

TOWN OF ALFORD
ZONING BY-LAW

ADOPTED JULY 16, 2002

TOWN OF ALFORD ZONING BY-LAW

(July 16, 2002)¹

SECTION 1. TITLE, AUTHORITY AND PURPOSE

1.1 Title. This By-Law shall be known as the "Zoning By-Law of the Town of Alford. Massachusetts." hereinafter referred to as "this By-Law."

1.2 Authority. This By-Law is authorized by the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.3 Purpose. The purpose of this By-Law is to promote the public health, safety and welfare, including but not limited to the following objectives:

- a. To prevent overcrowding of land, to secure safety from fire, flood, panic and other dangers, to conserve health, and to lessen congestion on the roads;
- b. To facilitate the adequate provision of transportation, water supply, drainage, sewage, schools, parks, open space and other public requirements;
- c. To conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment;
- d. To preserve and increase amenities by the promulgation of regulations designed to:
 1. Protect the Town's significant environmental features such as; floodplains and flood prone areas, wetlands, rivers, brooks, ponds, water resources; woodlands, areas of scenic beauty, and sites and structures of historic importance;
 2. Preserve the natural, scenic and aesthetic qualities of the community;
 3. Minimize the adverse effects of development on the Town's unique environmental and historic features;
 4. Employ cooperatively the various measures taken by the Town's agencies, under diverse legislative authority, including the State Sanitary Code, Wetlands Protection Act, Subdivision Control Legislation, and the State Building Code, for the protection and enhancement of the Town's existing

¹ Editor's Note: This By-Law, adopted in its entirety at a Town Meeting on July 16, 2002, recodifies the Zoning By-Law of Alford originally adopted July 21, 1987 as amended.

rural character, open spaces, low density of population, and in the interests of the Town's orderly growth at deliberate pace; and

5. To achieve any other purpose suggested in §2A of 1975 Mass. Acts 808.

- 1.4 **Scope.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town of Alford are regulated as hereinafter provided.
- 1.5 **Applicability.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town of Alford, shall be in conformity with the provisions of this By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.
- 1.6 **Amendments.** This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, §5, as it may be amended.
- 1.7 **Separability.** The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

SECTION 2: DEFINITIONS

- 2.1 **Rules of Construction.** For the purpose of this By-Law and unless the context or usage clearly indicate another meaning, the following rules of construction apply to the text of this By-Law:

Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular.

The words "used" or "occupied" include the words "designed," "intended," or "arranged to be used or occupied"

The words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof."

The word "shall" is mandatory; the word "may" is permissive.

The words "including" or "such as" shall not limit a term to specified examples, but are

intended to extend their meaning to all other instances or circumstances of like kind or character.

2.2 Definitions. For the purpose of this By-Law, the following words and terms as used herein shall have the meanings or limitations of meaning hereunder defined, explained or assigned:

ACCESSORY APARTMENT: a second dwelling unit located within a structure constructed as a detached Single Family Dwelling (see definition of Dwelling Unit), that is subordinate in size to the principal dwelling unit and that maintains the exterior appearance of the structure as a Single Family Dwelling.

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

AGRICULTURAL USE: Any parcel of land that is used in the raising of agricultural products, livestock, poultry or dairy products, including necessary farm structures, vehicles and equipment. This term does not include riding stables, kennels, or facilities for the commercial raising of swine or fur-bearing animals.

DWELLING, SINGLE FAMILY: A detached residential building designed for and occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

DWELLING, TWO-FAMILY: A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

DWELLING, MULTI-FAMILY: A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING UNIT: One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one (1) family.

FAMILY: One or more individuals related by blood, marriage or adoption, or not more than five (5) individuals who are not so related living in a single dwelling unit.

G.L. or GENERAL LAW: The General Laws of the Commonwealth of Massachusetts.

GROSS FLOOR AREA: The total floor area within the exterior walls of a structure, excluding basement and attic areas not used for living space.

GUEST HOUSE: A dwelling in which more than three (3) rooms are rented by resident family for transient guests with or without meals as an accessory use.

HALF-STORY: That portion of a building under a sloping roof the cubic contents of which are never more than one-half of that of the story below. If the cubic contents are greater it shall be deemed a story.

KENNEL: Structure and other facilities for the keeping of more than three dogs, more than six (6) months old, or other household mammal pets, for sale or boarding purposes.

LOT: A single tract of land held in identical ownership throughout, defined by metes and bounds or lot lines in a deed or conveyance, or shown on a duly recorded plan.

LOT, FRONTAGE: The continuous distance along the street line, (for corner lots to be measured along one street only) which provides access to the lot from its borders on the street, to be measured only where the lot has a depth of at least forty (40) feet from the street line. A private street approved by the Planning Board under the Subdivision Control Law may provide frontage only for the lots that are contained within the approved subdivision.

LOT, WIDTH: The distance between the lot side lines at the building setback line measured parallel to or concentric with the street line, provided that no part of the lot that provides access to a proposed building site or to an existing building shall be less than forty (40) feet in width.

MOBILE HOME: A vehicular, portable completely enclosed structure built on a permanent chassis, designed as a dwelling unit to be transported after fabrication on its own wheels, or on flatbed, or detachable wheels. For the purpose of this By-Law the term "mobile home" includes trailers incorporating the characteristics of mobile homes as herein defined.

MUNICIPAL USE: Any use of land in accordance with the general laws governing municipal powers and functions including participation in regional uses.

PRIVATE CLUB: Land and/or buildings used exclusively by members of an organized group, who are elected by a committee or by membership, and not open to public use.

SITE PLAN: A plan as set forth in Section 10.4 of this By-Law.

STORY: That portion of a building contained between any floor and the floor or the ceiling next above it, but not including any portion so contained if more than one-half (1/2) of such portion vertically is below the average finished grade of the ground adjoining such building.

STREET: A public way, or a private way either shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying lots along it for

frontage under the Subdivision Control Law.

STREET LINE: The right-of-way line of a street as established under public authority, or as shown on a plan approved by the Planning Board, or if neither of the above apply, a line parallel to the center line of the street measured back a distance equal to one-half (1/2) of the normally required right-of-way.

YARD, REQUIRED: The open areas of the lot extending inward from a lot line for the distance specified in the zoning regulations, within which no structure may be located except as otherwise provided in this By-Law.

YARD, FRONT: A required yard extending along the full length of the front lot line between the side lot lines.

YARD, REAR: A required yard extending the full length of the rear lot line between the side lot lines.

YARD, SIDE: A required yard extending along a side lot line from the required front yard to the required rear yard.

SECTION 3: PRINCIPAL USE REGULATIONS

3.1 General. Except as provided by law or in this By-Law, no building or structure shall be erected and no building, structure or land or part thereof shall be used for any purpose or in any manner other than for one of the uses set forth in the accompanying Table of Use Regulations, Section 3.5, as may be permitted by right in the area in which such building, structure or land is located, or as may be authorized by special permit.

3.2 Key. Symbols used in the Table of Use Regulations shall mean the following:

YES - Use permitted by right.

BA - Use that may be authorized by special permit from the Board of Appeals in accordance with the provisions of Section 10.3 herein.

PB - Use which may be authorized by special permit from the Planning Board in accordance with the provisions of Section 10.3 herein.

BOS - Use which may be authorized by special permit from the Board of Selectmen in accordance with the provisions of Section 10.3 herein.

NO - Specifically excluded or prohibited use.

- 3.3 **Interpretation of Use Table.** Where a structure or use might be classified under more than one of the listed uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.
- 3.4 **Other Requirements.** Every use permitted by right or authorized by special permit under the provisions of this By-Law shall be subject to the State Building Code, State Sanitary Code, the Town's Board of Health Regulations, Flood Plain and Wetlands Regulations, Scenic Mountain Act Regulations, and all other applicable statutes, by-laws, regulations and deed restrictions, if any.
- 3.5 **Table of Principal Use Regulations.** [See Appendix A]

SECTION 4. ACCESSORY USES AND STRUCTURES

- 4.1 **Farm Buildings.** Farm buildings and structures used exclusively for agricultural purposes shall be deemed to be accessory buildings and structures for the purpose of this By-Law. Such buildings and structures may be located on the same lot with the principal permitted use or on separate lots.
- 4.2 **Table of Accessory Use Regulations.** [See Appendix B]

SECTION 5: NONCONFORMING USES AND STRUCTURES

- 5.1 **Applicability.** This By-Law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, §5 respecting this By-Law, or any relevant part thereof. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.
- 5.2 **Nonconforming Uses.** The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:
- a. Change or substantial extension of the use;
 - b. Change from one nonconforming use to another, less detrimental, nonconforming use.
- 5.3 **Nonconforming Structures.** The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to

the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- a. Reconstructed, extended or structurally changed;
- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
- c. Demolition and rebuilding thereafter, as set forth in Section 5.7, below.

5.4 Variance Required. Except as provided in Section 5.5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

5.5. Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- a. alteration to a structure on a lot with insufficient area which complies with all current setback, yard, and building height requirements, where the alteration will also comply with all of said current requirements.
- b. alteration to a structure on a lot with insufficient frontage which complies with all current setback, yard, and building height requirements, where the alteration will also comply with all of said current requirements.
- c. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, and building height requirements.
- d. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure.
- e. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change,

the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.6 Abandonment or Non-Use. A nonconforming use or structure, which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this By-Law.

5.7 Catastrophe or Demolition. Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, provided that such reconstruction is completed within twelve months after such catastrophe and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure and located on the original building footprint. Such time for reconstruction may be extended by the Board of Appeals for good cause.

- a. A nonconforming single family structure may be reconstructed after voluntary demolition with a greater volume or area and/or located on a different footprint upon the issuance of a special permit from the Board of Appeals. Such special permit shall be issued prior to the demolition of the nonconforming single family structure. In granting any special permit, the Board of Appeals may impose reasonable conditions to minimize the nonconformity of the new structure.

5.8 Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

SECTION 6: DIMENSIONAL REGULATIONS

6.1 General. Any building used for dwelling purposes, and any building or structure housing a permitted principal use, including any use authorized by a special permit, shall be so constructed and located on a lot as to meet the minimum requirements of lot area, frontage, width, front, side, and rear yards, and the maximum height of buildings and structures as set forth in the Table of Dimensional Requirements, Section 6.6 herein, except as may specifically be otherwise provided in this By-Law.

6.2 Computation. The land and yard spaces required for any new building or structure, or use, shall not include any land or yard area required by any other building, structure or use to meet the minimum requirements of this By-Law.

6.3 Prohibition. No lot, or any building or structure thereon, shall be changed in size so as to violate lot area, frontage, width or yard requirements of this By-Law.

6.4 Height Exception. The height regulations of buildings and structures shall not apply to agricultural buildings and structures, churches, spires, chimneys, or other

appurtenances usually required to be placed above roof level and not intended for human occupancy.

- 6.5 Rear Lots.** Individual lots need not have the required amount of street frontage, provided that all of the following conditions can be met for each individual lot lacking such frontage.

6.5.1 Area. The area of said lot is at least double the minimum area required.

6.5.2 Building Line. A building line is designated on the plan, and the width of the lot at that line equals or exceeds the number of feet normally required for lot frontage.

6.5.3 Lot Width. Lot width is at no point less than 50 feet, and lot frontage is not less than 50 feet. Frontage shall meet all of the requirements contained in the definition for "frontage" herein.

6.5.4 Limit. Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of July 16, 2002. Documentation to this effect shall be submitted to the Building Inspector. The Building Inspector shall not issue a building permit for any rear lot without first consulting with the Planning Board to verify compliance with this provision.

6.5.5 Relation to Front Lot. At the time of the creation of the rear lot, it shall be held in common and contiguous ownership with the front lot.

6.5.6 Rear and Side Yard. The principal structure shall be located on the lot with rear and side yards equal to or in excess of those required in the district.

6.5.7 Setback from Street. The single family dwelling located on the rear lot must be set back at least 300 feet from the street providing frontage.

6.5.8 Common Driveway. Access to a rear lot shall be by a common driveway as set forth in Section 7.5.6 herein.

6.5.9 After the creation of a rear lot on a property or set of contiguous properties held in common ownership as of July 16, 2002, no further subdivision of the land shall be allowed and a covenant shall be executed and recorded by the owner(s) to this effect, after approval as to form by town counsel.

6.6 Table of Dimensional Requirements. [See Appendix C]

6.6.1 Notes to Table of Dimensional Requirements.

- a. To be measured from the right-of-way line where a plan of street is on

file with the Registry of Deeds, or in the absence of such a plan, from a parallel line twenty (20) feet from the centerline of the traveled way.
(See also Section 2)

- b. See Section 9.2 for minimum setback requirements in the SPOT.
- c. See Section 8.1 for height and setback requirements relating to Wireless Communication Facilities.

SECTION 7: GENERAL REGULATIONS

7.1 Sign Regulation.

7.1.1 Permitted Signs.

- a. Signs not exceeding two (2) square feet in total area and bearing only names of residents or other identification of premises not having commercial connotations.
- b. One sign, not exceeding six (6) square feet in area, for a permitted accessory use on the premises, with a special permit from the Board of Selectmen.

7.1.2 Sign Restrictions.

- a. No sign shall use moving parts, noise-making devices or blinking, rotating or flashing or red or neon lights, or lights changing in intensity, and no sign shall be placed on the roof of any building or structure, or extend above the parapet or eave line.
- b. No illuminated sign or lighting device shall be so placed or directed upon a public way or adjacent premises as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- c. No sign shall be located off the premises to which it applies, except that directional, informational or identification signs may be allowed by special permit issued by the Board of Selectmen where such signs will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design.
- d. A freestanding sign may not be closer to the front property line than ten (10) feet and may not exceed four (4) feet in height above grade.

7.1.3 Off-Premises Signs.

- a. Pursuant to the authority conferred by General Laws, Chapter 93, Section 29, and every other power and authority thereto pertaining, the Town of Alford adopts this By-Law for the regulation of off-premises signs within view of a public way, public park or reservations.
- b. An off-premises sign is a sign unrelated to a business or profession conducted or to a commodity or service sold or offered, upon the premises where such a sign is located.
- c. No off-premises sign shall exceed two (2) feet in width or three (3) feet in length.
- d. No off-premises sign shall be illuminated or shall rotate or contain moving parts.

7.1.4 Penalty. Any person who violates this Section 7.1 shall be liable to a fine of one hundred dollars and each day of violation shall be a separate and distinct offense.

7.2 Snow Removal. It shall be unlawful for the operator of any vehicle to park on any street between the hours of 7:30 p.m. and 7:30 a.m. for a period of time longer than one (1) hour from November 1st to April 30th inclusive, except that vehicles acting in an emergency may be parked at any time on any day. Any vehicle in violation of this By-Law shall be removed at the owner's expense.

7.3 Junk Automobiles.

7.3.1 General. No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the Town of Alford any junk automobile as defined in the following section.

7.3.2 Definition. For the purposes of this By-Law, a junk automobile shall be one which is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof. Any parts from such a vehicle shall be considered a junk automobile under this By-Law.

7.4 Construction of Driveways Abutting Public Ways.

7.4.1 General. No driveway or road abutting or intersecting any public way shall be constructed hereafter unless approval therefor is granted by the Board of Selectmen. Application for a permit for such construction shall be made in writing to the Board of Selectmen before such construction begins.

7.4.2 Permit. The Board of Selectmen may grant a permit for such construction upon such conditions as the Board deems proper. The Board may require the installation of culverts and such grading and surfacing as may be required. The construction work shall be done under the supervision of the Board of Selectmen and to its satisfaction. The entire expense of such construction shall be paid by the applicant.

7.4.3 Bond. The Selectmen may require a bond to guarantee the faithful and satisfactory performance of the work and payment for any damage to public ways and facilities caused by or resulting from the work authorized by the permit. The amount of such bond shall be determined by the Selectmen and shall not exceed the estimated cost of the work and possible damage.

7.5 Driveway Regulations

7.5.1. General. For the purpose of promoting the safety of the residents of the Town, an application for a building permit for a residential structure shall include a plan, at a scale of 1" = 100 ft., showing the driveway serving the premises, and showing existing and proposed topography at 10 ft. or 3 meter contour intervals. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles.

The Building Inspector shall not issue a building permit for the principal structure on the premises unless all of the following conditions respecting driveways (as applicable) have been met:

7.5.2 Location. Wherever possible, a driveway shall not be located within twenty (20) feet of any side or rear lot line without written approval by the appropriate abutter(s).

7.5.3 Maximum Distance. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet, unless the Planning Board grants a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

7.5.4 Grade. The grade of each driveway where it intersects with the public way shall not exceed six percent (6%) for a distance of 20 feet from the travel surface of the public way unless the Planning Board shall grant a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

7.5.5 Access. Driveways serving the premises shall provide access through the required frontage of the serviced lot, except in the case of a “common driveway” under Section 7.5.6 herein.

7.5.6 Common Driveways. Common driveways serving not more than two (2) lots may be allowed on special permit by the Planning Board. A common driveway must satisfy all of the conditions in this Section, as well as all of the following conditions:

- a. The centerline intersection with the street centerline shall not be less than 45 degrees;
- b. A minimum cleared width of 12 feet shall be maintained over its entire length;
- c. A minimum roadway surface of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed;
- d. The driveway shall be located entirely within the boundaries of the lots being served by the driveway;
- e. Proposed documents shall be submitted to the Planning Board demonstrating that, through easements, restrictive covenants, or other appropriate legal instruments, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

7.6 Outdoor Illumination.

7.6.1 Overspill. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not (a) cause light to overspill onto adjacent premises so as to cast observable shadows, or (b) cause light to be directed at the night sky.

7.6.2 Fixtures. Exterior lighting fixtures other than signs shall not be mounted more than twenty (20) feet high.

7.6.3 Illumination; Hours. No commercial sign or commercial building shall be illuminated between the hours of 11 P.M. and 7 A.M. unless indicating an establishment open to the public during those hours.

7.6.4 Movement. No flashing, moving, or revolving lights shall be maintained.

7.7 Environmental Performance Standards.

7.7.1 General. No land or building shall be used, occupied or operated in such a manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air or water pollution; electrical or other disturbances; glare or other substance, condition or element in such amount as to adversely affect the surrounding area or premises. The following standards shall be apply in addition to any other standards set forth in this By-Law and the statutes and regulations of the Commonwealth and the federal government.

7.7.2 Standards. The following performance standards shall apply in the issuance of any permit:

- a. **Outdoor Lighting.** Any outdoor lighting shall comply with section 7.6 herein.
- b. **Fire and Explosion Hazards.** All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited.
- c. **Radioactivity or Electrical Disturbance.** No activities shall be permitted that emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- d. **Noise.** No use shall be permitted that, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, as set forth in 310 CMR 7.01.
- e. **Vibration.** No vibration shall be permitted that is detectable without instruments at the lot line of the premises.
- f. **Solid Waste Storage.** Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible. Screening materials shall not be attached to any structure.

SECTION 8: SPECIAL REGULATIONS

8.1. Wireless Communications Facilities By-Law

8.1.1 Purpose. The purpose of this by-law includes: (i) minimizing adverse impacts of wireless communication facilities on abutting properties, residential neighborhoods, traveled ways and areas of historic or high scenic value; (ii) minimizing the overall number and height of such facilities to only what is essential and promoting the shared use of new and existing tower sites; and (iii) encouraging users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.

8.1.2. Definitions. The following terms shall have the following definitions in this Section 8.1:

ACT: The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communication Act of 1934 and 1996.

ANTENNA: Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips, but not including satellite earth stations.

DISTANCE: shall be measured on a horizontal plane.

FAA: shall mean the Federal Aviation Administration.

FCC: shall mean the Federal Communications Commission.

HEIGHT: shall be distance measured from existing pre-construction ground level to the highest point on the structure.

LATTICE TOWER: A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

MONOPOLE TOWER: A communications tower consisting of a single pole, constructed without guy wires and ground anchors.

NONRESIDENTIAL STRUCTURE: shall mean such structures as, but not limited to, buildings, grain silos, and water towers, but does not include houses, apartments, or other residences.

TOWER: shall mean any structure that is designed and constructed primarily for

the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

WIRELESS COMMUNICATION BUILDING: shall mean any building or shelter used to house equipment primarily for the installation and operation of equipment for generating and detecting electromagnetic radiation, and as an accessory to a Wireless Communication Structure.

WIRELESS COMMUNICATION DEVICE or DEVICE: shall mean any antenna, appurtenance, wiring or equipment used in connection with the reception or transmission of electromagnetic radiation, which is attached to a structure.

WIRELESS COMMUNICATION FACILITY or FACILITY: shall be used as a general term to include Wireless Communication Building, Wireless Communication Device, and Wireless Communication Structure.

WIRELESS COMMUNICATION STRUCTURE or STRUCTURE: shall mean any structure or tower intended to support equipment used for the transmission and reception of electromagnetic radiation, including the antennas, wiring or other devices attached to or mounted on a structure.

8.1.3 Exemptions. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the FCC and used solely for that purpose shall be exempt from this Section 8.1.

8.1.4 General Requirements.

- a. No Wireless Communication Facility shall be erected, constructed, or installed without a special permit from the Planning Board issued in compliance with this Section 8.1. To the extent any other provision of this By-Law conflicts with the provisions of this Section 8.1, the provision of this Section shall control.
- b. An applicant for a special permit shall demonstrate either that (i) any adverse visual, economic or aesthetic impact of the Wireless Communications Facility will be minimal or (ii) that no feasible alternative exists for providing necessary service that would minimize any such adverse impact.
- c. The only Towers permitted shall be Monopole Towers. Lattice Towers and similar facilities requiring three or more legs and/or guy wires for support are not permitted.

- d. Wherever feasible, Wireless Communication Devices shall be located (i) on existing Towers or other Non-Residential Structures, minimizing proliferation of new Towers, and (ii) in non-residential areas.
- e. Wireless Communication Buildings shall be no larger than 500 square feet and 12 feet high, shall be designed to match other buildings on the site, and shall be used only for the housing of telecommunications equipment related to the site.

8.1.5 Siting and Height Requirements.

- a. Setbacks.
 - 1. The minimum distance from the base of the Wireless Communication Structure to any property line or road right-of-way shall be at least 1.5 times the height of the Structure; provided, however, that the Planning Board may reduce that distance to no less than 1.0 times the height of the Structure should such a reduction better serve the purposes of this Section 8.1.
 - 2. Wireless Communication Buildings shall comply with the setback requirements otherwise applicable to buildings and other structures under these Zoning By-Laws.
 - 3. No Tower shall be situated within 600 feet of any residential structure; provided, however, that the Planning Board may reduce that distance to no less than 500 feet should such a reduction better serve the purposes of this Section 8.1.
- b. **Height Requirements.** The height of a Wireless Communication Structure shall be the minimum height necessary to accommodate anticipated and future use. No Tower shall exceed 105 feet in height; provided, however, that the Planning Board may increase that maximum if necessary to consolidate the siting of additional necessary Devices on an existing Structure, and if otherwise consistent with the other purposes of this Section 8.1.

8.1.6 Design Requirements.

- a. New Wireless Communication Structures shall be designed to allow the consolidation of the maximum number of necessary Devices consistent with the height restrictions set forth in section 8.1.5 (b) above.

- b. There shall be no signs or advertisements at the site of the Facility, except for "No Trespassing" signs and a mandatory sign providing the telephone number where the responsible party for the site may be reached on a 24-hour basis. All signs shall conform to the other requirements of this By-Law.
- c. All Wireless Communication Devices, Wireless Communication Structures, and Wireless Communication Buildings shall be colored, molded, and/or installed to blend into the landscape to the maximum extent feasible.
- d. Fencing may be required to control access to the Facility. Such fencing shall be compatible with the scenic character of the Town. Fencing shall be between six feet (6) and eight feet (8) high. Fencing may be protective in nature, but shall not include a spun barbed wire design. A landscape buffer of evergreen shrubs or tree planting shall be provided on the outside of the fenced area. The shrub or tree planting shall mature to a height equivalent to the fence height and be planted at a height of at least four feet (4).
- e. Night lighting of the Facility shall be prohibited unless required by the FAA. If required by the FAA, a copy of the FAA permit requiring lighting shall be submitted with the special permit application.
- f. There shall be a minimum of one parking space at each Facility to be used in connection with the maintenance of the site. Such space shall not be used for the storage of vehicles or other equipment for more than 24 hours.
- g. Existing on-site vegetation shall be preserved to the maximum extent possible.
- h. Wherever feasible, vegetative screening shall be used to screen the Facility from abutting residential properties and roadways.

8.1.7 Application Process. An application for a special permit for a Wireless Communication Facility shall be filed with the Planning Board in accordance with Section 10.3 as supplemented by this Section 8.1.7.

- a. To site a new wireless communication structure, the Applicant shall submit:
 - 1. Site plans and engineering plans, prepared by a professional

engineer licensed to practice in Massachusetts, on 24" x 36" sheets at a scale of 1" = 40' or 1" = 200' as appropriate, on as many sheets as necessary, which shall show the following:

- a. north arrow, date, scale, and seal(s) of the licensed professional(s) who prepared plans;
- b. name and address of landowner and name and address of all abutters;
- c. property lines and location of permanent structures or buildings within 800-foot radius of proposed Wireless Communication Structure;
- d. existing (from a topographical survey completed within 2 years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contour lines at a maximum of 2-foot intervals and spot elevations at base of all the proposed and existing structures;
- e. vegetation to be removed or altered;
- f. plans for drainage of surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;
- g. delineation of wetlands, if any;
- h. location of proposed Wireless Communication Structure and proposed Wireless Communication Devices;
- i. plans for anchoring and supporting the structure, including specifications of hardware and all other building materials;
- j. building plans for Wireless Communication Building or any other accessory buildings;
- k. layout and details of surfacing for access road and parking;
- l. plans for lighting, fencing, and landscaping;
- m. plans for a well or other water source, if any;

- n. plans for septic system, if any;
 - o. plans for maintenance of roads necessary to access and maintain the property.
- 2. A map showing the areas covered/served by the proposed wireless Communication Structure and proposed Wireless Communication Devices, and the interface with adjacent service areas.
 - 3. A locus map at a scale 1" = 1000' or larger if necessary, to show where in Town the proposed Structure is sited, which shall show streets, buildings, and landscape features.
 - 4. A description of the soil and surficial geology at the proposed site.
 - 5. A narrative report written by the carrier and licensed professional engineer which shall:
 - a. describe the justification for the proposed site;
 - b. describe the structure and the technical, economic, and other reasons for the Facility design, including, without limitation, the number, type and coverage of the proposed Wireless Communication Devices;
 - c. describe the capacity of the Structure, including the number and, type of additional Devices it could accommodate;
 - d. describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC and/or the Act;
 - e. describe the projected future needs of the carrier, and how the proposed Facility fits with future projections to serve the Town and adjacent towns;
 - f. describe leasing agreement should another carrier desire to co-locate; and
 - g. describe special design features to minimize the visual impact of the proposed Facility.

6. Proof of approval of all other necessary permits needed for construction and operation, other than the building permit.
 7. Written authorization or copy of contract from property owner of the proposed site.
- b. To site a wireless communication device on existing wireless communication structures, such as buildings, grain silos, steeples, water towers or other Non-Residential Structures, including co-location with another carrier, provided that the new use does not add more than five feet to the height of the Non-Residential Structure, the applicant shall submit:
1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts on 24" x 36" sheets at a scale of 1" = 40' or 1" = 200', as appropriate, on as many sheets as necessary, which shall show the following:
 - a. north arrow, date, scale, and the seal(s) of the licensed professionals who prepared the plans;
 - b. plans for supporting and attaching the Device, including specifications of hardware and all other building material;
 - c. building plans for accessory buildings, if any;
 - d. layout and details of surfacing for access road and parking, if it is to be altered from existing condition.
 2. A map showing the areas covered by proposed Device(s) and the interface with adjacent service areas.
 3. A locus map at a scale 1" = 1000' or larger if necessary, to show where in town the proposed device is sited, which shall show streets, buildings, and landscape features.
 4. A narrative report written by the carrier and licensed professional engineer which shall
 - a. include a copy of the contract between the Wireless Communication Structure/Non-Residential Structure, owner (whichever appropriate) and the Applicant;
 - b. demonstrate that the Wireless Communication Structure or

Non-Residential Structure to which the device will be mounted has the structural integrity to support such Device;

- c. describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC and/or the Act; and
 - d. describe the projected future needs of the carrier, and how the proposed facility fits with future projections.
 - 5. Proof of approval of all other necessary permits needed for construction and operation, other than the building permit.
- c. Balloon Tests.
- 1. With respect to an application for a special permit for a new Wireless Communication Structure, after the application is submitted, and not less than 14 days or more than 21 days before the public hearing, the applicant shall arrange (i) to fly a four-foot diameter balloon at the site of the proposed Wireless Communication Structure at the maximum height of the proposed installation; (ii) to photograph four view lines of the balloon in a one to three-mile radius of the site, beginning at true north and continuing clockwise at ninety-degree intervals, together with view lines from any historic, scenic, or other prominent areas of the Town as the Planning Board may determine, and (iii) then to superimpose a tower at the balloon height for visualization purposes. The date and location of the flight shall be advertised by the applicant at least 14 days, but not more than 21 days before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the town.
 - 2. With respect to an application for a special permit to site a Wireless Communication Device on an existing Wireless Communication Structure, if the proposed Device adds any additional height to the existing structure, the Planning Board may require a balloon test as described above in subparagraph 3(a).
- d. Inventory of Existing Sites. Each applicant shall provide an inventory of all known existing Facilities that are either within the jurisdiction of the governing authority or within five miles of the border thereof, including, to the extent known, specific information about the location, height and design of each such Facility. The Planning Board may share such

information with other applicants applying for administrative approvals or special permits under this By-Law; provided, however, that the Planning Board shall not, by sharing such information, be deemed in any way to be representing or warranting that such sites are available or suitable.

- e. **Multiple Copies of Application.** The above information shall be submitted along with the regular special permit application form to the following: 1 copy to the Building Inspector, 1 copy to the Fire Chief, 5 copies to the Planning Board, 3 copies to the Board of Selectmen, 1 copy to the Board of Assessors, 1 copy to the Conservation Commission and 1 copy to Town Counsel.
- f. **Third Party Review.** In certain instances, the Planning Board may determine that it requires expert third-party review of the technical data submitted by an applicant. The applicant shall pay the reasonable cost of such review as provided by Planning Board regulations promulgated in accordance with G.L. ch. 40A Section 9 and G.L. ch. 44 Section 53G.

8.1.8 Approval.

- a. Before granting a special permit for a Wireless Communication Facility, the Planning Board shall make the following findings:
 - 1. that the applicant has demonstrated that the requirements of this Section 8.1 have been met;
 - 2. that the size and height of the Structure is the minimum necessary;
 - 3. that the proposed Wireless Communication Facility will not have a significant adverse impact on historic structures or scenic views;
 - 4. that no feasible alternatives to the location of the proposed Facility exist that would minimize any adverse impact; and
 - 5. the applicant has exercised good faith in permitting future co-location of Facilities at the site.
- b. When considering an application for a Wireless Communication Facility, the Planning Board shall (i) place great emphasis on the proximity of the facility to residential dwellings, its impact on such residences and on scenic views, and (ii) encourage the use of existing structures.

- c. Any extension, construction or installation of new or replacement Towers or Devices shall require an amendment to the special permit, and applicant shall be required to follow the same procedure as that set forth for the siting a new Wireless Communication Device on an existing structure.

8.1.9 Conditions of Use.

- a. The applicant shall post an initial bond or other security to cover construction costs and an annual maintenance bond to cover maintenance for the access road, site and structure(s) and to cover the removal of the Facility in the event of non-operation in an amount determined by the Planning Board. An access road may include existing town roads not designed for heavy traffic.
- b. Regulatory Compliance: All towers, antennas and transmitters must meet or exceed current standards and regulations of the FAA, the FCC, the Environmental Protection Agency, the American National Standards Institute, the Institute of Electrical and Electronics Engineers, the National Council on Radiation Protection and Measurements, and any other agency of the government with the authority to regulate towers, antennas, and transmitters.
- c. Inspections shall be conducted at least every 24 months, or earlier if a more stringent compliance schedule is mandated by another regulatory agency, to assure continuing compliance.
 - 1. Towers shall be inspected at the special permit holder's expense by an expert structural engineer who is regularly involved in the maintenance, inspection and/or erection of communication towers. Such inspection shall demonstrate the structural integrity of the Tower and continuing compliance with current standards. At a minimum, such inspection shall be conducted in accordance with the tower inspection check list provided in the Electronics Industries Association (EIA) Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures", as may be amended or supplemented from time to time.
 - 2. Wireless Communication Devices shall be inspected, at the special permit holder's expense, by an expert engineer who is regularly involved in the maintenance and inspection of such Devices. An engineer's certification that levels of electromagnetic radiation (EMR) to be generated by the Facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the maximum permissible exposure (MPE) limits for

the electric and magnetic field strength and power flux density for transmitters and facilities within the guidelines established by the FCC and as required by Section 704 of the Telecommunications Act of 1996 and its amendments. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antennas.

3. The special permit holder shall file a copy of such inspection reports promptly with the Building Inspector and the Planning Board. The Planning Board may engage, at the special permit holder's expense, a licensed professional engineer to review any such report.
- d. If the FCC, the FAA or other agency regulations are changed, the owner or operator shall bring the Facility into compliance within six months or earlier if a more stringent compliance schedule is required under such regulation.
- e. Failure to comply with any regulations shall be grounds for removal of non-complying Structures, Buildings, and/or Devices at the special permit holder's expense.

8.1.10 Removal and Repair.

- a. An applicant must execute a covenant with the Planning Board agreeing (i) to provide notice of the cessation of operation of any Wireless Communication Facility and (ii) to remove within 90 days any such Facility that has not been in operation for a period of six (6) months, unless the reason for non-operation is the result of major damage. Should the facility not be removed within 90 days, the Town may remove said Facility at the special permit holder's expense.
- b. In the event of major damage to a Facility, repair must begin within 30 days of damage and be completed within a reasonable period of time. Major damage shall mean damage to the facility caused by no fault of the owner or operator.

SECTION 9: SPECIAL DISTRICTS

9.1 Flood Plain Overlay District.

9.1.1 Purpose. The purpose of the Flood Plain Overlay District is:

- a. to provide that lands in the Town subject to seasonal or periodic flooding shall not be used for residence or other purposes in such a manner as to

endanger the health, safety or welfare of the occupants thereof or of the public;

- b. to protect, preserve and maintain the water table within the Town so as to protect both surface and groundwater quality for public health, safety and welfare;
- c. To assure the continuation of the natural flow pattern of the water courses within the Town in order to provide adequate and safe floodwater storage capacity, to protect persons and property against the hazards of flood inundation.

9.1.2 Overlay District. The Flood Plain Overlay District (FPOD) shall be considered as an overlay district. The FPOD is identified on the map prepared by the U. S. Department of Housing and Urban Development, entitled, "Flood Insurance Rate Map for the Town of Alford, MA," effective December 1, 1977, which is hereby made a part of this By-Law and is on file in the Town Clerk's office.

9.1.3 Permitted Uses. A single family dwelling shall be permitted in the FPOD provided that such structure satisfies all of the requirements set forth in Section 9.1.6 (a) through (c).

9.1.4 Uses Available by Special Permit. All other uses allowed in the underlying district, including the erection of new structures or alteration or moving of existing structures; or dumping, filling, transfer, relocation or excavation of earth materials; or storage of materials or equipment shall be allowed only upon the issuance of a special permit by the Planning Board, subject to the conditions set forth herein.

9.1.5 Application. In any application for a building or a special permit in the FPOD, the applicant shall describe in detail the proposed use of the property and the work to be performed, and shall submit a plan showing:

- a. The location, boundaries and dimensions of the lot, and existing and proposed structures, watercourses and drainage easements, fill, means of access, and sewage disposal facilities;
- b. Mean sea level elevation, with two (2) foot or less contour separation, of the existing and proposed developed areas, access ways, outdoor storage areas, and proposed surface of cellar and first floors of structures;
- c. Engineering and hydrological data which may be required by the Building Inspector or the Planning Board for determination that the proposed use will not endanger health or safety of occupants or the

general public and is otherwise consistent with the general purposes set forth in Section 9.1.

9.1.6 Restrictions and Conditions. The Planning Board may grant a special permit with such conditions as it deems necessary in the interests of the public health, safety and welfare. The Planning Board shall impose, at a minimum, the following conditions in all special permits:

- a. The proposed construction, use or change of grade will not obstruct or divert the flood flow, reduce natural storage, or increase storm water runoff so that water levels on other land are substantially raised, or danger from flooding increased;
- b. Safe vehicular and pedestrian movement to, over and from the premises shall be provided in the event of flooding;
- c. The proposed methods of drainage and sewage disposal shall be approved by the Board of Health, and shall not cause pollution or otherwise endanger health in the event of flooding.

9.2 Stream and Pond Overlay District

9.2.1 Purpose. The purpose of the Stream and Pond Overlay District is to protect the Town's water bodies.

9.2.2 Overlay District. The Stream and Pond Overlay District (SPOD) is shown on the map entitled "Town of Alford 300 Foot Buffer Around Water Bodies" dated April 8, 2002, prepared for the Alford Planning Board by the Berkshire County Regional Planning Commission. The SPOD shall be construed as an overlay district. All uses in the underlying district shall remain in effect unless otherwise regulated herein.

9.2.3 Permitted Uses. A single family dwelling shall be permitted in the SPOD provided that such structure satisfies all of the requirements set forth in Section 9.2.6 (a) and (b).

9.2.4 Uses Available by Special Permit. All other uses allowed in the underlying district, and the following additional uses, shall be allowed only upon the issuance of a special permit by the Planning Board, subject to the conditions set forth herein.

- a. In the case of a lot duly recorded prior to the effective date of the original date of the By-Law, the Planning Board may, by special permit, authorize construction or installation of a disposal system within the SPOD but at a distance from the applicable water body, not below the

minimum set in the State Environment Code, Title 5, if the Board of Health advises that, because of the size or the shape of the lot, installation of such a disposal system outside the SPOD would cause undue hardship or practical difficulty and that the proposed disposal system would provide adequate protection to water quality in the aforementioned water bodies.

- b. An accessory structure, parking area for more than five cars or impervious surface recreational area greater than 300 square feet may be constructed within the SPOD upon the issuance of a special permit by the Planning Board, where the Board finds that due to length of undeveloped shoreline on the lot or topographic features, a smaller setback from applicable water bodies would provide adequate protection to the water quality in such water bodies.

9.2.5 Prohibited Uses. No on site subsurface sewage disposal system such as septic tank or leaching field, or a drainage system for water from showers, sinks, etc., shall be installed or constructed within the SPOD, except as may be authorized in Section 9.2.4(a).

9.2.6 Restrictions and Conditions. The Planning Board may grant a special permit with such conditions as it deems necessary in the interests of the public health, safety and welfare. The Planning Board shall impose, at a minimum, the following conditions in all special permits:

- a. To the extent feasible, the visibility of the proposed construction or use from the stream or pond shall be minimized through screening, planting, topography, or naturally occurring vegetative cover;
- b. The proposed methods of drainage and sewage disposal shall be approved by the Board of Health, and shall not cause pollution to the stream or pond or otherwise endanger public health.

SECTION 10: ADMINISTRATION AND ENFORCEMENT

10.1 Enforcement

10.1.1 Building Inspector. This By-Law shall be enforced by the Building Inspector appointed by the Board as provided in the State Building Code.

10.1.2 Compliance Required. No permit shall be issued by the Building Inspector unless the application for a permit indicates compliance with this By-Law and any other applicable Town By-Laws and regulations, the State Sanitary Code and the Board of Health Regulations, the Planning Board's Subdivision

Control Regulations, and the Wetlands' Protection Act, if applicable, and the Scenic Mountain Act, if applicable. No permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this By-Law.

10.1.3 Application. Before any use is permitted or sign erected, the applicant must file the proper application for approval by the Building Inspector, with approval by the Selectmen.

10.1.4 Construction and Use to be as Provided in Permits. Special permits or building permits issued on the basis of plans and applications approved by the Board of Selectmen, Planning Board or the Board of Appeals authorize only the use, arrangement and construction as set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this By-Law and punishable as provided herein.

10.1.5 Applicable Law. Construction or operation under a building or special permit shall conform to any subsequent amendment of this By-Law unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

10.1.6 Enforcement Requests. If the Building Inspector is requested in writing to enforce this By-Law against any person allegedly in violation of it and the Building Inspector 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.

10.1.7 Violation. Whoever shall violate any provision of this By-Law or fails to comply with any of its requirements shall upon conviction thereof be fined not more than three hundred dollars for each offense. Each day such violation continues shall constitute a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as it deems necessary to prevent or remedy any violation.

10.2 Board of Appeals

10.2.1 Membership. There shall be a Zoning Board of Appeals consisting of three (3) members and two (2) alternates to be appointed by the Board of Selectmen as provided in G.L. c. 40A, s. 12. The Board shall act within its statutory powers as provided in G.L. c. 40A, s. 14 and on matters within its jurisdiction under this By-Law. The Zoning Board of Appeals referred to herein as the

“Board of Appeals”, shall serve also as the Board of Appeals under the Subdivision Control Law as provided in G.L. c. 41, § 81Z.

10.2.2 Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board’s powers are as follows:

- a. To hear and decide applications for special permits in accordance with the provisions of Section 10.3, or as otherwise specified herein.
- b. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances.
- c. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, §§ 7, 8 and 15.
- d. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, §§ 20-23.

10.2.3 Procedures. Applications shall be filed in accordance with the rules and regulations of the Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Board of Appeals.

10.2.4 Conditions. Special permits and variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit or permit granting authority may deem necessary to serve the purposes of this By-Law.

10.2.5 Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

10.2.6 Fees; Technical Review. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits. The Board of Appeals may engage, at the applicant’s expense, professionals to assist the Board of Appeals in the technical review of the project. Such technical reviewers may include, but are not limited to, attorneys, civil engineers, landscape architects, architects, and wetlands scientists.

10.3 Special Permits

- 10.3.1 Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- 10.3.2 Criteria.** Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the proposed use or structure(s) shall not cause substantial detriment to the neighborhood or the Town, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, such determination shall include consideration of each of the following:
- a. Social, economic, or community needs which are served by the proposal;
 - b. Traffic flow and safety, including parking and loading;
 - c. Adequacy of utilities and other public services;
 - d. Neighborhood character and social structures;
 - e. Impacts on the natural environment; and
 - f. Potential fiscal impact, including impact on Town services, tax base, and employment.
- 10.3.3 Procedures.** Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.
- 10.3.4 Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this By-Law.
- 10.3.5 Plans.** An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 10.4.5 herein.
- 10.3.6 Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 12 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.
- 10.3.7 Regulations.** The special permit granting authority may adopt rules and

regulations for the administration of this section.

10.3.8 Fees; Technical Review. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits. The special permit granting authority may engage, at the applicant's expense, professionals to assist the Board in the technical review of the project. Such technical reviewers may include, but are not limited to, attorneys, civil engineers, landscape architects, architects, and wetlands scientists.

10.4 Site Plan Review in Overlay Districts and for Certain Single or Two Family Dwellings.

10.4.1 Applicability. The following types of activities and uses require site plan review by the Planning Board:

- a. Any alteration within a Stream or Pond Overlay District.
- b. Any alteration within the Flood Plain Overlay District; or
- c. Any single or two-family structure with a gross floor area of more than 4,000 square feet regardless of location.

10.4.2 Procedures. Applicants shall submit five (5) copies of the site plan to the Planning Board for review. Within 60 days of the date of the application, the Planning Board shall review the site plan and file a written decision with the Town Clerk. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

10.4.3 Constructive Approval. Where sixty days lapse without action by the Planning Board, the site plan shall be deemed constructively approved.

10.4.4 Pre-Application Meeting. Applicants are invited to submit a pre-application sketch of the proposed alteration or project to the Planning Board and to discuss the matter at a regular meeting of the Planning Board.

10.4.5 Preparation of Plans; Contents. Site plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'. The contents of the site plan shall be the following:

- a. Locus plan showing the entire alteration or project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.
- b. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, and proposed open space areas.
- c. Topographical and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals, the location of wetland and floodplain areas, and proposed stormwater management plans, if applicable.
- d. Architectural elevations of all proposed buildings.
- e. Landscaping plan, showing the limits of work, existing tree lines, and proposed landscaping features or improvements such as screening with size and type of stock for each shrub or tree.

10.4.6 Waiver of Submittal Requirements. The Planning Board may, upon written request of the applicant, waive any of the submittal requirements of this Section where the project involves relatively simple development plans.

10.4.7 Technical Review. The Planning Board may engage, at the applicant's expense, professionals to assist the Board in the technical review of the project. Such technical reviewers may include, but are not limited to, attorneys, civil engineers, landscape architects, architects, and wetlands scientists.

10.4.8 Approval. Site Plan approval may be granted, with or without conditions; upon determination by the Planning Board that the plan meets the following objectives:

- a. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, and soil erosion.
- b. Minimize visual intrusion or disruption of the overlay district by controlling the visibility of structures and other improvements from publicly accessible locations including public roads, nearby residentially used or zoned properties, and water bodies.

- c. Minimize lighting intrusion on nearby properties or the night sky;
- d. Minimize or mitigate for unreasonable departure from the character, materials, and scale of buildings in the vicinity.

10.4.9 Deviation. No deviation from an approved site plan shall be permitted without modification thereof by the Planning Board.

10.4.10 Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

10.4.11 Regulations; Fees. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

10.4.12 Appeal. Any decision of the Planning Board pursuant to this Section 10.4 shall be appealed in accordance with the provisions of G.L. c. 40A, § 17 to a court of competent jurisdiction.

**Town of Alford
Principal Use Regulations**

Principal Use	Use Permitted?
1. Single-family dwelling	Yes
2. Two-family dwelling, provided the minimum lot area shall be four (4) acres and the minimum frontage shall be five hundred (500) feet.	PB
3. Municipal or governmental use including parks, playground or other recreational facilities owned or operated by Town agency.	BOS
4. Religious or educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by religious sect or denomination, or by a non-profit educational corporation.	Yes
5. Private non-profit library or museum.	BOS
6. Public utilities such as telephone exchange, natural gas or electric power facility, pumping station or bus station.	BOS
7. The use of land or structures for the primary purpose of agriculture, horticulture or floriculture, provided that: (a) any structures used as shelters for livestock or poultry meet at least minimum setback and side line requirements from any lot boundary, and (b) all grounds used for pasturing or other purposes involving unrestrained animals are properly fenced.	Yes
8. Any building or structure with space used for selling or display of agricultural products, provided that such building or structure shall meet minimum setback and side line requirements, no exterior illumination other than security lighting shall be employed on their site, no truck or trailer or other vehicle being used as a display stand or sales location shall be placed so as to be visible from a public way or any neighboring premises, and all signs on the premises applied to or affixed to a building or structure or which are visible from a public way or any neighboring premises, must conform with the sign regulations of Section 7.1 of this By-law	PB
9. Golf, swimming, tennis or sportsmen's club, or riding stable, or other recreational facility of similar character.	PB
10. Boarding stable, landscape gardening, nursery or commercial greenhouse.	PB
11. Conversion of a dwelling existing prior to the effective date of the original date of the By-Law into a guest house provided the Planning Board finds that the lot area is adequate for the proposed use, and the buildings, structures, off-street parking, and other facilities and equipment are so designed and located as not to be detrimental to the neighborhood.	PB
12. Private club, as defined in this Bylaw.	PB

13.	Any light commercial use in harmony with the purpose and intent of this Bylaw, and not involving undue traffic, noise, or other feature detrimental to the neighborhood or Town, with the exception of the following uses which are specifically excluded: (a) Used-car lot, or other automobile sales establishment where vehicles for sale are stored outdoors, junkyard, scrapyard, contractor's yard, automobile body shop, commercial blasting or quarrying, piggery, fur farm, slaughterhouse, meat processing plant, selling or servicing or display of trailers or mobile homes, trailer or mobile-home park, penal institution, commercial gambling establishments, hospital, nursing home, multi-family dwelling, commercial dog kennel, billboard, and (b) Use of a mobile home or trailer permanently for residential or business purposes, whether or not placed on or affixed to a foundation, and (c) Dump or other area for the disposal of rubbish except as on officially designated area for such purposes by the Town.	PB No No No
14.	Mobile homes or trailers may be used as temporary dwellings with a special permit from the Selectmen after approval by the Board of Health. The term of such permit shall not exceed one (1) year.	BOS

**Town of Alford
Accessory Use Regulations**

Accessory Use	Use Permitted?
1. Occupation, profession, practices, craft or art engaged in within a dwelling or in an accessory building by a resident of the premises, as a use accessory thereto, involving no on-premises sale of goods or services, or public exhibits or displays, and employing not more than two (2) persons outside the household, and provided there is no external evidence of the conduct of such occupation, profession, craft or art.	Yes
2. The use of a room or rooms in a dwelling by resident-owner thereof for business or profession involving provision of services or sale of products, articles, or goods made on the premises, and employing not more than one person outside of the household, provided there is no external evidence of the conduct of such business or occupation except permitted signs under Section 7.1 of this Bylaw.	PB
3. Use of premises by a resident carpenter, electrician, painter, plumber or other artisan, for incidental work in connection with his off-premises occupation, provided that no manufacturing or business requiring substantially continuous employment may be carried on, and that storage of materials, commercial vehicles or equipment shall be within the principal or an accessory building or on the rear portion of the lot and properly screened from view from the street and adjoining properties.	Yes
4. Rental of not more than three (3) rooms, with or without meals in a dwelling by a resident-owner family, provided that no separate kitchen facilities are maintained.	Yes
5. The display and sale by residents of the premises at a roadside stand of natural products of which the major portion is produced on the premises, provided that: <ul style="list-style-type: none"> (a) Any such display or stand be set back at least twenty (20) feet from the street line and meet minimum sideline requirements, and (b) There be no illumination of any kind at or for such display or stand after dark, and (c) Any such display and any operation of such stand be confined to the growing and harvesting seasons applicable to the products produced on the premises. 	Yes
6. Greenhouse, tennis court, swimming pool or any such other accessory facility not for commercial purposes.	Yes

7.	<p>The extraction of earth materials including stripping of topsoil, only when incidental to, or required in connection with, any of the following operations, provided that no loam or topsoil shall be removed from the Town unless a special permit is issued by the Zoning Board of Appeals:</p> <p>(a) The erection of a building or structure on the lot for which a building permit has been issued; or the construction of a private access road or driveway for which a permit has been issued;</p> <p>(b) Any accessory use incidental to a permitted use, including cultivation, planting, or drainage of land, or landscaping;</p> <p>(c) The construction of a private road in a subdivision approved under the Subdivision Control Law;</p> <p>(d) Municipal or governmental construction or operation.</p>	PB
8.	An accessory use to a use by-right, whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production.	BOS
9.	(a) An accessory building or structure customarily incidental and subordinate to any lawful principal use, on the same lot with the building to which it is accessory, provided that any such accessory building or structure does not exceed 20 feet in height or 600 square feet of gross floor area.	Yes
9.	(b) An accessory structure as set forth above in 9 (a), greater than 20 feet in height or 600 square feet of gross floor area.	BOS
10.	One or more wind-energy conversion systems, or windmills per lot provided that the special permit incorporates:	BOS
	(a) Limitations on height, noise, and	
	(b) Minimum setbacks from the street line and other boundary lines, which setbacks may exceed but not be less than those specified in Section 6.6 of this Bylaw, Table of Dimensional Requirements, and	
	(c) Any safety provisions deemed to be necessary, and	
	(d) A requirement for removal of the system or structure after a specified period on non-use.	

<p>11. Accessory apartment, provided that:</p>	<p>(a) The size and scale of the building are appropriate to the neighborhood of predominantly one-family dwellings; its overall form, siting, driveway and landscaping give the building the appearance of a single family house; its second entry is to the side or rear of the building to avoid the appearance of a two-family dwelling;</p> <p>(b) Traffic and parking are provided adequate to support the proposed use (minimum off-street parking shall be adequate for four automobiles);</p> <p>(c) Adequate visual screening and protection of adjacent properties from light, noise and traffic are provided;</p> <p>(d) The overall building, landscaping, lighting and paving will not be substantially more detrimental to the neighborhood than would a one-family dwelling;</p> <p>(e) The owner occupies one of the dwelling units;</p> <p>(f) The Health Department certifies that the means of water and supply and sanitary disposal are adequate to support both dwelling units; and</p> <p>(g) The applicant meets all other conditions specified by the SPGA.</p>	<p>PB</p>
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Table of Dimensional Requirements

Minimum Lot		Minimum Yards & Setbacks ^b			Maximum Height (Feet) Building/Structure ^c
Area (Acres)	Frontage & Width (Feet)	Dimensions (Feet)			
		Front ^a	Side	Rear	
2	250	65	25	25	35

(See Section 6.6.1 for notes a-c references)

(See Section 6.6.1 for notes a-c references)