energy Installations

Ground Mounted Solar Energy Installations that are accessory to an existing primary use are permitted in all zoning districts except Neighborhood Business and Central Business where a Special Permit is required from the Zoning Board of Appeals due to the density of development in these districts. All installations are subject to the following standards:

- (a) The solar installation shall be considered an accessory structure and shall meet the setback requirements of the Zoning District in which it is located.
- (b) If the entire installation is mounted to a canopy structure over a parking lot serving a multi-family, commercial, or institutional use, the installation may exceed 125% of the demonstrated peak energy demand.

8.10.5 Solar Energy Facilities

Solar Energy Facilities are allowed in the Industrial and Historic-Industrial Districts by Special Permit and Site Plan Review from the Planning Board, subject to the submittal requirements and standards of this section. The Planning Board may require additional conditions or vary the prescribed conditions upon a finding that such action is reasonably necessary to meet the purpose and intent of the Bylaws.

- (a) Required Submittals. In addition to the required Site Plan elements in §9, the following materials are required for permitting approval of Solar Energy Facilities:
 - i. A plan for the general procedures of operation and maintenance of the installation including security measures, maintenance of emergency access and the clear and available means of shutting down the facility in the event of an emergency.

- ii. A fully inclusive estimate of the costs associated with removal and site restoration, prepared by a professional engineer.
- iii. Owners and successors in title shall provide a satisfactory form of surety, either through escrow account, bond or otherwise, to cover the cost of removal and restoration of the landscape, in an amount determined to be reasonable by the Board, but in no event to exceed more than 125 percent of the cost of removal. Such surety may be waived for municipally or state owned facilities.
- iv. A stormwater management report prepared by a professional engineer.

(b) Special Permit Standards

- i. Adequate access and parking shall be provided for service and emergency vehicles; however there shall be no exterior long term storage of equipment or service vehicles on the site.
- ii. For every mature tree cleared for construction, measured in board feet of wood; at least an equivalent mass of living mature trees shall be retained on-site.
- iii. An 8 foot security fence shall be installed no closer to a property line than the setback required for a principal building. In addition, the site and its fencing shall be screened by buffering vegetation from general view from the surrounding ground level unless the Board determines that there is no public benefit from such screening.
- iv. The facility shall provide a vegetated buffer strip of at least 100 feet from any street line property boundaries or from the property line of any abutting residential use.
- v. To the extent feasible, all network interconnections and power lines, to and from the facility, shall be via underground lines.
- vi. Drainage from impervious surfaces shall be fully accommodated onsite.
- vii. No array shall be floodlit.
- viii. Herbicides may not be used to control vegetation at the solar electric installation.
- ix. The owner of the array must provide for and post a 24 hour emergency contact phone number and identification of the owner. The information shall remain current and shall also be provided to the Police Chief and Fire Chief.
- x. Decommissioning Requirements. Any facility which has reached the end of its useful life or has been abandoned shall be decommissioned by the owner or operator who shall notify the Board by certified mail of the proposed date of shut down and removal. Decommissioning shall consist of the following:
 - Physical removal of all panels, structures, equipment, security barriers and transmission lines from the site.
 - Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - Stabilization and re-vegetation of the site and erosion prevention.
 - The Town shall have the right, upon determination of abandonment, but not the obligation, to claim the financial surety, enter the site and remove the facility in accordance with the requirements of this section.
 - All facilities, attachments, and accessory structures which have not been used for a period of one (1) year shall be considered abandoned. The removal expense shall be secured with the performance guarantee.

8.11 Marijuana Establishments

8.11.1 Purpose

The purpose of this Section is to provide for the orderly placement of medical and recreational marijuana establishments in areas where such a use is not inconsistent with the neighborhood character and in accordance with State law.

8.11.2 Definitions

MARIJUANA ESTABLISHMENT: a marijuana cultivator, marijuana research facility or testing laboratory, marijuana product manufacturer, marijuana retailer or Medical Marijuana Treatment Center.

MARIJUANA RETAILER: an entity licensed by the Commonwealth of Massachusetts to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers for recreational or medicinal purposes.

MARIJUANA CULTIVATOR: an entity licensed by the Commonwealth of Massachusetts to cultivate, process, and package marijuana for adult use or medical use purposes, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA PRODUCT MANUFACTURER: an entity licensed by the Commonwealth of Massachusetts to obtain, manufacture, process, and package marijuana and marijuana products for adult use or medical use purposes, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA RESEARCH FACILITY OR TESTING LABORATORY: an entity licensed by the Commonwealth of Massachusetts to cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research or testing regarding marijuana and marijuana products.

MEDICAL MARIJUANA TREATMENT CENTER: an entity registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

8.11.3 Applicability

All uses incorporating marijuana cultivator, marijuana research facility or testing laboratory, marijuana product manufacturing, marijuana retail or Medical Marijuana Treatment Center shall be subject to Special Permit and Site Plan Review. The Special Permit Granting Authority shall consider the design of buildings, setbacks, visual impacts, outdoor lighting, security, hours of operation, odor control, traffic circulation, and consistency with current and abutting land uses.

8.11.4 Special Permit Standards

- (a) No Marijuana Establishment shall locate any buildings, structures, or signs within 300 feet of a pre-existing public or private school providing education in kindergarten or grades 1 through 12, as measured from the nearest point of the school property.
- (b) Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the Marijuana Establishment is located. No outside storage is permitted.
- (c) No odor may be noxious or cause a nuisance, or impair public comfort and convenience. Marijuana Establishments shall incorporate odor control technology and provisions.
- (d) The special permit shall be limited to the current applicant and shall provide that the permit shall lapse if the applicant ceases operating the Marijuana Establishment or if the applicant's license with the Commonwealth of Massachusetts expires or is terminated.
- (e) The Special Permit Granting Authority may require additional conditions and set standards for performance and maintenance upon finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

8.12 Open Space Residential Development

8.12.1 Purpose

The purpose of this section, in addition to the general purposes of these Zoning Bylaws, is to:

- (a) Promote and protect agricultural and forestry-related activities by preserving the most viable agricultural and prime forest land.
- (b) Promote the efficient installation and maintenance of utilities, streets, and other facilities in a more concentrated area to make housing more affordable.
- (c) Encourage a less sprawling form of development that preserves open land and protects the natural and cultural features of the site.
- (d) Promote the efficient provision of municipal services and protect existing and potential water supplies.
- (e) Maintain the rural character of the Town.
- (f) Promote the siting of buildings that is sensitive to existing natural and historic features.
- (g) Protect the value of real property.

8.12.2 General Description

This optional bylaw provides residents and developers of land in the AF-4, AF-2, AF, RS-1 RS-2 and RB Zoning Districts with an alternative to a standard subdivision development that is often incompatible with agricultural and forested land use and operations. Open Space Residential Development refers to residential development in which lots for buildings and accessories are

grouped together in one or more areas within the boundaries of a larger parcel of land. The building lots are of a reduced size and concentrated together, taking up only a portion of the parcel of land. A permanent conservation restriction or agricultural preservation restriction preventing future development is placed on the open space to be preserved. Single-family homes are allowed “By Right” with Site Plan Review in an Open Space Residential Development. Two-Family homes may be allowed in an Open Space Residential Development if granted a Special Permit by the Planning Board.

8.12.3 Procedures

- (a) The Planning Board may approve a plan for the construction of an Open Space Residential Development in the AF-4, AF-2, AF, RS-1, RS-2 and RB Zoning Districts (subject to the regulations and conditions set forth under this section and §9.1: Site Plan Review and Montague’s Subdivision Rules and Regulations.
- (b) Applicants are encouraged to contact the Planning Board prior to the application for Open Space Residential Development Review to discuss the applicant’s plans and promote better communication. Applicants are encouraged to submit a conceptual plan for review by the Planning Board prior to the application for Open Space Residential Development Review. Materials and information to be submitted with the conceptual plan shall be agreed upon by the applicant and the Board.
- (c) Applicants for an Open Space Residential Development shall submit seven (7) copies of an Open Space Residential Development and the narrative required to meet the requirements of this Open Space Residential Development Bylaw, Section 8 Site Plan Review, and the requirements of Montague’s Subdivision Rules and Regulations for a preliminary plan, which plan shall show locations of proposed streets, building envelopes and Protected Open Space. The plan shall be prepared by a professional engineer, registered architect, registered landscape architect, or registered land surveyor.

The Planning Board approval for Open Space Residential Development Review shall not substitute for compliance with the Subdivision Control Act nor oblige the Planning Board to approve a related Definitive Plan for subdivision approval nor reduce any time periods for the Board consideration under that law. However, in order to facilitate processing, the Planning Board may, insofar as practical under law, adopt regulations establishing procedures to allow the applicant and Planning Board to agree on an application which shall satisfy this section and the Board’s regulations under the Subdivision Control Act, if applicable. In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for an Open Space Residential Development with the Public Hearing required for a Definitive Subdivision Plan. The applicant is also responsible for obtaining all applicable permits or approvals that may be required for the Open Space Residential Development from other Town Boards or municipal officials.

- (d) In addition to any information required by the above-referenced Subdivision Rules and Regulation, the application shall include the following information:
 - i. The form of organization proposed to own, manage, and maintain the preserved land;
 - ii. the substance of covenants to be imposed upon use of land;

- iii. a preliminary septic system design or approval from the Montague Department of Public Works to connect to the municipal sewer system;
 - iv. the proposed source of potable water;
 - v. a development schedule;
 - vi. measures to prevent soil erosion, increased runoff, and flooding, and to manage stormwater;
 - vii. preliminary drainage calculations (definitive calculations to be included with definitive subdivision plan);
 - viii. projected traffic flow patterns, the total number of building lots and the proposed number of Single Family or Two Family Dwellings;
 - ix. proposed design features intended to integrate the proposed development into the existing landscape; and
 - x. the proposed use (e.g. farming, forestry, etc.), size, shape, location, and natural resource value of the land to be permanently protected.
- (e) Upon receipt of the application, the Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, the Board of Health, the Highway Superintendent, the Fire Chief and the Police Chief. In addition, the Town Clerk will notify the Historical Commission, and Agricultural Commission that a copy of the application is available for review at Town Hall. Town Boards and municipal officials other than the Planning Board shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations. The Fire and Police Chief will review the application to ensure that the proposal provides adequate emergency vehicle access to all lots. If necessary to ensure compliance with this section, the Planning Board may require further reasonable engineering or environmental analysis to be conducted at the expense of the applicant.

After the opportunity for review of other boards and municipal officials has taken place, the Planning Board shall hold a Public Hearing under this section, in conformity with the provisions of Chapter 40A, § 11 of the Massachusetts General Laws or Chapter 40A, § 9 if a Special Permit is required, and the provisions of the Zoning Bylaws and the regulations of the Planning Board. In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for the Open Space Residential Development with the Public Hearing required for a Definitive Subdivision Plan.

8.12.4 Minimum Standards

- (a) The minimum area of land for an Open Space Residential Development is five (5) acres. All land within the Open Space Residential Development tract shall be under single ownership or control at the time of the application. Adjoining lots must be adjacent to or only separated by a public way from the other lot.
- (b) One Single Family dwelling and accessory structures are permitted on each building lot. A Two Family dwelling unit may be allowed on one or more building lots in an Open Space Residential Development if granted a Special Permit by the Planning Board. Only one Two Family dwelling unit and accessory structures are permitted on each building lot if permitted. Multi-Family dwelling units are not allowed in Open Space Residential Developments.

- (c) The maximum density of an Open Space Residential Development shall not exceed the allowed density for a conventional subdivision in any zoning district unless a density bonus is granted pursuant to § 8.12.8 Bonus Incentives. In an Open Space Residential Development, the maximum number of building lots will be determined by one of the following methods at the Applicants option:
 - i. Method 1 - The maximum density for the Open Space Residential Development under Method 1 shall be calculated by taking the parcel area and subtracting out any acreage that is wetlands, floodplains, existing permanently protected open space, land with slopes greater than 25%, and 10% of the total parcel area for roads and drainage to find the Net Parcel Area. The Net Parcel Area shall be divided by the Minimum Lot Area of the zoning district in which the parcel is located to determine the maximum number of lots allowed. All wetlands shall be defined under the supervision of the Conservation Commission and in accordance with the provisions of the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40.
 - ii. Method 2 - A preliminary plan for a conventional (non-Open Space Residential Development) subdivision for the site shall be submitted illustrating the number of lots that could be created under a conventional subdivision. If no sewer is available, the results of deep hole and perc tests indicating how many of these lots would be buildable. The perc tests shall be conducted under the supervision of the Board of Health, and in conformance with Title 5, percolation tests. The number of buildable lots will equal the maximum number of lots for the Open Space Residential Development.
- (d) Each lot shall have adequate road access. The Planning Board shall determine that each lot shown on the plan has practical access from the way upon which the lot fronts, in that there are no legal or physical impediments which will prevent access particularly for emergency vehicles such as fire engines and ambulances. The road serving the Open Space Residential Development shall comply with the Design Standards of Montague's Subdivision Regulations unless such compliance is waived by the Planning Board pursuant to § 6.3 of the Subdivision Regulations.
- (e) At least forty percent (40%) of the total lot area shall be preserved as Protected Open Space including agricultural or forested land. The minimum required Protected Open Space shall not include wetlands, floodplains, existing permanently protected open space, land with slopes greater than 25%, roadways or accessory uses. To the extent possible the preserved land shall form a contiguous tract to enable continued farming or forestry operations.
- (f) If there is no connection to sewer, with the Definitive Subdivision Plan, the applicant shall submit a septic system design for the Open Space Residential Development prepared by a Registered Professional Engineer and approved by the Board of Health, in conformance with Title 5 of the State Environmental Code, and a plan illustrating the location of water supply wells. An Open Space Residential Development may utilize shared septic systems designed, installed and maintained in accordance with the State Environmental Code Title 5, 310 CMR. Septic systems shared or otherwise should be located outside of all agricultural land supporting farming operations to the maximum extent possible.

- (g) Every Open Space Residential Development shall include a condition that the approved and recorded Definitive Subdivision Plan of said Open Space Residential Development shall have endorsed upon it a statement that the subdivision is an approved Open Space Residential Development and that no land within the subdivision may be further subdivided as to increase the number of building lots.
- (h) Each lot shall comply with the minimum dimensional requirements of this Open Space Residential Development Bylaw.

8.12.5 Dimensional and Density Requirements

- (a) The minimum building lot size for Open Space Residential Development shall be 32,000 square feet in the AF-4 and AF-2 zoning districts with a minimum of 100 feet of frontage on a street. The minimum building lot size for Open Space Residential Development shall be 8,000 square feet in the AF, RS-1, RS-2 and RB zoning districts with a minimum of 50 feet of frontage on a street.
- (b) The Front Yard setback shall not be less than 25 feet in the AF-4 and AF-2 districts and 15 feet in the AF, RS and RB districts for all principal and accessory structures. Side and Rear Yard setbacks shall not be less than 10 feet for all principal and accessory structures, except that attached single family dwelling units may be laid out with one side having no Side Yard setback (zero setback). The other Side Yard of an attached single family unit (the nonattached side) shall be at least 10 feet. Nonattached single family units shall have a minimum Side Yard setback of 10 feet.
- (c) The maximum height of dwelling units and structures shall be 35 feet.

8.12.6 Additional Site Design Standards

- (a) Wherever it is feasible, all residential buildings shall be located away from agricultural soils that are classified by the Natural Resources Conservation Service as prime farmland and soils of state and local importance and placed on soils the least suitable for production of crops and livestock. This provision does not apply to the location of on-site septic disposal systems that must be placed on soils meeting the Massachusetts Environmental Title 5 Code.
- (b) The layout and construction of utilities, drainage systems, and roads shall be located to have the least possible impact on agricultural lands and uses or mature forest stands.
- (c) To minimize conflict between agricultural operations, all residential lot lines shall be located at least one hundred (100) feet from agricultural activities. This area shall be made up of a buffer strip of trees or open space.
- (d) To the maximum extent possible, residential units should be integrated into the landscape to avoid interrupting the view of the agricultural or forested landscape from adjacent public ways. Vegetative and structural screening, landscaping, grading, and building placement on the lot should be used to minimize visual interference with pre-existing landscape features.

- (e) To the maximum extent possible, structures should be sited within any woodland contained on the parcel; along the edges of fields; or in locations where structures can be visually screened or absorbed into natural vegetative or topographic features.
- (f) All principal and accessory structures and accessory uses within the development shall be set back from the property lines of the development by a buffer strip, to be kept in a natural, landscaped or managed condition, of at least fifty (50) feet in width in the AF-4 and AF-2 districts and twenty-five (25) feet in the AF, RS-1, RS-2 and RB districts.
- (g) Design of roads, utilities, and drainage shall be functionally equivalent to the standards contained in the Planning Board's Subdivision Regulations insofar as reasonably applicable, but the Board may vary those standards to meet the particular needs of the Open Space Residential Development and natural features.
- (h) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, facilities, roadways, driveways, and parking. There shall be no parking in the buffer strip, or in areas not otherwise designated for parking.

8.12.7 Open Space Requirements

The following standards shall apply to open space to be protected as part of the Open Space Residential Development:

- (a) The area to be preserved as agricultural or forested land, as required under § 8.12.4 (e) shall be made subject to a perpetual restriction of the type described in M.G.L. c.184 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town of Montague. To meet this requirement, a Conservation Restriction or Agricultural Preservation Restriction in accordance with M.G.L. Chapter 184 shall be placed on the Protected Open Space and recorded in the Registry of Deeds by the applicant at the time the approved Definitive Plan is submitted to the Registry of Deeds for recording. The applicant shall notify the Planning Board in writing within ten (10) days after the Conservation Restriction or Agricultural Preservation Restriction and the Definitive Plan, as approved and endorsed, have been recorded at the Franklin County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, of such recording, noting book, page number and date of recording. The Conservation Restriction or Agricultural Preservation Restriction placed on the Protected Open Space shall be held by the Conservation Commission of the Town of Montague, a suitable State Agency, or by a non-profit conservation land trust the principal purpose of which is the conservation or preservation of open space. Any fees associated with the holding and enforcement of the Conservation Restriction or Agricultural Preservation Restriction by an entity such as a non-profit conservation land trust will be the responsibility of the Applicant or Homeowners Association as agreed to in writing prior to the recording of the Conservation Restriction or Agricultural Preservation Restriction.
- (b) The purpose of the Conservation Restriction or Agricultural Preservation Restriction will be to clearly identify the uses and restrictions which apply to the Protected Open Space in order to protect the value of the property within the development. The Conservation

Restriction or Agricultural Preservation Restriction shall limit the use of the protected land to the following:

- i. Agricultural production, including but not limited to, the raising of crops and livestock, forest management activities, nurseries, orchards;
- ii. Activities necessary to successful agricultural production, including but not limited to, farm equipment operations, manure storage, and use of pesticides, herbicides, and fertilizers as regulated by state and federal laws;
- iii. Farm support operations, including but not limited to, farm equipment storage, agricultural processing, greenhouses, and farm animal veterinary services.
- iv. Uses may also include passive recreation, easements for utilities, easements for future septic systems, and easements for private drinking water wells.

Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain additional restrictions on development and use of the land as the Planning Board may deem appropriate to meet the purposes of this Section.

(c) The Protected Open Space may be conveyed in one of the following ways:

- i. Conveyed to an incorporated non-profit Homeowners Association made up of the owners within the development subject to a covenant, running with the land that provides for the following:
 - Ownership and membership within the Homeowners Association shall pass with conveyances of the lots in perpetuity.
 - Maintenance of agricultural open space shall be ensured by establishing a maintenance fee for each lot sufficient to cover maintenance expenses or through a comparable arrangement satisfactory to the Planning Board. The covenant established shall describe land management practices that will ensure that the existing fields and pastures will be plowed or mowed at least once per year. Included with the covenant shall be copies of a lease, for a minimum of five years, with a farmer or operator who will use the land for agricultural purposes. Such a land agreement document shall be submitted with the Definitive Subdivision Plan and shall be subject to approval by the Planning Board and Town Counsel. A tentative agreement should be established and presented with the Preliminary Subdivision Plan.
 - The covenant established shall specify that each lot owner have equal say in determining the affairs of the organization, and that costs shall be assessed equally to each lot.
- ii. Conveyed to a suitable State Agency or non-profit land trust whose principal purpose is to conserve farmland and/or forest land, subject to the covenant requiring employment of land management practices which will ensure that existing agricultural fields and pastures will be plowed or mowed at least once per year; or
- iii. Conveyed to the Montague Conservation Commission, at no cost. Acceptance of such a conveyance shall be at the option of the town and shall require approval at Town Meeting; or

- iv. The Planning Board, at the request of Applicant, may consider granting a Special Permit to have the Protected Open Space retained by a private individual or a trust owned by private individuals provided that the interests of the residents of the Open Space Residential Development will be protected as outlined in the requirements of the Conservation Restriction or Agricultural Preservation Restriction. Such Special Permit shall meet the requirements of § 9.2 of the Zoning Bylaws and other requirements to be determined by the Planning Board. A Conservation Restriction or Agricultural Preservation Restriction shall be placed on the Protected Open Space as specified in §8.11.7.

8.12.8 Bonus Incentives

- (a) Creating a subdivision development using the Open Space Residential Development approach is often less expensive for the developer as roads are shorter and utilities are grouped together. Thus, Montague's provision of an Open Space Residential Development option should be considered an incentive unto itself. However, to further encourage Open Space Residential Development the following bonus incentives have been developed. A development plan that meets one or both of the following criteria will earn a bonus in the form of extra building lots allowed within the development above the basic number of building lots allowed under §8.12.4(c). The total number of bonus lot(s) cannot be more than 20% of the maximum number of building lots allowed before the addition of bonus lots (eg. 2 bonus lots for a 10-lot subdivision for a total of 12 lots). The Planning Board will determine, upon review of the development plan, the bonus lot total.
 - i. Any development that increases the amount of land permanently preserved to a minimum of 60% of the total parcel area earns a 10% building lot bonus.
 - ii. An Open Space Residential Development plan that creates a minimum of 10% affordable housing units earns a 10% building lot bonus. Affordable housing units shall be eligible for inclusion in Montague's Subsidized Housing Inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count towards the Subsidized Housing Inventory to the satisfaction of the Planning Board.

8.12.9 Criteria for Approval

- (a) Approval of an Open Space Residential Development shall be granted only if the Planning Board determines that the requirements of the Open Space Residential Development and the Site Plan Review bylaws have been complied with and if applicable, the Special Permit requirements have been met.

8.13 Planned Unit Development

8.13.1 Purpose

To allow for "Planned Unit Developments" in designated areas of Town, whereby through a comprehensive site plan, a unified development containing a mixture of land uses and buildings is developed as a single entity. It is the intent of this provision to ensure sound planning and zoning practices while allowing certain desirable departures from the requirements of specific zoning provisions. The goals of the Planned Unit Development are:

- (a) Encourage flexibility in the design of development through a carefully controlled review process of detailed plans within a particular zoning district.
- (b) Promote the use of multiple-story buildings and campus-like clustering of buildings to maximize the amount of available open space.
- (c) Encourage a less sprawling form of development which makes more efficient use of land, requires shorter networks of streets and utilities and which fosters more economical development and less consumption of developable land.
- (d) Provide an efficient procedure which will ensure appropriate high-quality design and site planning.
- (e) Promote high-quality coordinated building and site design which buffers adjacent residential uses and protects both scenic and natural features.
- (f) Maximize pedestrian circulation within the project and connection to surrounding compatible land uses, both through the design of circulation systems and through the design and layout of land uses.

8.13.2 Applicability

A Planned Unit Development is a development of land as a single entity under the direction of a comprehensive site plan, in which a mixture of land uses, a variety of building types and designs, and open space are provided for in a coherent manner. A Planned Unit Development may occur in the Industrial (ID), General Business (GB), or Historic Industrial (HI) Zoning Districts by Special Permit from the Planning Board.

8.13.3 Dimensional requirements

To be eligible for a planned unit development, the parcel must have at least 400 feet of frontage and have a minimum lot area of 80,000 square feet. A building height of 35 feet is permitted. All buildings in a PUD must comply with FAA requirements, if applicable, related to height or lighting.

Accessory structures related to heating, cooling or other principal building functions may have a height greater than 35 feet if a waiver is granted by the Planning Board under the Special Permit. Existing historic mill buildings being reused as part of a PUD may have a building height equals the height of the historic structure. The dimensional requirements for frontage and minimum lot area under the Special Permit granted by the Planning Board may be modified or waived for compelling reasons of public safety, aesthetics, or sustainable site design which serve the purpose of this section.

8.13.4 Use regulations

- (a) The uses allowed in a Planned Unit Development are any uses allowed either by right or special permit within the underlying zoning district.
- (b) Uses in a planned unit development shall comply with all other applicable sections of this

Zoning Bylaw, including but not limited to 7.1 Signs, 7.2 Parking, and 7.3 Loading Requirements, in addition to the required provisions of this section.

- (c) More than one principal building and use is permitted on a lot.
- (d) One or more separate but contiguous parcels may be assembled to create a Planned Unit Development. Proposed Planned Unit Developments may include preexisting uses and buildings provided they are integrated into the development plan. Planned Unit Developments may consist of land in more than single ownership and may consist of separate parcels provided all current and future owners and lots are: (i) bound by the restrictive covenant(s) or conditions of the approved Planned Unit Development according to the Special Permit approval; and (ii) commit to maintain the project as a single Planned Unit Development.
- (e) Subdivision of lots within a Planned Unit Development after final approval of the Site Plan or Special Permit shall be considered an amendment to the Special Permit and will require approval by the Planning Board.

8.13.5 Access requirements

- (a) Entrances to Planned Unit Developments shall be limited to one access point onto a public way. The Planning Board may grant additional access points to improve traffic circulation for public safety or emergency services purposes if deemed necessary.
- (b) Common driveways and parallel service drives may be required in the Planned Unit Development to minimize driveway openings.
- (c) Provision for safe and convenient pedestrian and bicycle access shall be incorporated into the Planned Unit Development. Walkways or bicycle paths shall be provided throughout the site, and shall connect to existing off-site pedestrian and bicycle paths.
- (d) Where public transit could serve the Planned Unit Development, access shall be facilitated by bus pullout areas, bus shelters, lighting, and/or other passenger amenities in coordination with the regional transit authority.

8.13.6 Design requirements

- (a) Developments shall have an integrated design with respect to building placement, proportion, color, rooflines, and other architectural details.
- (b) Developments must incorporate human scale features such as landscaping, pedestrian plazas and other public spaces, first floor windows, pedestrian level lighting, benches, awnings and architectural details.
- (c) Each building's main entrance shall be clearly defined with architectural details such as raised parapets, peaked roofs, arches, canopies, and overhangs.
- (d) Rear or side facades visible from other uses, parking areas, or streets must be of finished quality and should be landscaped.

- (e) Parking areas shall be located to the side or rear of buildings to the maximum extent feasible.
- (f) All mechanical equipment including dish antennae, outdoor storage, and waste disposal areas shall be screened from public view.
- (g) Wall signs in multi-tenanted buildings must be placed within the same sign band.

8.13.7. Design guidelines

- (a) New buildings shall relate harmoniously to existing buildings on the site and to the surrounding neighborhood.
- (b) Boxy buildings should be softened with architectural details and landscaping. Pitched rooflines are encouraged.
- (c) Long unbroken facades must be avoided. The use of facade offsets, recesses, angular forms, and landscaping rather than ornamentation is encouraged to break up the mass of large or continuous walls.
- (d) The use of exterior building materials such as masonry, stone, wood, and brick is preferred.
- (e) Facade details and building elements shall be proportionate to the scale of the building.
- (f) Lighting fixtures should complement the architectural design of the Planned Unit Development.
- (g) The placement of wall signs on individual buildings should complement the architectural design of the Planned Unit Development.
- (h) Large expanses of parking should be broken up with internal landscaping and dedicated pedestrian walkways.
- (i) All utility lines shall be placed underground where physically feasible.

8.13.8 Phasing requirements

All applications for Planned Unit Developments shall include sufficient information to evaluate total build-out of the site. The Planning Board may permit a phased schedule in accordance with an approved “Master Site Plan” for the Planned Unit Development.

- (a) The initial construction phase shall provide sufficient on-site and off-site improvements to adequately serve the constructed portion independent of future phases, encourage completion of the build-out design, and minimize disruptions during future construction phases. Improvements shall include but are not limited to driveways, walkways or bicycle paths, parking, sewer, water, stormwater systems, lighting, and landscaping. The Planning Board may permit phased construction of improvements if deemed appropriate.

- (b) The applicant shall provide the Town with a performance guarantee to cover the costs of construction of the on-site and off-site improvements, subject to approval from the Planning Board, in the form of a performance bond, letter of credit, or cash escrow.
- (c) Any changes in use or amendments to subsequent development phases shall require approval by the Planning Board. Modifications or extensions to an approved phasing timetable shall not be considered substantive amendments.

8.13.9 Procedural requirements

All Planned Unit Developments require a Special Permit and Site Plan Review. The Planning Board shall be the Site Plan Approval Authority and the Special Permit Granting Authority for all Planned Unit Developments. A Special Permit may be granted by the Planning Board for multiple uses allowed by right or by special permit if the Planning Board finds that the proposed uses will not have adverse effects which overbalance the beneficial effects according to the requirements and criteria of § 9.2, Special Permits. In addition to the Site Plan Review submittal requirements in § 9.1 and the Special Permit requirements of § 9.2 of this Bylaw, site plans shall include:

- (a) Color renderings of facade elevations of all sides of all proposed new construction and renovations including proposed mature landscaping.
- (b) Color photographs showing the proposed building site and adjacent properties and buildings.
- (c) Drawings/cut sheets of all proposed lighting, signs, and pedestrian amenities as they are to be located on the property.
- (d) A landscaping plan that includes all existing and proposed vegetation with elevation views and a description of all plantings (include common names), size (upon planting and upon maturity), spacing, and numbers of plants.
- (e) Description of how the project will impact traffic conditions on streets and intersections likely to be affected by the project including the level of service, traffic flow, turning movements, sight distances, traffic controls, pedestrian and bicycle movement and public transportation. Provide information on the average daily and peak hour traffic projections and directional distribution of site-generated traffic.
- (f) A description of the proposed uses and associated square footage.

SECTION 9. SITE PLAN REVIEW & SPECIAL PERMITS

9.1 Site Plan Review

9.1.1 Purpose

The purpose of the Site Plan Review process is to provide detailed review of certain uses and structures which have a potential for significant impact on the character, infrastructure, and natural resources of the Town of Montague.

9.1.2 Applicability

The following activities and uses are subject to site plan review:

- (a) All uses that involve the construction or expansion or change of use of over 3,000 square feet of floor area.
- (b) All uses that involve the development of over 130,680 square feet (3 acres) of land.
- (c) Any new structure, group of new structures, changes of use, or additions which result in an increase of 500 or more vehicle trips per day, as proposed in an applicant's business plan acceptable to the reviewing authority or estimated by a professional engineer.
- (d) All uses that involve the construction or expansion of a parking area that creates ten (10) or more new parking spaces
- (e) Self-storage facilities, per §8.8
- (f) Solar energy facilities, per §8.10
- (g) Marijuana retailer, Medical Marijuana Treatment Center, cultivation, production, research or testing, per §8.11
- (h) Open Space Residential Development, per §8.12
- (i) Planned Unit Development, per §8.13

9.1.3 Authority

The Planning Board shall be the Site Plan Review Authority in the General Business, Industrial and Historic-Industrial District. The Board of Appeals shall be the Site Plan Review Authority in all other districts, unless otherwise stated in the Bylaws.

9.1.4 Procedure

All uses and structures that require Site Plan Review shall be subject to the procedures and requirements set forth in this section. The Board of Appeals or Planning Board, as appropriate, may waive any requirement in § 9.1.5 that it deems inapplicable to the proposed project. Site Plan Review procedures will be based on whether or not a Special Permit is required:

- (a) Special Permit Required

The Special Permit Granting Authority shall hold a public hearing, vote and issue decisions on any application filed under this section in accordance with procedures outlined in M.G.L. Chapter 40A, § 9 and 11.

(b) Special Permit Not Required

Site Plan Review shall be conducted by the Site Plan Review Authority for uses that are allowed as of right, unless otherwise noted. A public hearing is not required and approval requires a vote of a simple majority of the Board. Failure of the Board to act within sixty (60) days of submission shall constitute an approval of the site plan.

9.1.5 Site Plan Elements

Site plans shall be prepared by a professional engineer, architect, or surveyor and shall at a minimum, accurately include the following information, if applicable:

- (a) Building dimensions and design
- (b) Building location, lot boundaries, and adjacent ways
- (c) Natural features including topography, contours, wetlands, streams, waterbodies, and areas subject to flooding
- (d) Landscaping features including the location and description of screening, fencing, and plantings
- (e) Stormwater management
- (f) Circulation plan for vehicular, pedestrian, and bicycle access to the site and within the site
- (g) Parking and loading accommodations
- (h) Utility services and proposed connections
- (i) Location and intensity of exterior lighting
- (j) Exterior signage
- (k) On site waste management and snow removal
- (l) Hours of operation estimated daily, and peak hour vehicle trips, estimated volumes of water and wastewater.

9.1.6 Evaluation Guidelines

In reviewing the Site Plan, the following shall be considered:

- (a) Compliance with the Montague Zoning Bylaws.
- (b) Impacts to municipal infrastructure and services.

- (c) Safety and adequacy of vehicular and pedestrian movement.
- (d) Design features that integrate the proposed development into the existing landscape, maintain neighborhood character, enhance natural and aesthetic assets and screen objectionable features from neighbors and roadways.

9.1.7 Decision

The site plan may be approved, approved with reasonable conditions, or rejected if a site plan fails to furnish adequate information required in § 9.1. Decisions are to be filed with the Town Clerk and the Inspector of Buildings.

9.1.8 Appeals

Decisions on site plans may be appealed directly to Superior Court in accordance with MGL c. 40A, whether or not the Site Plan Review is for a project that requires a Special Permit.

9.1.9 Expiration

Site plan approval shall expire within two (2) years if a substantial use thereof has not commenced. The approval may be extended by up to two (2) years at request of the applicant.

9.2 Special Permit

9.2.1 Purpose

Special Permits are required for certain uses, structures or conditions, as designated in § 5.2. (Permitted Uses) and other sections of these bylaws. Special Permit review is intended to ensure that any proposed use of land or structure(s) will not have an adverse effect on other uses in a neighborhood or on the town and that the use is in harmony with the intent and purpose of this section.

9.2.2 Procedure for Special Permits

(a) Special Permit Granting Authority

The Planning Board shall be the Special Permit Granting Authority (SPGA) in the General Business, Industrial and Historic-Industrial District. The Board of Appeals shall be the SPGA in all other districts, unless specifically designated otherwise in the Town of Montague Zoning Bylaws. Special Permits shall be granted, denied, or issued with conditions by the SPGA according to the provisions of Chapter 40A of the Massachusetts General Laws.

(b) SPGA Rules and Regulations

Pursuant to §9 of Chapter 40A of the Massachusetts General Laws, each Special Permit Granting Authority may adopt rules relative to the issuance of Special Permits. The 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 and 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) Application

An applicant for a Special Permit shall file a completed application with the Town Clerk.

A copy of the application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the applicant with the office of the special permit granting authority or Board of Appeals, as appropriate.

(d) Site plans

Site plans submitted with a Special Permit application shall be in conformance with the requirements of §9.1.

(e) Public hearing

Special Permits shall only be issued following a public hearing held within 65 days after filing an application with the Town Clerk. The Special Permit Granting Authority shall take final action on an application for Special Permit within 90 days following the closing of the public hearing. The required time limits for the public hearing and final action may be extended by written agreement between the applicant and the SPGA, and a copy of the written agreement shall be filed with the Town Clerk. The SPGA shall file the written decision with the Town Clerk within 14 days of the final vote or sooner as required to meet the 90 day maximum time frame. Failure of the SPGA to take final action within 90 days, or extended time if applicable, shall constitute approval of the Special Permit.

(f) Independent Consultants

Upon submission of an application for a Special Permit, the Special Permit Granting Authority is authorized to engage outside consultants to peer review the application, pursuant to G.L. c. 44, § 53G, whose services shall be paid for by the applicant.

9.2.3. Special Permit Criteria

Before granting a Special Permit, the Special Permit Granting Authority shall consider the proposed use in relation to the site and the adjacent uses and structures in the Town and shall find that there will be no significant adverse effects to the neighborhood or the Town, considering the following criteria:

- (a) The degree to which the activity, site plan, and building design are consistent with suitable economic development activities in Montague, as identified in the Comprehensive Plan and other current Town plans.
- (b) Capability of and cost to the Town to provide municipal services for the proposed use and premises, including police, fire, emergency services, and road maintenance and the ability of existing infrastructure to support the proposed use including but not limited to existing roads and bridges and their condition.
- (c) Impact on the Town's school or other educational facilities and provision of housing for Town residents.
- (d) Consequences of sound, light, odor, noise, traffic congestion, or other disturbances for abutting and other properties that may be impacted.

- (e) Environmental impact of the proposal, including the degree to which the proposal results in water, air, noise or light pollution; topographic change; removal of mature trees or other botanical assets; removal of cover vegetation; risk of erosion or siltation; increased storm water runoff from the site; or displacement of natural habitats.
- (f) Impact on existing traffic conditions and vehicular and pedestrian safety, particularly at intersections with Town roads.
- (g) Degree to which the proposal is compatible with the character of the surrounding area and neighborhood.
- (h) Degree to which the proposal preserves scenic views and historic, natural and cultural resources through site design, landscaping and protection of resources.
- (i) Employment and fiscal consequences to the Town.
- (j) Impact on agricultural or forestry operations or the productivity of the land for those uses.
- (k) Degree to which the proposed use is consistent with the purpose(s) of the zoning district.
- (l) Capability of the Town or other public or private entities to provide water supplies, sewage treatment, and stormwater management.
- (m) Other impacts on the Town including support of local products and businesses, protection of open space, provision of recreational opportunities for Town residents, and energy conservation.

9.2.4. Conditions, safeguards and limitations

In granting a Special Permit, the Special Permit Granting Authority may, in accordance with Chapter 40A of the General Laws, impose conditions, safeguards and limitations. Such conditions, safeguards and limitations shall be in writing and may include but are not limited to the following:

- (a) Setback, side and rear yards greater than the minimum required in this Zoning Bylaws.
- (b) Screening of parking areas or other parts of the premises from adjoining properties or from streets by the use of walls, fences, plantings or other such devices.
- (c) Limitations of size, number of occupants, method or time of operation or extent of facilities.
- (d) Modification of the exterior design or appearance of buildings, structures, lighting, signs or landscape materials.

- (e) Additional parking, loading or traffic requirements beyond the minimum required in this Zoning Bylaw.
- (f) Measures to protect against environmental pollution.
- (g) A performance bond or other security to ensure that the project meets the conditions specified in the special permit.

9.2.5 Changes, alterations and expansion

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

9.2.6 Lapse of Special Permit

Special Permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the Special Permit approval with the Town Clerk.