ZONING BYLAWS - LAND USE PERFORMANCE STANDARDS

For the Town of

CHARLEMONT, MASSACHUSETTS

AMENDMENTS AND APPROVALS

- As voted September 28, **1981**, Town Meeting and approved by the Attorney General on January 6, 1982,
- and amended at the May 6, **1985,** Town Meeting and approved by the Attorney General on June 6, 1985,
- and amended at the May 1, **1995**, Town Meeting and approved by the Attorney General on September 5, 1995,
- and amended at the October 19, **1999**, Town Meeting and approved by the Attorney General on February 28, 2000,
- and amended at the May 26, **2009**, Annual Town meeting and approved by the Attorney General on February 17, 2010,
- and amended at the May 24, **2011**, Annual Town Meeting and approved by the Attorney General on July 24, 2011,
- and amended at the May 2, **2013**, Annual Town Meeting and approved by the Attorney General on September 13, 2013,
- and amended at the May 27, **2014**, Annual Town Meeting and approved by the Attorney General on September 4, 2014 and December 17, 2014,
- and amended at the May 24, **2016**, Town Meeting and approved by the Attorney General on September 8, 2016,
- and amended at the May 22, **2018**, Town Meeting and approved by the Attorney General on September 28, 2018,
- and amended at the October 22, **2019**, Special Town Meeting and approved by the Attorney General on February 10, 2020.
- and amended at the October 18, **2022**, Special Town Meeting and at the May 23, **2023**, Annual Town Meeting and approved by the Attorney General on February 22, 2023, and December 4, 2023.
- and amended at the May 28, **2024**, Annual Town Meeting approved by the Attorney General on October 21, 2024
- and amended at the May 26, **2026**, Town Meeting and approved by the Attorney General on September 4, 2026,

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ARTICLE I - PURPOSE

The purpose of this by-law is to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, drainage, schools, parks, open space and other requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of light and pollution of the environment; to regulate land uses that have an impact on the Town's natural, fiscal, and physical capacities; to maintain the scenic value of the Mohawk Trail as an attraction to recreation and tourist activities; and to preserve and increase amenities by the promulgation of regulations to fulfill said purposes, in accordance with the provisions of Chapter 40A, G.L., and Article 89 of the Amendments to the Constitution.

ARTICLE II - ADMINISTRATION

Section 21 Enforcement

21.1 Land Use Review

The Building Inspector shall administer and enforce the Land Use By-law. Buildings or Structures may be constructed, altered or changed in use only upon certification by the Building Inspector that such action is in compliance with the then applicable By-law and that all necessary permits have been received from those agencies from which approval is required by Local, State and Federal law.

Issuance of a Building permit or Certificate of Use and occupancy, where required under the State Building Code, and a Special Permit if required by this By-law, shall serve as such certification. Applications for such certification shall be made to the Building Inspector who shall determine whether the proposal is eligible to proceed, requires a Special Permit, or is not in compliance with the By-law.

Certain minor activities which do not require a permit under the State Building Code and are not regulated elsewhere in this By-law do not require certification under Section 21.l.

21.2 Penalty

Any person violating any of the provisions of this By-law may be fined. Each day on which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this by-law shall be $100.00 (or warning) for the first offense, $300.00 for the second offense and $300.00 for the third and each subsequent offense. Such penalty may be imposed by the Building Inspector in their capacity as the Zoning Enforcement Officer.

Section 22 Board of Appeals

There is hereby established a Board of Appeals of three members and two associate members, to be appointed by the Select Board, which Board of Appeals shall act on all matters within its jurisdiction under this By-law and chapter 40A of the General Laws in the manner prescribed by the said law and by this By-law.

Section 23 Special Permits

23.1 Special Permit Granting Authority (SPGA)

Special permits shall be granted by the Planning Board only for proposals in compliance with the provisions of this Bylaw, and of M.G.L.

Chapter 40A, and upon written determination by the Planning Board that the proposal will not have adverse effects which overbalance its beneficial effects on the town, as measured by the purposes of the Bylaw. In acting on Special Permits the Planning Board shall consider the Special Permit Criteria listed in Section 23.9.

23.2 Procedures

The Planning Board encourages applicants to appear before the Board for a pre-submission meeting to discuss the project and to establish possible waivers to the submission requirements based on the scale and simplicity of the specific proposal. Special Permits shall be granted, denied, or issued with conditions by the Planning Board according to the provisions of Chapter 40A of the Massachusetts General Laws. An applicant for a Special Permit shall file a completed application with the Planning Board Clerk and the Town Clerk. The Town Clerk shall acknowledge receipt of the application by signing and dating the application. The application submitted to the Planning Board Clerk shall include 3 (three) copies each of the Special Permit application.

23.3 Permit Lapse and Permit Renewal

A. Permit Lapse: A Special Permit shall lapse 24 months after the date of granting of the permit if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun sooner except for good cause. The 24-month period shall be extended by the time required to pursue and await the determination of an appeal (referred to in Section 17 of Chapter 40A, M.G.L.).

B. Permit Renewal: A Special Permit may be renewed, if renewal is required by these Zoning Bylaws or by the conditions of the Special Permit, after a Public Hearing. The Planning Board shall review the

application for renewal and will: 1) assess whether the applicant is in compliance with the conditions of the Special Permit; and 2) consider objections to the renewal of the Special Permit. The SPGA in its sole discretion may approve the renewal of the Special Permit with existing conditions, may renew the Special Permit with additional or modified conditions, or may deny the renewal of the Special Permit.

23.4 SPGA Rules and Regulations

Pursuant to Section 9 of Chapter 40A of the Massachusetts General Laws, the Planning Board may adopt its own rules relative to the issuance of Special Permits. The Planning Board's rules and regulations may relate to the size, form, content and style of the plans, fees, and procedures for submission and approval of such Special Permits, shall not be inconsistent with the General Laws and provisions of this Bylaw, and shall be adopted following due public process. The Planning Board 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.

23.5 Application Fee

A fee shall be collected by the Town Clerk at the time that an application for a Special Permit is submitted. Said fee shall reflect the cost of printing, advertising, and mailing for the permitting process. Any additional reasonable expenses in excess of the filing fee, such as fees for outside consultants engaged by the Planning Board pursuant to Section 23.7 below shall be assessed to the applicant and must be promptly paid in order for the application to be heard and decided by the Special Permit Granting Authority. The Planning Board shall notify the applicant if additional expenses are expected to be assessed and the estimated cost of such expenses.

23.6 Waivers

Upon written request from the applicant prior to or as part of the filing of an application, the Planning Board may waive the submission of such materials, plans, studies, and analyses or parts thereof, as may not be needed for, or relevant to, consideration of the application, if the potential impact of the development is minimal in the opinion of the Planning Board. Such waiver shall be discussed and decided at a posted Planning Board meeting to allow for public input.

23.7 Review Process

The Planning Board will review the Special Permit application, giving consideration to the factors outlined in Section 23.9 Special Permit Criteria as they affect the Town and the neighborhood adjacent to and surrounding the site. It may require the applicant to provide additional information as necessary to complete its review. After notification of the applicant, the Board may retain outside consultants, such as registered engineers, planners, designers, legal counsel, or other professionals, at the applicant's expense, to review the application and advise the Board regarding any or all aspects of the application. It may

make recommendations for modifications to the project, subdivision proposal, or development as is appropriate to protect the Town. The Special Permit process will be conducted in accordance with the Rules and Regulations adopted by the Planning Board that are on file with the Town Clerk.

23.8 Public Hearing

The Planning Board shall hold a public hearing under this section within 65 days after the filing of an application, in conformity with the provisions of M.G.L. Ch. 40A Section 9. The board shall make a decision on the application, and shall file a written record of the decision with the Town Clerk, all within 90 days following the closing of the public hearing. The Board 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.

23.9 Special Permit Criteria

In acting upon Special Permits, the Planning Board shall consider the following criteria:

A. The degree to which the activity, site plan, and building design are consistent with economic development activities, including tourism, as identified in the Master Plan.
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.
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 on all roads in town, particularly at intersections with the Mohawk Trail.
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, housing, and fiscal consequences to the Town.
J. Impact on agricultural or forestry operations or the productivity of the land for those uses.
K. Capability of the Town or other public or private entities to provide water supplies, sewage treatment and storm water management.

L. Other impacts on the Town including support of local products and businesses, protection of open space, provisions of recreational opportunities for Town residents and energy conservation.

23.10 Conformance

When subsequent amendments to the Bylaw are adopted, operations or construction under a Special Permit shall conform to the Amendments unless substantial use or construction is commenced within six (6) months after issuance of the permit.

23.11 Amendment

The terms and conditions of any Special Permit approval may be amended in the same manner as required for the issuance of the original approval. Any enlargement, alteration, or construction of any additional structures not previously approved shall require an amendment.

Section 24 Validity

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

Section 25 Applicability

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 bylaw shall control.

Section 26 Amendments

These By-laws may be amended from time to time in the manner described in Chapter 40A, M.G.L.

Section 27 Associate Member to the Planning Board

The first person serving as an associate member to the Charlemont Planning Board shall be appointed to serve until the next Town election pursuant to Massachusetts General Laws chapter 41, Section 11. Thereafter, the associate member shall be elected to serve for a term of three (3) years.

The chairperson of the Charlemont Planning Board may designate the associate member to sit on the Board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

Section 28 Site Plan Review

28.1 Purpose

Site Plan Review enables the Planning Board to review certain uses allowed by right and to set reasonable conditions to ensure that a development protects the character of the Town, its scenic qualities and the environment; that it is designed in a manner that complies with these Land Use Performance Standards and is consistent with the goals of the Master Plan. To that purpose, Site Plan Review establishes criteria for the layout, scale, appearance, safety and environmental impacts of a development.

28.2 Applicability

Site Plan Review shall be required for any use listed in the Use Table, Article III, Section 32.2 as requiring Site Plan Review (SPR). Municipal, institutional, commercial, industrial, or multi-family structures in the Village Center District and the Solar Overlay District shall be subject to SPR if they meet or exceed the thresholds as specified below. (Proposals not meeting these thresholds are exempt from SPR).

A. Construction, exterior alteration or exterior expansion of a single building or group of buildings under one ownership on the same lot or contiguous lots which result in an increase in gross floor area of either five hundred (500) square feet or ten (10) percent of the existing gross floor area, whichever is less;
B. Construction, alteration or expansion of a parking, loading or vehicular access area which results in a cumulative total of ten (10) or more parking spaces or two thousand (2,000) square feet; and
C. Change in use in part or all of an existing building or lot from one category to another; and
D. Construction, alteration or expansion of a Small-Scale Industrial Solar Energy Generating Facility in the Solar Overlay District.

28.3 Procedures

The Planning Board encourages applicants to appear before the Board for a pre-submission meeting to discuss the project and to establish possible waivers to the submission requirements based on the scale and simplicity of the specific proposal. An applicant for Site Plan Review shall file a completed application first with the Town Clerk and then with the Secretary to the Boards. The Town Clerk shall acknowledge receipt by signing and dating the application. The application submitted to the Planning Board secretary shall include 3 (three) copies and shall include a copy of the Town Clerk's acknowledgment of receipt and the receipt for payment of the requisite fee. Submission shall be complete upon receipt by both the Planning Board secretary and the Town Clerk of a completed application and payment of the requisite fee. No building permit, special permit, or variance shall be issued for a use requiring Site Plan Review without the written approval of the site plan by the Planning Board, or unless

forty-five (45) days lapse from the date of the submittal of the site plan without action by the Planning Board. Where a site plan accompanies a special permit or variance application and the Planning Board approves a site plan "with conditions," the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance. The application must be signed by all the owners of the subject property.

28.4 Rules and Regulations

The Planning Board may adopt rules relative to Site Plan Review of the type and in the manner set forth Article II, Section 23.4 of these Bylaws. The Planning Board 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. The Planning Board shall also create an application package containing an information sheet spelling out the application fee, the information required to be included on the site plan, a SPR application form, and a procedural flow chart.

28.5 Fees

The Secretary to the Boards shall collect an application fee at the time that an application for Site Plan Review is submitted. Additional reasonable fees and expenses, including fees for outside consultants engaged by the Planning Board in the manner set forth in Article II, Section 23.7 of these Bylaws, may be assessed to the applicant as specified in Article II, Section 23.5 of these Bylaws.

28.6 Public Hearing

The Planning Board shall hold a public hearing within thirty (30) days after the filing of an application and shall take final action on an application for site plan approval within forty five (45) days of the close of the public hearing, unless an extension of time has been agreed to in writing by both parties. Notice and posting of the public hearing shall comply with the provisions of G.L. Chapter 40A, Section 11 except that such notice shall require only one publication of a Legal Notice in a newspaper in general circulation in Charlemont, and all required notices and posting shall be completed no later than ten (10) calendar days prior to the public hearing. To the extent permitted by law, the public hearing should be coordinated with any other Planning Board public hearing required for the use.

28.7 Required Contents of a Site Plan

The Site Plan submission shall contain information necessary to enable the Planning Board to conduct an informed review. The Planning Board may waive any of the requirements for site plan submittal and approval if the simplicity or scale of the project warrants such action. All site plans shall be prepared by a registered architect, land surveyor, landscape architect or professional engineer and shall be on standard

sheets of 24 inches by 36 inches and prepared at a scale of 1”=40 feet or finer. The site plan shall contain the following:

A. Name of project, boundaries, locus map(s), date, north arrow and scale of plan;
B. Name(s) and addressee(s) of the owner(s) of the land, the developer (if applicable), and/or their designee;
C. Name, title, and address of person(s) who prepared the plan;
D. Names and addresses of owners of abutting lots and those within 300 ft of property line;
E. All existing and proposed lot lines, easements and rights of way;
F. Location and use of buildings and structures within 300 feet of the site;
G. Location and use of all existing and proposed buildings and structures on the site, including approximate height and floor area, with proposed building elevations as renderings;
H. Location of wetlands, streams, drainage swales, areas subject to flooding and unique natural features on site and within 300 feet of the property line;
I. The location and a description of all proposed storm drainage systems, utilities, snow disposal areas, and refuse- and other waste-disposal methods;
J. Water provision, including fire protection measures;
K. Location of proposed sewer hook-up and evidence of sufficient capacity to serve the proposed use, or alternative septic plan;
L. Existing and proposed topography at a two-foot contour interval for the proposed grading and landscape plan;
M. Location of proposed public and private ways on the site;
N. Location and size of proposed parking and loading areas, driveways, walkways, access and egress points;
O. Size and location of existing and proposed sign(s);
P. Existing and proposed exterior lighting, utilizing full-cutoff down lighting fixtures, where feasible, to minimize lighting intrusion onto abutting properties;
Q. Surface drainage strategy that prevents increased drainage off-site or pollution; the Board will prefer measures that allow the roof run-off to permeate into the ground with pervious pavement.
R. Existing vegetation that will be left undisturbed and proposed landscape features, including the location and a description of screening, fencing and plantings;
S. Design features which will integrate the proposed development into the existing landscape, maintain neighborhood character, and screen objectionable features from neighbors and roadways;
T. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; provisions to protect against the discharge of hazardous materials or wastes to the environment, including spill containment and cleanup procedures; and provisions for indoor, secured storage of hazardous materials and wastes;

U. Estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians, showing adequate access to and from the site and adequate circulation within the site.
V. Adequate access to each structure for fire, service and other emergency equipment.

28.8 Decision

The decision of the Planning Board shall be upon a majority vote of the members present and shall be in writing. The Planning Board's action shall consist of either:

A. Approval of the site plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in these Land Use Performance Standards and the Charlemont Master Plan;
B. Approval of the site plan subject to conditions, modifications, requirements or restrictions as the Planning Board may deem necessary to ensure compliance with the Land Use Performance Standards; or
C. Denial of the site plan based upon specific findings that: (i) the applicant failed to provide information required by these Land Use Performance Standards necessary to adequately review the application; or (ii) that the project is inconsistent with the requirements of these Land Use Performance Standards and no conditions, modifications, requirements, or restrictions can be imposed pursuant to Section 28.8(b) above that would ensure compliance with these Land Use Performance Standards.

28.9 Administration

The Planning Board may waive any of the requirements for site plan submittal and approval at a posted meeting if the simplicity or scale of the project warrants such action. The Planning Board may also request any additional information it should need to render a decision. For large or complex projects, the Planning Board shall have the right to retain outside consultants, such as registered engineers, planners, designers, legal counsel, or other professionals, to advise the Board regarding any or all aspects of the site plan. The applicant shall be responsible for the costs of such advice. Site Plan approval shall lapse within two years unless substantial use has commenced, which shall include, where a building permit is required, issuance of that permit and commencement of construction thereunder; however, such time period may be extended if necessary to pursue or wait for a determination of an appeal in accordance with M.G.L. Chapter 40A, Section 17.

28.10 Standards for Review

The following criteria and guidelines shall be used by the Planning Board in evaluating the Site Plan and all information submitted as part of the application:

A. The site plan conforms to all appropriate provision of the Land Use Performance Standards.
B. The site plan minimizes traffic and safety impacts of the proposed development on the zoning district and the surrounding neighborhood.
C. The architectural design, lighting, layout and landscaping of the proposed development is in harmony with the historic character of the Village Center District and the rural nature of the Solar Overlay District when located therein, and otherwise with the use, scale and proportions of existing and proposed building in the vicinity.
D. The site plan shows adequate measures to prevent pollution of the air and of surface or groundwater to minimize erosion, flooding and sedimentation; and to prevent increased drainage of stormwater off-site.
E. The proposed development, to the extent feasible:
    - minimizes obstruction of scenic views;
    - preserves unique natural or historical features;
    - minimizes removal of trees, vegetation, and soil and grade changes; and
    - screens objectionable features from neighboring properties and roadways through trees, shrubs and other landscaping features to constitute a visual buffer as well as a buffer for noise, light and odor.

28.11 Appeal Process

An appeal of a Site Plan Review Decision by the Planning Board shall be filed in a court of competent jurisdiction in accordance with M.G.L. Chapter 40A, Section 17.

ARTICLE III - GENERAL REGULATIONS

The following regulations shall apply throughout the Town of Charlemont and to all land uses, unless otherwise specified herein.

Section 31 Pre-existing Uses, Structures and Lots

31.1 Continuation and Restoration

Any use of structure, whether conforming to this Bylaw or not, may be continued if that use of structure was lawfully existing at the time that it became nonconforming, and may be restored if destroyed by fire or other accidental or natural cause, but if discontinued for more than 24 months or abandoned, subsequent use shall comply with this By-Law.

31.2 Nonconforming Uses

Any use or structure not conforming with the By-law may be continued if the use or structure was lawfully existing at the time it became nonconforming, subject to the following:

As provided in MGLA Ch. 40A, s6, a nonconforming single or two family dwelling may be altered or extended provided that doing so does not increase the nonconforming nature of said structure. Additions and accessory buildings which are associated with existing residences that are nonconforming by reason or being closer to lot boundaries than is permitted by these by-laws may be built as close, but not closer, to the lot boundaries than the existing residence. Other nonconforming structures or nonconforming uses of structures or land may be extended or changed to another nonconforming use only if granted a Special permit by the Planning Board, upon the Board's determination that the extension or change of use will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

31.3 Nonconforming Lots

Requirements for lot size, frontage, and front, side, and rear yards shall not apply to a lot for single-family or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with other adjoining land, conformed to the then existing requirements, and had less than the requirements of this By-law but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.

31.4 Conformance

Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-law unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

Section 32 Use Regulations and Zoning Districts

32.1 General Use Regulations and Establishment of Districts

No building or structure shall be constructed, and no building, structure or land, or plan thereof shall be used for any purpose or in any manner other than for one or more uses hereinafter set forth as permissible.

A. **Establishment of Districts**: For the purposes of this Bylaw, the Town of Charlemont is hereby divided into the following districts.
    1. Village Center District (VC)

2. Rural Residential District (RR
3. Rural Residential/Marijuana Retail District (RR/MRD)
4. Floodplain Overlay District as shown on the official National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM) for the Town of Charlemont dated July 2, 1980. (See Article IV, Section 45).
5. Solar Overlay District (SOD)
6. Rural Residential/Route 2 District (RR/R2D)

B. **Location of Districts**: The boundaries of each of the said districts are hereby established as shown, defined and bounded on a map entitled "Town of Charlemont Official Zoning Map" dated October 22, 2019. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this Bylaw.

C. **Purpose of Districts**:
1. The purpose of the Village Center District is to maintain the character of the historic village center as a mix of residential and commercial uses at greater density.
2. The purpose of the Rural Residential District is to maintain the town's historic pattern of rural settlement at lower density characterized by a scattering of residences and few small businesses throughout expanses of fields, forests, hillsides, and scenic views.
3. The purpose of the Rural Residential/Marijuana Retail District is to accommodate commercial marijuana establishments, including retail, in two sections of the Mohawk Trail corridor that are already commercially developed.
4. The purpose of the Rural Residential/Route 2 District is to protect the most scenic areas of the Mohawk Trail from indoor marijuana cultivation and light industrial marijuana establishments.

32.2 Use Regulations

The following Use Table lists land uses and their permit or review requirements. When an activity might be classified under more than one of the following uses, the more specific classification shall govern. Any use that is customarily accessory and incidental to a permitted principal use is allowed as an accessory use. No building or structure shall be erected or land used in the Village Center except as permitted in this section and all other sections of these Land Use Performance Standards. All other uses not specifically listed below shall be permitted only with a Special Permit from the Planning Board.

32.3 Use Tables

Symbols employed in the following Use Table shall have the following meanings:

- **Y**: Yes, the use is permitted by right in that District
- **N**: No, the use is not permitted in that District
- **SP**: The use may be permitted by a Special Permit granted by the Planning Board (See Section 23.9)
- **SPR**: The use is permitted by right with Site Plan Review by the Planning Board (See Section 28).

Residential Uses	**VILLAGE CENTER DISTRICT**	**RURAL RESIDENTIAL DISTRICT**	**RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT**	**RURAL RESIDENTIAL / ROUTE 2 DISTRICT**
	VC	**RR**	**RR/MRD**	**RR/R2D[1]**
Single and Two-Family Dwellings	Y	Y	Y	Y
Mobile Home	SP	SP	SP	SP
Mobile Home Parks	N	SP	SP	SP
Travel Trailer, Camping Trailer, Park Model Trailer or Motor Home (see section 47 for use standards) **Requires a Temporary Occupancy Permit from the Board of Health*	Y*	Y*	Y*	Y*
Multi-Family Dwelling (3-8 units)	SPR	SP	SP	SP
Apartments on the Upper Floors of Commercial Structures	SPR	SP	SP	SP
Accessory Apartments	Y	Y	Y	Y
Solar Installations, Residential (Accessory)	Y	Y	Y	Y

[1] *The maximum height of Solar Installations in the Rural Residential/Route 2 District (RR/R2D) is 25 feet.*

Agricultural, Forestry and Recreational Uses	VILLAGE CENTER DISTRICT	RURAL RESIDENTIAL DISTRICT	RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT	RURAL RESIDENTIAL / ROUTE 2 DISTRICT
	VC	RR	RR/MRD	RR/R2D
The keeping or raising of livestock, including piggeries, large ruminants, and poultry, kept or raised consistent with best agricultural practices, on a lot less than two (2) acres 2	N[2]	Y	Y	Y
The keeping or raising of livestock, including piggeries, large ruminants, and poultry, kept or raised consistent with best agricultural practices, on lots two (2) acres or larger	SPR	Y	Y	Y
Commercial Greenhouse(s) on a lot less than 2 acres not including Marijuana Cultivation	SP	SP	SP	SP
Commercial Greenhouses on lots two (2) acres or larger, not including Marijuana Cultivation	SPR	Y	Y	Y
Forestry and Agricultural Uses on lots 5 acres or greater not including Marijuana Cultivation	SPR	Y	Y	Y
Forestry and Other Agricultural Uses on lots two (2) acres or larger, not including Marijuana Cultivation	SPR	Y	Y	Y
Farm stands not including Marijuana Cultivation	Y	Y	Y	Y

[2] *Up to twelve (12) animals consisting of hens, ducks and/or rabbits allowed by right, if in enclosures that are sited 20 feet from all property lines and not sited in the front yard of any property within the Village Center (VC) District. In addition, no male fowl in the Village Center (VC) District.*

Community Services	VILLAGE CENTER DISTRICT	RURAL RESIDENTIAL DISTRICT	RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT	RURAL RESIDENTIAL / ROUTE 2 DISTRICT
	VC	RR	RR/MRD	RR/R2D
Public Utility Facility not exempted from zoning	SP	SP	SP	SP
Wireless Communication Facility	SP	SP	SP	SP
Other Educational Uses not exempted from zoning regulation by G.L. Ch. 40A, Sec. 3	SP	SP	SP	SP
Nursing Home	SPR	SP	SP	SP
Parking Lot, Public or Private	SP	SP	SP	SP
Cemetery	N	SP	SP	SP
Municipal Facility	SPR	SP	SP	SP

Business / Commercial Uses	VILLAGE CENTER DISTRICT	RURAL RESIDENTIAL DISTRICT	RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT	RURAL RESIDENTIAL / ROUTE 2 DISTRICT
	VC	RR	RR/MRD	RR/R2D
Business, Professional Offices with a footprint of up to 3,000 sq. ft.	SPR	SP	SP	SP
Business, Professional Offices with a footprint greater than 3,000 sq. ft. but no more than 8,000 sq. ft.	SP	SP	SP	SP
Banks	SPR	SP	SP	SP
ATM, stand-alone	SPR	SP	SP	SP

ATM attached to commercial building	Y	SP	SP	SP
Business / Commercial Uses (*Continued*)	**VILLAGE CENTER DISTRICT**	**RURAL RESIDENTIAL DISTRICT**	**RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT**	**RURAL RESIDENTIAL / ROUTE 2 DISTRICT**
	VC	**RR**	**RR/MRD**	**RR/R2D**
Drive-Through Restaurants	SP	SP	SP	SP
Restaurant, other	SPR	SP	SP	SP
Commercial Recreation	SP	SP	SP	SP
Accessory Motor Vehicle Sales for 5 or fewer Vehicles	Y	SP	SP	SP
Commercial Motor Vehicle Sales	N	SP	SP	SP
Laundry, Laundromat	SPR	SP	SP	SP
Bed and Breakfast establishments up to 6 rooms	Y	Y	Y	Y
Hotels, Inns	SPR	SP	SP	SP
Campgrounds	SPR	SP	SP	SP
Building Materials, Sales & Storage	SP	SP	SP	SP
Retail Store(s) – Building with a footprint of up to 3,000 sq. ft.	SPR	SP	SP	SP
Retail Store(s) – Building with a footprint greater than 3,000 sq. ft. but no more than 8,000 sq. ft.	SP	SP	SP	SP
Self-Storage Facility	N	SP	SP	SP
Kennels	N	SP	SP	SP

Business / Commercial Uses (*Continued*)	VILLAGE CENTER DISTRICT	RURAL RESIDENTIAL DISTRICT	RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT	RURAL RESIDENTIAL/ ROUTE 2 DISTRICT
	VC	RR	RR/MRD	RR/R2D
Motorized Vehicle Repair/Maintenance Facility with a footprint of up to 3,000 sq feet	SPR	SP	SP	SP
Motorized Vehicle Repair/Maintenance Facility with a footprint greater than 3,000 sq feet but no more than 8,000 sq feet	SP	SP	SP	SP
Solar Installations, Commercial (Accessory)	SP	SP	SP	SP[3,4]
Marijuana Cultivator (Medical and/or Adult Use) or Craft Marijuana Cooperative with up to 20,000 square feet of enclosed floor area	N	SP	N	N
Marijuana Cultivator (Medical and/or Adult Use) or Craft Marijuana Cooperative with up to 20,000 square feet of outdoor growing area	N	SP	SP	SP
Marijuana Retailer – Building with up to 5,000 sq. ft. of enclosed floor area	SP	N	SP	N
Marijuana Microbusiness – Building with up to 10,000 sq. ft. of enclosed floor area and/or outdoor cultivation area	N	SP	SP	N
Medical Marijuana Treatment Center (dispensary only) Building with an enclosed floor area up to 5000 sq. ft.)	SP	N	SP	N

[3]*The size of a Commercial Solar Installation in the Rural Residential/Route 2 District (RR/R2D) must occupy no more than 5 acres of land.*

[4]*The maximum height of Solar Installations in the Rural Residential/Route 2 District (RR/R2D) is 25 feet.*

Business / Commercial Uses (*Continued*)	**VILLAGE CENTER DISTRICT**	**RURAL RESIDENTIAL DISTRICT**	**RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT**	**RURAL RESIDENTIAL/ ROUTE 2 DISTRICT**
	VC	**RR**	**RR/MRD**	**RR/R2D**
Marijuana Social Consumption Establishment up to 1,000 sq. ft. of enclosed floor area	SP	SP	SP	SP
Marijuana Social Consumption Establishment greater than 1,000 sq. ft. up to 3,000 sq. ft.	SP	SP	SP	N
Marijuana Transporter; Delivery Only Retailer	SP	SP	SP	SP

Industrial Uses	**VILLAGE CENTER DISTRICT**	**RURAL RESIDENTIAL DISTRICT**	**RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT**	**RURAL RESIDENTIAL / ROUTE 2 DISTRICT**
	VC	**RR**	**RR/MRD**	**RR/R2D**
Manufacturing, Processing & Laboratories – Building with a footprint of up to 6,000 sq. ft.	SP	SP	SP	SP
Manufacturing, Processing & Laboratories – Building with a footprint greater than 6,000 sq. ft. but not more than 20,000 sq. ft.	N	SP	SP	SP

Artisan Studios	SPR	SP	SP	SP
Freight or Transportation Facilities	N	SP	SP	SP
Gasoline Station	SP	SP	SP	SP
Wind, Hydro or Biomass Electric	SP	SP	SP	SP

Industrial Uses (*Continued*)	**VILLAGE CENTER DISTRICT**	**RURAL RESIDENTIAL DISTRICT**	**RURAL RESIDENTIAL / MARIJUANA RETAIL DISTRICT**	**RURAL RESIDENTIAL / ROUTE 2 DISTRICT**
	VC	**RR**	**RR/MRD**	**RR/R2D**
Generating Facilities Solar Installation, Industrial (Primary)	SP	SP	SP	SP
Earth Removal [6]	N	Y	Y	Y
Sawmill	N	SP	SP	SP
Bulk Storage, Warehousing	N	SP	SP	SP
Recycling Facility	N	SP	SP	SP
Junkyards, Dumps and Landfills	N	N	N	N
Marijuana Product Manufacturer (Adult Use or Medical Products) – Building with up to 3,000 sq. ft. of enclosed floor area	SP	SP	SP	N
Marijuana Product Manufacturer (Adult Use or Medical Products) Building with an enclosed floor area greater than 3,000 sq. ft. but no more than 6,000 sq. ft.	N	SP	SP	N
Marijuana Research Facility – Building with up to 6,000 square feet of enclosed floor areas	N	SP	SP	N
Marijuana Independent Testing Laboratory – Building with up to 6,000 sq. ft. of enclosed floor area	N	SP	SP	N

Other Uses not elsewhere classified	SP	SP	SP	SP

[5] *Small-Scale Industrial Solar Energy Generating Facilities are allowed by-right with Site Plan Review by the Planning Board in the Solar Overlay District.*

[6] *Earth removal operations shall require an Earth Removal Permit (ERP) from the Earth Removal Committee (ERC). See Town of Charlemont General Bylaws.*

Section 33 Dimensional Requirements

A structure shall be erected or used, and a lot shall be used or changed in size or shape, only in conformity with the following requirements:

33.1 Dimensional Schedule

Districts	Yard Dimensions[2]						
	Minimum Lot Area in sq. ft.	**Minimum Lot Frontage in feet[3]**	**Front Setback in feet[3]**	**Side Setback in feet**	**Rear Setback in feet**	**Maximum Height in feet**	**Maximum Lot Coverage**
Village Center (VC)	5,000	50	10	10	10	32	80%
Rural Residential (RR)	45,000[1]	150	50[4]	25	25	32	35%

[1] *The required lot area for any multi-family dwelling shall be increased for each dwelling unit in excess of two by 20,000 sq. ft. in the RR District only.*

[2] *Setback areas in front, rear and side yards may not be rendered impervious.*

[3] *The Planning Board may by special permit reduce the required front yard in the VC district to a distance not less than the front yard of an existing abutting structure located within 100 feet of the common property line if the lot size or topography is such that a hardship would result from enforcement of the front yard requirements.*

[4] *The required front yard shall be 75 feet for a lot with the front lot line on the Mohawk Trail.*

33.2 Back Lot Development

A lot may be divided into two lots even though one of the lots does not meet the minimum frontage requirement, provided that the following conditions are met:

A. One lot shall meet all of the dimensional requirements of Section 33.
B. The other lot shall have (1) a minimum of forty (40) feet of frontage in the Rural Residential Districts (RR,RR/MRD, RR/R2D) or twenty-five (25) feet of frontage in the Village Center (VC) District; (2) a connecting strip from the street to the lot which shall have a minimum width of forty (40) feet in the Rural Residential Districts (RR, RR/MRD, RR/R2D) or twenty-five (25) feet in the Village Center (VC) District; (3) width where the principal building is to be erected at least equal to the normal required lot frontage; and (4) lot area, exclusive of the connecting strip, at least equal to the normally required lot area.

33.3 Cluster Development

The Planning Board may grant a Special Permit for cluster development on parcels containing five times the minimum lot size or more, as authorized by Section 9, chapter 40A. Usual lot area and frontage requirements shall not apply to individual lots. If open space equal to 30% or more of the cluster area is reserved, the Planning Board may grant a special Permit for an increase of up to 20% above the otherwise applicable density.

(See Village Center District map, Appendix)

Section 34 Environmental Controls

34.1 Screening

Open storage and loading or service areas shall be screened from any adjacent residence or public way by planting or opaque fencing not inconsistent with neighborhood character.

34.2 Hazard

No use shall be allowed which would create hazard due to explosion, fire, or other similar causes. Other potentially hazardous conditions shall be fenced, covered, or otherwise rendered safe.

34.3 Erosion Control

The Building Inspector may require for any proposed development that site design, building design, and construction procedures be modified so as to protect soil from erosion or excessive uncontrolled surface water runoff. No grading or construction shall take place on slopes in excess or 25% except under special

Permit from the planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface runoff, or other environmental degradation. To ensure compliance with these requirements, the Building Inspector or Planning Board may require topographic data prior to acting upon an application for a permit.

Section 35 Parking and Loading Requirements

35.1 Parking Requirements

All parking demand created by new structures or uses; additions to existing structures or uses, and change of use in existing structures shall be accommodated on the premises entirely off-street other than in a required front yard. Normally this will require two parking spaces per dwelling unit, one parking space per motel guest unit, one space per employee, one space per 150 square feet of retail floor space.

35.2 Parking Areas for 10 or More Vehicles

The following shall apply:

A. Their use shall not require backing onto a public way.
B. There shall be not more than one entrance and one exit from such lots per 300 feet of street frontage or fraction thereof. If necessary to meet this requirement, arrangements shall be made for shared egress.
C. Such lots may be required to be screened from any abutting residential use by dense shrubs and trees or opaque fencing not inconsistent with the neighborhood character

35.3 Loading Requirements

Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions or to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off a public way, or be parked on a public way, or be parked on a public way while loading, unloading, or waiting to do so.

Section 36 Sign Regulations

36.1 On-Premise, By-Right Signs

1. Any residential dwelling or its accessory uses may have a single sign of not more than four square feet for each dwelling unit for non-commercial messages. Such sign may also pertain to a permitted accessory use such as a home-based business.

2. Any non-residential premise (including educational, religious, charitable and agricultural uses) may have a single on-premise sign of not more than eighteen square feet free standing or attached to the building.
3. Businesses sharing a single building may have one wall sign for each business not exceeding 6 square feet. One shared free-standing sign bearing the name of each business located in the building shall not exceed 18 sq. ft. in area and 9 feet in height.
4. **Temporary Signs**: Free standing signs of a temporary nature such as signs relating to the rental, sale or construction on the premises or civic events, contractor signs, or seasonal farm stand signs are allowed but shall be removed promptly upon completion of the activity to which they relate. They are not to exceed 6 sq feet in area and not stand more than 6 feet at their tallest point. Removable sales banners attached to the wall of a commercial premise may be up to 24 sq feet, not more than 1 per view and not to be lit with artificial lighting. Bracketed flags are not to exceed three by 5 feet (exemption of the US flag.)
5. **Sandwich Boards**: Movable signs such as sandwich boards or menu boards for restaurants intended to be used on a regular basis are allowed one per premise only provided that such signs stand on legs and do not exceed four feet in height.
6. **Pre-existing, non-conforming signs**: Pre-existing, non-conforming signs may be maintained but not re-located. Changing the content of a sign as long as it remains under the same ownership, and maintains its size and lighting does not constitute a replacement.

36.2 Signs by Special Permit

On-Premise Signs: In special instances, the Planning Board may issue a Special Permit for more than the number of signs herein before specified provided they have an aggregate total of not more than sixty four square feet, and provided the Board determines that the sign will serve the informational needs of the public, will not obscure the legibility of existing signs on adjacent premises, will not obstruct the sight distance of traffic on the highway, will chiefly identify the local business rather than standard product brand names, will employ minimum wording to enhance legibility, and will be consistent with the town's rustic and rural character. The Special Permit shall specify the size and location of the sign(s) and impose other terms and regulations as the Planning Board may deem to be in the public interest.

Off-Premise Signs: Off-premise signs (signs with content not relating to the premises they are on) shall be allowed only by Special Permit. Such signs shall be in a consistent format, 1 x 4 sq. ft., (similar to the State's 'Trailblazer" signs, 1x4 sq. feet, blue with white lettering) and shall provide information and/or direct to town businesses or public interest sites located on other roads. Joint applications from businesses interested in co-locating signs are permitted and encouraged, provided the aggregate total of the combined signs may not exceed 12 square feet. Co-locating of signs is required at intersections and within 1000 feet of another sign. Written permission from the owner of the premise is required.

36.3 General Sign Regulation

1. Lighting: No sign shall flash or display movement. Any lighting of a sign shall be external and shall require cut-off or down-lighting fixtures, illuminating the surface of the sign only and shall not be directed to adjacent property or roadways. Signs shall be illuminated only during hours of operation or between 7 am and 10 pm.
2. Internal signs serving a business or premises which are not intended to be visible from the road or adjoining premises and not intended to be advertising are exempt from the provisions of Section 36.
3. Signs providing directional or general information on a premise of a nonadvertising nature such as parking signs shall be exempt from Section 36.
4. Double-sided signs providing identical information on both sides shall be measured on one side only to establish square footage.
5. Signs shall be constructed such that they are consistent with the rustic and rural character of the Town.
6. No sign shall be placed or erected near a Town street intersection in such a manner as to be a hazard to the safe flow of traffic (by the determination of the police).

ARTICLE IV - SPECIAL REGULATIONS

The following regulations apply only to special locations or to special uses, as specified below.

Section 40 Accessory Dwelling Units

40.1 Purpose

Accessory dwelling units (ADUs) became a protected use in 2025 under M.G.L c. 40A §3 and accompanying regulations 760 CMR 71.00 et seq. ADUs can serve the following purposes:

1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Provide younger homeowners with a means of obtaining rental income and thereby enabling them to own a home they might otherwise not afford;
3. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to households who might otherwise have difficulty finding housing and
4. Provide housing units for persons with disabilities.

40.2 Regulations

1. General Provisions for All ADUs

a. ADUs shall maintain a separate entrance from the Principal Dwelling sufficient to meet safe egress under the Building Code and Fire Code.

b. ADU construction shall comply with 310 CMR 15.000: The State Environmental Code, Title 5 regulations for a Single-Family Residential Dwelling in the Single Family Residential Zoning District in which the Protected Use ADU is located.

2. Protected Use ADUs. The Building Inspector shall approve a Building Permit authorizing Protected Use ADU installation and use within, or on a Lot with, a Principal Dwelling, including within, or on a Lot with, a Pre-Existing Nonconforming Structure, if the following conditions are met:

a. Dimensional Standards

i. Protected Use ADU shall not be larger in Gross Floor Area than 900 square feet.

ii. A Protected Use ADU shall comply with the dimensional standards required for a Single-Family Residential Dwelling or Principle Dwelling or accessory structure in the Zoning District in which the Protected Use ADU is located, whichever results in more permissive regulation.

b. Off-Street Parking. One additional off-street parking space shall be required for Protected Use ADUs on a lot located entirely outside the ½-mile radius of a Franklin Regional Transit Authority (FRTA) bus stop or any other Transit Station. For lots within ½ mile of a Transit Station, providing parking for the accessory dwelling unit is optional.

3. Special Permit for an additional ADU on a Lot. A second ADU on a Lot in a Single-Family Residential Zoning District in which a Protected Use ADU is already located shall require a Special Permit from the Planning Board. The additional ADU shall be classified as a "Local ADU".

4. Nonconformance

a. A Protected Use ADU shall be permitted within, or on a Lot with, a Pre-existing Nonconforming Structure so long as the Protected Use ADU can be developed in conformance with the Building Code, 760 CMR 71.00, and state law.

b. A Protected Use ADU shall be exempt from any required finding under M.G.L. c. 40A §6.

40.3 Administration and Enforcement

1. The Building Inspector shall administer and enforce the provisions of this bylaw.

2. No building shall be changed in use or configuration without a Building Permit from the Building Inspector
3. No building shall be occupied until a certificate of occupancy is issued by the Building Inspector, where required.
4. The Building Inspector shall apply the Dover analysis as articulated in the standards in 760 CMR 71.03(3)(a), to any request for a Protected Use ADU Building Permit and shall waive any zoning requirement that the Building Inspector finds to be unreasonable under the Dover analysis.

40.4 Definitions

The definitions set forth in G.L. c.40A, §1A and 760 CMR 71.00, et seq., as they may be amended, shall apply to the terms of this bylaw not expressly defined herein, and shall control in the event of a conflict. General references to ADUs in this by-law include both Protected Use ADUs and Local ADUs.

Accessory Dwelling Unit (ADU). A self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the Building and Fire Code for safe egress. ADUs may be detached, attached, or internal to the Principal Dwelling.

Design Standards. Clear, measurable and objective provisions of zoning, or general ordinances or by-laws, which are made applicable to the exterior design of, and use of materials for an ADU when those same design standards apply to the Principal Dwelling to which the ADU is an accessory.

Dwelling Unit. A single-housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. This can include a housing unit within a single-family, duplex, or multi-unit development.

Gross Floor Area. The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches, and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

Local ADUs. An ADU that is not a Protected Use ADU but includes rules specific to Charlemont.

Lot. An area of land with definite boundaries that is used, or available for use, as the site of a structure, or structures, regardless of whether the site conforms to requirements of zoning.

Modular Dwelling Unit. A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems, in compliance with the Building and Fire Code, prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities.

Principal Dwelling. A structure, regardless of whether it, or the Lot it is situated on, conforms to zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

Protected Use ADU. An attached, detached or internal ADU that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District and is protected by M.G.L. c. 40A, § 3, provided that only one ADU on a Lot may qualify as a Protected Use ADU. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

Section 41 Multi-family Dwelling

Special Permits authorizing multi-family dwellings shall be granted by the Planning Board only for proposals complying with the locational and density requirements of Article III, and if the Planning Board determines that the following are met:

A. No structure shall be closer to another or to a side or rear lot line than its building height.
B. Site design shall minimize topographic changes and removal of existing trees or other important natural features.
C. Visibility of parking area from public ways shall be minimized through use of building placement, topography, or vegetative screening.
D. Lot size shall be not less than required in section 33.1 (b).

Section 42 Mobile Home Parks and Campgrounds

Special Permits for mobile home parks and campgrounds shall be granted only on parcels which are at least 10 times the size of the basic minimum lot area (33.1).

Section 43 Timber Harvesting

Slash shall be cleared from within 50 feet of any public way and from within 25 feet of any stream or property line.

Section 44 Personal Wireless Service Facilities

44.1 Purpose

The purpose of these regulations is: 1) to minimize the adverse impact of wireless communications towers, antennas, and facilities on Charlemont's unique community character and natural amenities; 2) to minimize the overall number and height of such facilities; 3) to regulate the siting of towers in an effort to aid the provision of communication services; and 4) to also ensure that no discrimination occurs with competing providers.

44.2 Conditions

A. To the extent feasible, Personal Wireless Service Facilities (PWSF) shall be placed on existing structures, including water tanks, towers and electrical transmission lines, or concealed within church spires, barn cupolas, and the likes.
B. To the extent feasible they shall be co-located to minimize impact to the community and the environment.
C. The height of any portion of the facility shall be limited so that it is the lesser of 120 feet in height or no more than 30% higher than the height of any forest canopy within 1,000 feet.
D. The height of any portion shall be limited so that no light is required by regulation;
E. To the extent feasible, the design of the facility shall minimize the visual impact on the community and the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting, landscaping, and screening.
F. All facilities shall be maintained in good order and repair, including removal of rust and repair of failing paint.
G. All PWSF which have not been used for their intended purpose for one year shall be dismantled and removed at the owner's expense. The carrier shall have one (1) year to complete restoration of the land and removal of the facility.
H. Any new tower or mono-pole or so called "small cell" wireless installation shall not be erected nearer to a property line than a distance equal to twice the vertical height of the structure, nor shall it be allowed nearer than 1500 feet to any residential structure in the Rural Residential districts. No new towers or mono-poles shall be allowed in the Village Center district. "Small Cell" wireless installations in the Village Center District shall be at least 500 feet apart, at least 350 feet from residential structures and at least 800 feet from any school.
I. No advertising devices shall be allowed on any PWSF.

J. A bond will be posted for the removal, maintenance, or abandonment of the facility.
K. Clearing shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources; which will minimize marring and scarring of landscape of silting or wet lands;
L. No lighting shall be used on any portion of the facility unless required by code;
M. PWSF shall not be located on ridge lines whenever possible.
N. In the event of a single application for multiple Small Cell Installations, the Planning Board shall have the right to deny some or all of the proposed individual small cell sites given that each location will have unique impacts on the Town. PWSF proposals in the public right of way will require a special permit as specified in Section 44 and shall not be treated as a "utility" or utility pole application.

O. All PWSF shall comply with all applicable FCC rules regarding acceptable limits on radio frequency radiation exposure to the general public as determined by a qualified radio frequency engineer.

44.3 Regulations

ALL PWSF shall:

A. Adhere to all wetland regulations imposed by the Charlemont Conservation Commission.
B. Adhere to all state and federal protection acts.
C. Be monitored the and security of such facilities shall be maintained.

44.4 Submittal & Application Requirements

All Special Permit applications for PWSF shall be made and filed in compliance with the procedural requirements of MGL Chapter 40A Section 9. In addition, five copies of the following information, professionally prepared, must be submitted for an application to be considered complete:

A. A locus plan at a scale of 1” = 200’ which shall show all property lines, the exact location of the proposed facility, streets, topography, landscape features, and structures within 1,000 feet;
B. A detailed site plan and elevations at a scale of 1” = 10’ or larger;
C. Color renderings and/or photographs of the visual impact of the proposed facility from a minimum of three lines of sight locations, with more locations if required by the Planning Board;
D. Technical specification of the proposed facility, for structural integrity and potential capacity for the carriers, prepared by a Massachusetts registered professional engineer.
E. A description of technical, economic, and other reasons for the proposed location, height and design;

F. In the event the Planning Board determines that circumstances necessitate expert technical review, that expense shall be paid by the applicant.
G. A description of technical, economic, and other reasons for the proposed location, height and design; and certification that the proposed PWSF addresses an existing and significant gap in coverage in the service area, such certification to include a detailed map of the "gap areas" and documentation of such gaps causing an inability for a user to connect with the land-based national telephone network or maintain a connection capable of supporting a reasonably uninterrupted communication. These gaps must be demonstrated using dropped call as well as drive test data (i.e., "hard data" certified by a qualified engineer) rather than so called "propagation maps"; and
H. Submission of the name(s) of the carrier(s) that will provide telecommunications services utilizing the proposed tower and a copy of the contract or other form of documentation acceptable to the Planning Board demonstrating that the Applicant has a firm commitment from a carrier to use the proposed tower to provide telecommunication services.
I. Within thirty (30) days prior to the Public Hearing, the applicant shall arrange to fly a brightly colored and clearly visible balloon, or conduct a crane test, at the maximum height of the proposed installation. The balloon or crane shall remain raised in place for a period of at least two (2) consecutive days, including a weekend day between sunrise and sunset, and will be subject to a repeat if visibility or weather conditions require. If a balloon is used, the diameter shall be the greater of three (3) feet, the largest antenna/dish proposed for the PWSF facility or the width of the tower, whichever is largest. Said date will be established, including an alternative date due to inclement weather, at the time of the pre-submission meeting with the Planning Board. The Applicant shall be responsible for advertising the date, time, and location of such test in a newspaper of general circulation in the town at least 7 days prior to, but no more than 21 days, before the beginning date of the test. The Applicant will also be responsible for placing a public notice at the Town Hall and notifying abutters via US Mail at least 1 week prior to the test.

44.5 Exemptions

The following types of PWSF are exempt from this section:

1. Satellite dishes and antennas for residential uses.

2. Charlemont's MLP: Fixed (point to point) wireless connectivity required for the backhaul of Charlemont's municipally owned fiber network or connecting new homes when establishing a wired connection is deemed too expensive by the MLP Manager and Charlemont Selectboard.

3. Any Facilities exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial telecommunications

44.6 Performance Guarantees and Fees

1. PWSF shall be insured by the owner(s) against damage to the persons or property. Annual proof of said insurance shall be filed with the Town Clerk.

2. Minimum Coverages. Each PWSF Permittee shall maintain in full force and effect, throughout the term of a PWSF Permit, an insurance policy or policies. Such policy or policies shall, at a minimum, afford insurance covering all of the Permittee's operations, as follows:

    (a) Commercial General Liability insurance with limits of insurance of not less than $1,000,000 each occurrence and $3,000,000 annual aggregate for bodily injury and property damage, including contractual liability, personal injury, products and completed operations

    (b) Commercial Umbrella insurance with limits of not less than $5,000,000.

    (c) Pollution Liability insurance, on an occurrence form, with limits not less than $1,000,000 each occurrence and $3,000,000 annual aggregate, with any deductible not to exceed $25,000 each occurrence.

3. Other Insurance Requirements
    a. Said policy or policies shall include the Town and its officers and employees as additional insureds.
    b. Said policy or policies shall be endorsed to provide thirty (30) days advance written notice of cancellation or any material change to the Town.

c. Should any of the required insurance be provided under a claims-made form, a Permittee shall maintain such coverage continuously throughout the term of a Personal Wireless Service Facility Permit, and, without lapse, for a period of three (3) years beyond the expiration or termination of the Permit, to the effect that, should occurrences during the term of the Permit give rise to claims made after expiration or termination of the Permit, such claims shall be covered by such claims-made policies.

4. Proof of Insurance. Before the Town will issue a Personal Wireless Service Facility Site Permit, a Permittee shall furnish to the Town certificates of insurance and additional insured policy endorsements with insurers that are authorized to do business in the State of Massachusetts and that are satisfactory to the Town evidencing all coverages set forth in this subsection V.

5. Applicant, upon obtaining a permit, shall obtain a financial surety sufficient to cover the cost of removal of the facility and the redemption of the landscape as defined under CONDITIONS; G, should the facility cease to operate.

6. A filing fee of $200 shall be submitted with the application to cover the cost of processing and notification.
7. Prior to issuance of a Building Permit for a PWSF, the Applicant is required to post with the Town Treasurer a bond or other form of financial security in the minimum amount of $50,000.00 or greater, depending on a determination by the Engineer or as set forth by the Planning Board. In the case of an application from the town of Charlemont, the town shall be exempt from this bond requirement. The bond will cover all removal, decommissioning, and restoration costs in the event that the Building Inspector condemns the tower or parts thereof or accessory facilities and structures or deems it unused continuously for more than a year. The Building Inspector shall give the applicant 90 days written notice in advance of any removal action. In addition, a separate $10,000.00 bond shall be required for each Small Cell Installation. This bond(s) will be held as a guarantee that no such installation exceeds or will exceed the allowable FCC limits for radio frequency radiation exposure to the general public as determined by a qualified radio frequency engineer.

44.7 Definitions

Definitions specific to this section are from 47 U.S.C. § 332 - U.S. Code - Unannotated Title 47. Telecommunications § 332. Mobile services

“personal wireless service facilities” means facilities for the provision of personal wireless services;

“personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

“unlicensed wireless service” means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

Section 45 Floodplain District

45.1 Statement of Purpose

The purposes of the Floodplain District are to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

45.2 Floodplain district Boundaries and Base Flood Elevation and Floodway Data.

1. Floodplain District Boundaries and Base Flood Elevation Data
   The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas designated on the Charlemont Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated July 2, 1980 as Zone A, A1-30 and the FEMA Flood Boundary & Floodway Map dated July 2, 1980, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet dated January 1980. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission.
2. Base Flood Elevation and Floodway Data
   A. Floodway Data. In ones A and A1-30, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
   B. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

45.3 Notification of Watercourse Alteration

In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 800 Boston, MA 02114-2104
- NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110

45.4 Use Regulations

1. Reference to Existing Regulations

The Floodplain district is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

A. Section of the Massachusetts State Building code which addresses floodplain and coastal high hazard areas (currently 780 CMR 3107, "Flood Resistant Construction");
B. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
C. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
D. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of the state regulations.

2. Other Use Regulations
   A. In Zones A130, along watercourses that have a regulatory floodway designated on the Charlemont Flood Boundary & Floodway Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
   B. All subdivision proposals must be designed to assure that:
      i. Such proposals minimize flood damage;
      ii. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

iii. Adequate drainage is proved to reduce exposure to flood hazards.

C. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
D. There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board and Board of Health for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

45.5 Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

(See Appendix, Floodplain Maps)

Section 46 Adult Use Marijuana Establishments and Medical Marijuana Treatment Centers Bylaw

46.1 Purpose

The purpose of this bylaw is to regulate the time, place and manner of Marijuana Establishments and Medical Marijuana Treatment Centers. The zoning will serve to preserve the character of the community and create a place for the public to responsibly have access to legal marijuana for adult recreational use and medical use while mitigating community impact. This bylaw should serve as a guide that will support the public's right to access legal marijuana, protect the public health, safety, and well-being and expand new growth for the tax base. This bylaw provides for the placement of Marijuana Establishments and Medical Marijuana Treatment Centers (MMTCs) in locations suitable for lawful marijuana facilities and to minimize adverse impacts on adjacent properties, residential neighborhoods, natural and scenic resources, historic districts, and schools, by regulating the setting, design, placement, security, and removal of Marijuana Establishments and MMTCs.

46.2 Use Regulations

For purposes of Section 32 of the Zoning Bylaw, Marijuana Establishments and MMTCs shall be permitted only as expressly set forth therein and in this bylaw, and shall not be construed to be included within any other type or category of use unless expressly so stated, including, without limitation, agricultural uses, commercial greenhouses, businesses, retail stores, industrial uses, or any other principal use, nor shall they be allowed as a home occupation or other accessory use.

46.3 Definitions

Where not expressly defined in the Zoning Bylaws, terms used in this Bylaw shall be interpreted as defined in: 1) the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., and G.L. c.94I; 2) 935 CMR 501.001, et seq.; 3) An Act to Ensure Safe Access to Marijuana, G.L., c. 94G; and 4) 935 CMR 500.000 et. seq. regulating Adult Use of Marijuana; and otherwise, by their plain language.

46.4 Location

A. Marijuana Establishments and MMTC's may be located as set forth in 32.3 Use Regulations. A Special Permit may be granted by the Planning Board in accordance with the requirements of this bylaw and Section 23 of the Zoning Bylaws.
B. Marijuana Establishments and MMTCs are subject to all other applicable requirements of the Zoning Bylaws including the requirements of Section 33.1, Dimensional Requirements, provided that Marijuana Establishments and MMTCs may not be located within 500 feet of a public or private school where children attend classes in preschool programs, kindergarten programs or grades one (1) to twelve (12) inclusive. The 500-foot distance shall be measured in a straight line from the nearest property line of the educational facility in question to the nearest property line of the proposed marijuana establishment. In granting a Special Permit for such use the Planning Board may allow a reduction of this requirement to no less than 300 feet if the Applicant demonstrates that there is no other feasible alternative and the Planning Board determines that such reduction is consistent with the intent and purpose of this bylaw. Such reduction may be granted in the Planning Board's sole discretion. In addition, cultivation operations must be set back at least 100 feet from the front, side and rear property line.
C. No Marijuana Establishment or MMTC shall be located within a building containing residential units, including transient housing and group housing.
D. No more than two (2) Marijuana Retailers shall be allowed within the Town of Charlemont. There is no restriction on the number of MMTCs. Special Permit applications will be considered in the order in which the Planning Board receives a completed Special Permit application which includes a copy of the Provisional License or Provisional Certificate of Registration issued for the proposed use by the Cannabis Control Commission.

E. No Marijuana Establishment or MMTC shall be permitted to operate from a mobile or transitory location.
F. Marijuana Establishments and MMTCs may be co-located with other Marijuana Establishments, and may be sited in a mixed-use development including other commercial uses in separate facilities.

46.5 Procedure

A. The Planning Board shall be the Special Permit Granting Authority (SPGA) for Marijuana Establishment and MMTC Special Permits. All proposed Marijuana Establishments and MMTCs require a Special Permit (see Section 32.3, Use Regulations) and are subject to the requirements of Article II, Section 23, in addition to the requirements of this Section 46.
B. A Marijuana Establishment or a Medical Marijuana Treatment Center must be duly certified as: 1) a registered marijuana dispensary (RMD) by the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 or the Massachusetts Cannabis Control Commission, as successor thereto, pursuant to 935 CMR 501.001, et seq.; 2) and/or a Marijuana Establishment pursuant to 935 CMR 500.000 et. seq. regulating Adult Use of Marijuana.
C. To qualify as the recipient of a Special Permit, a Marijuana Establishment or a Medical Marijuana Treatment Center must submit as part of its special permit application an executed Host Community Agreement with the Town of Charlemont for the site in question.
D. No person shall sell, cultivate, deliver or otherwise commercially distribute marijuana, or marijuana products within the Town of Charlemont and pursuant to this bylaw without first satisfying the requirements of the Charlemont Board of Health, which may include obtaining a Marijuana Operating Permit issued annually by that Board.

46.6 Application

In addition to the materials required under Article II, Section 23, Special Permits, a special permit application requires the following:

A. A copy of the Provisional License or Provisional Certificate of Registration issued for the proposed use by the Cannabis Control Commission issued pursuant to M.G.L. c. 94G and 935 CMR 500 et. seq., or M.G.L. c.94I and 935 CMR 501 et. seq.
B. Evidence of the Applicant's right to use the site for an MMTC and/or Marijuana Establishment, such as a recorded deed, fully executed lease or fully executed purchase and sale agreement;
C. A detailed floor plan of the premises that identifies the square footage available and describes the functional areas, including areas for any preparation of Marijuana Infused Products;
D. Detailed site plans that include the following information:
    1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;

2. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
5. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
6. Adequacy of water supply, surface and subsurface drainage and light.

E. A description of the security measures, including employee security policies, approved by the Massachusetts Cannabis Control Commission;
F. A copy of the emergency procedures approved by the Massachusetts Cannabis Control Commission;
G. A copy of the policies and procedures for patient or personal caregiver home delivery of medical marijuana approved by the Massachusetts Cannabis Control Commission, as successor thereto for an MMTC;
H. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Marijuana Establishments and/or MMTCs approved by the Massachusetts Cannabis Control Commission;
I. A copy of proposed waste disposal procedures;
J. A description of any waivers from regulations promulgated by the Massachusetts Cannabis Control Commission issued for the Marijuana Establishment and/or MMTC; and
K. The application shall also include:
    1. Name and Address of the legal owner and Licensee of the Marijuana Establishment and/or MMTC;
    2. Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment and/or MMTC;
    3. Name and Address of the Manager of the Marijuana Establishment and/or MMTC; and
    4. The number of proposed employees.

46.7 Review

The Planning Board may send a copy or a notice of the application received to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, or the Highway Department and will make a copy available for review at the Town Hall. These boards/departments shall review the application and shall submit their written recommendations.

Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

46.8 Special Permit Conditions

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Marijuana Establishment and/or MMTC, the Planning Board shall include the following conditions in any special permit granted under this Bylaw:

A. Hours of Operation, including dispatch of home deliveries.
B. The permit holder shall file a copy of any Incident Report required under regulations promulgated by the Massachusetts Cannabis Control Commission, as successor thereto; and/or under 935 CMR 500.000 et. seq. regulating Adult Use of Marijuana; with the Building Inspector and the Planning Board within 5 calendar days of issuance for the Marijuana Establishment and/or MMTC. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
C. The permit holder shall file a copy of any summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by the Massachusetts Cannabis Control Commission, or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment and/or MMTC with the Building Inspector and the Planning Board within 48 hours of receipt by the Licensed Marijuana Establishment and/or MMTC.
D. The permit holder shall provide to the Building Inspector and the Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
E. Change in License or Owner: The Owner and Licensee of any Marijuana Establishment or MMTC issued a Special Permit pursuant this bylaw shall report to the Building Inspector and Planning Board, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or MMTC or any expiration or suspension of a license from DPH or the Massachusetts Cannabis Control Commission. Failure to meet this requirement will result in the issuance of a cease and desist order by the Building Inspector requiring that all activities cease immediately.
F. Change of Ownership: A Special Permit issued under this Article shall be limited to the current applicant and shall lapse upon any transfer of ownership or legal interest of more than 30% or change in contractual interest in the subject premises or property. The Special Permit may be renewed thereafter only in accordance with this Bylaw.

G. Expiration: A Special Permit to operate a Marijuana Establishment or MMTC shall expire after a period of five calendar years from its date of issuance unless it is renewed in accordance with the terms of this section and Section 23.3. The Special Permit shall be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Special Permit Granting Authority at least 120 calendar days prior to said expiration. A request for renewal may be approved only if no objection to said renewal is made and sustained relative to compliance with the conditions of the Special Permit, as well as to public safety factors applied at the time the Special Permit renewal is requested. No special permit may be renewed until the applicant provides proof that a Host Community Agreement is in effect governing the term of the requested renewal.

46.9 Safety, Design and Performance Standards

A. Nuisances: No Marijuana Establishment and/or MMTC shall be allowed which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, light pollution, excessive water use, objectionable effluent of stormwater and/or wastewater, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
B. Parking and Loading Requirements: On-site parking and loading shall be provided in accordance with the requirements of Article III, Section 35 of these bylaws.
C. Lighting and Security: Energy efficient site lighting shall be maintained to ensure adequate visibility on the property to ensure public safety. Light standards (poles) may not exceed 16 feet in height and shall be shielded from abutting properties and shall incorporate full cut off fixtures to reduce light pollution. Additional security features recommended by the Charlemont Police Department, such as security cameras covering external areas with the capability to function with minimal lighting at night, shall be installed and maintained. Internal lighting in greenhouses shall be fully screened from abutters after sunset.
D. Signs: All signs for a Marijuana Establishment and/or the MMTC must meet the requirements of Article III, Section 36 of this Zoning Bylaw and applicable State Regulations.
E. Buildings: Appearance of buildings for Marijuana Establishments and/or MMTCs shall be consistent with the appearance of other buildings in Charlemont, not employing unusual color or building design which would attract attention to the premises. In the Rural Residential District, new buildings for Marijuana Cultivators, Craft Marijuana Cultivators, or cultivation-only MMTCs shall resemble local agricultural buildings, such as barns or greenhouses.
F. Cultivation: Marijuana products may be grown indoors in a greenhouse, barn or other agricultural building; or may be cultivated outdoors, as long as the security requirements of 935 CMR 500.120 are complied with and the operation does not represent a nuisance to any property, structure or dwelling in the area.

G. Energy Efficiency: Marijuana Establishments and MMTCs are required to prepare an energy efficiency plan. The use of renewable energy sources such as solar should be considered.
H. Water Efficiency: Marijuana Establishments and MMTCs are required to prepare a plan for water management and efficiency.
I. Marketing: Marijuana Establishments and MMTCs shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or linger on the premises. No free samples may be provided by Marijuana Establishments or MMTCs to consumers.

Section 47 Temporary Occupancy

47.1 Purpose

To regulate the use of camper/trailers within all districts in Charlemont. The specific intent, consistent with the general purpose of the Protective Zoning Bylaws, is to maintain the appropriate use of camper/trailers by ensuring all necessary safety, environmental, sanitary and building code protections. This shall not include campers or trailers located in a licensed campground, mobile home or trailer park.

47.2 Camper/Trailer Regulations

1. Camper/trailers are considered dwellings for temporary occupancy and are prohibited from year-round occupancy use or for business purposes. No structure or service, including but not limited to electrical, gas or septic, may be attached to a camper/trailer. Temporary electrical service may be permitted for use with a camper/trailer as approved by the Electrical Inspector. All camper/trailers must meet state and local health and sanitary regulations.
2. A Temporary Occupancy Permit will be required for occupancy in accordance with the Charlemont Board of Health Regulations.
3. All camper/trailers, whether stored or used for living purposes, must maintain mobility and be immediately movable. Camper/trailers are allowed to be stored on blocks as long as the wheels and tires remain immediately available and mountable.
4. All camper/trailers must meet the appropriate setbacks as established in Section 33, Dimensional Requirements, whether occupied or stored. In addition, in the Village Center District they shall be placed out of sight.
5. The number of camper/trailers that can be stored or used as temporary dwellings on the property owner's land is limited to one (1) in the Village Center (VC) District and two (2) in the Rural Residential (RR) District.
6. An exception to this limitation in both districts would be a Visiting Camper/Trailer, not owned by the property owner, use of which is not to exceed two weeks in a calendar year and which cannot

remain on the land for more than 30 days per calendar year. A Temporary Occupancy Permit would not be required, but a state registration would be required.

7. Temporary Occupancy of Camper/Trailers, whether replacing a permanent residence that has been destroyed by fire or other natural disaster or constructing a new residence, is allowed as long as a proper building permit has been issued, the set-back requirements are met and the camper/trailer complies with the state sanitary code and Board of Health regulations. The Owner is required to get a Temporary Occupancy Permit.
8. Camper/Trailers are prohibited from being used as a storage facility or for purposes not originally intended in their manufacture.
9. Any violations to Section 47 will be enforced by the Board of Health and/or the Building Inspector.

ARTICLE V - DEFINITIONS

In this by-law the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Agriculture: Defined by M.G.L. Chapter 128, Section 1A

Area of Special Flood Hazard: Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, A1-30, AE, A99, AV1-30, VE, OR V.

Artisan Studio: The working space of a practitioner of a handicraft or art requiring special skills, such as hand weaving, pottery making, glassblowing, leatherworking or sculpting.

Base Flood: Means the flood having a one percent chance of being equaled or exceeded in any given year.

Building: A structure enclosed within exterior walls or firewalls, built and erected and framed of a combination of any materials whether portable or fixed, having a roof to form a structure for the shelter of persons, animals, or property.

Building Height: The vertical distance from the mean finished grad of adjoining ground to the highest point of the roof for a flat or shed roofs, the deck line for mansard roofs, or the mean height between eaves and ridge for gable, hip, and gambrel roots. Not included are spires, cupolas, antennae, or other parts or structures which do not enclose potentially habitable floor space.

Campground: Premises used for travel trailers, campers, tenting, seasonal overnight facilities where a fee is charged.

Camping Trailers, Travel Trailers, Park Model Trailers and Motor Homes: A self-contained unit supported on its own wheels or those of another vehicle designed to be used for travel, recreational and vacation uses, but not for permanent residence. Campers/trailers shall not be considered permanent structures. This definition does not include Mobile Homes, as defined herein.

Coastal High Hazard Area: Means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V, V1-30, VE.

Commercial Greenhouse-A greenhouse that grows crops that will be primarily sold for commercial consumption.

Cluster Development: A residential development in which buildings and accessory uses are clustered together into one or more groups separate from adjacent property and other groups within the development by intervening open land.

Colocated Marijuana Operations (CMO): A MMTC operating under a license or a registration pursuant to 935 CMR 501.000: Medical Use of Marijuana, and a Marijuana Establishment operating under at least one license pursuant to 935 CMR 500.000: Adult Use of Marijuana, on the same Premises. Colocated Marijuana operations pertain to cultivation, product manufacturing, and retail, but not any other adult-use license.

Cottage Industry: Any customary home occupation, including professional offices, conducted by a resident of the premises in a room or rooms of a dwelling or accessory building, with no more than two (2) employees and requiring no significant exterior changes to the structure.

Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A Cooperative is licensed to cultivate, obtain, manufacture, process, package and brand Marijuana or Marijuana products and to transport Marijuana or Marijuana Products to licensed marijuana establishments but not to consumers.

Delivery-Only Retailer: An entity that is authorized to deliver directly to Consumers, Registered Qualifying Patients or Caregivers from a licensed Marijuana Retailer and does not provide a retail location accessible to the public.

Development: Means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District: Means floodplain district.

Dwelling: Any structure, including mobile homes, containing one or more dwelling units

Dwelling Unit: A building or portion of a building providing kitchen and living quarters for a single housekeeping unit.

Earth Removal: The excavation, processing, and/or removal of earth materials or any action that causes the alteration of land not covered under another permit, within the legal limits of the Town of Charlemont.

Farm Stand – Premises for which the principal use is the sale of produce and dairy products grown or prepared by the owner of the premises for consumption off the premises.

Federal Emergency Management Agency (FEMA): Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Boundary and Floodway Map: Means an official map of a community issued by FEMA that depicts, based on detailed analyses, that boundaries of the 100-year and 500-year floods and the 100year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM)

Flood Insurance Rate Map (FIRM): Means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: Means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Footprint: Dimensions of a structure (building) or of a land use such as a gravel pit on the ground.

Front Lot Line: The dividing line between the street right of way and the lot as determined by deeds and plans recorded at the Registry of Deeds and other records establishing the boundaries of ways.

Kennel: A pack or collection of five (5) or more dogs on a single premise that are more than six (6) months old. Kennels must be located on a lot five (5) acres or greater. In addition, the location on the parcel where the dogs are harbored or exercised must be set back 150 feet from each lot line to minimize the impacts to neighbors from noise and orders.

Host Community Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Marijuana Establishment and a municipality setting forth conditions for the operation of a Marijuana Establishment in the municipality.

Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Livestock: Domesticated animals raised in an agricultural setting to produce labor and commodities such as meat, eggs, milk, fur, leather and wool.

Lot: A continuous parcel of land in single ownership, with legally definable boundaries.

Lot Coverage: The area of a lot occupied by structures, walkways, drives, parking or other impervious or semi-pervious surfaces.

Lot Frontage: The boundary of a lot coinciding with a street line provided that there must be both rights-of-access and vehicular access across that boundary to a potential building site, and provided the street is a public way or a private way which and has been determined by the Planning Board to provide adequate access to the premises under the provisions of G.L.Chapter 41, Section 81L of the Subdivision Control Law and the Charlemont Subdivision Regulations currently in effect. Lot frontage shall be measured continuously along one street line between side lot lines or, in the case of corner lots, between one side lot line and the midpoint of the corner radius.

Lowest Floor: Means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 30.3.

Manufactured Home: Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision: Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, Marijuana Social Consumption Establishment, or any other type of licensed marijuana-related business, except a Medical Marijuana Treatment Center (MMTC).

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission and is:

A. accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
B. independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and
C. qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Microbusiness: A colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana establishments.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Products: Cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Research Facility: An entity licensed to engage in research projects by the Cannabis Control Commission.

Marijuana Retailer: An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Unless licensed by the Cannabis Control Commission, retailers are prohibited from delivering, off site of their retail facility, cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Social Consumption Establishment: An entity licensed to purchase Marijuana or Marijuana Products from a cultivator, manufacturer or Microbusiness, sell Marijuana or Marijuana Products to Consumers at an approved premise, and allow Consumers to consume Marijuana or Marijuana Products at this premise.

Marijuana Transporter: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain and possess Cannabis or Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-Party Transporter. Massachusetts Resident means a person whose primary residence is in Massachusetts.

Medical Marijuana Treatment Center (MMTC): An entity formerly and validly registered under 105 CMR 725.100, or currently and validly registered under 935 CMR 501.100, also known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana or Marijuana Products, Tinctures, aerosols, oils, or ointments), transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MMTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Mobile Home: A dwelling unit intended for full-time occupancy built on a chassis that contains complete electrical, plumbing and sanitary facilities, and designed for year-round living and issued a (HUD) certification. This definition shall not include those vehicles known as camping or travel trailers, or motor homes.

Multi-Family Dwelling: A building containing a minimum of three (3) and a maximum of eight (8) dwelling units.

Municipal Facility: Any use of land by the Town of Charlemont in accordance with the general laws governing municipal powers and functions.

New Construction: Means, for floodplain management purposes, structures for which the "start of construction" commended on or after the effective date of a floodplain management regulation adopted

by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

One-Hundred-Year Flood: See *Base Flood*.

Parking Lot, Public or Private: A stand-alone lot designed solely for parking, whether publicly or privately owned, which is not accessory to or in common ownership with an existing business or industrial use.

Poultry: domestic fowl, such as chickens, turkeys, ducks, and geese.

Recreational Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana related business, except a medical marijuana treatment center.

Regulatory Floodway: See *Floodway*.

Ruminants: Any of various even-toed hoofed mammals of the suborder Ruminantia. Ruminants usually have a stomach divided into four compartments and chew a cud consisting of regurgitated, partially digested food. Ruminants include cattle, bison, buffalo, sheep, goats, and deer.

Sign: Any permanent or temporary structure, device, word, model, banner, pennant, insignia, symbol, flag, trade flag, or representation used as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye, either by its presence or illumination, which is on a public way or on private property within public view of a public way.

Small-Scale Industrial Solar Energy Generating Facility: A solar electric system designed for industrial/commercial use occupying an area of up to 15 acres.

Solar Installation, Commercial (Accessory) – A ground-mounted solar electric installation that is constructed at a location where commercial uses of the underlying property occur and that is accessory to the main or principal commercial use of the lot occupying a maximum area of 10 acres.

Solar Installation, Industrial (Primary) - A ground-mounted solar electric installation that is constructed primarily for the purposes of generating electrical power for sale or use that is not incidental to another allowed use in the district occupying a maximum area of 10 acres.

Solar Installation, Residential (Accessory) - A ground-mounted solar electric installation that is constructed at a location where residential uses of the underlying property occur and that is an

accessory to the main or principal residential use of the lot. The size of a residential solar array is limited to a maximum of 1,000 square feet of land area occupied.

Special Flood Hazard Area: Means an area having special flood and/or flood-related erosion hazards, show on a FIRM as Zone A or A1-30.

Structure: Anything constructed or erected the use of which requires a fixed location on the ground, or attachment to something located on the ground to give support or shelter, including buildings, sheds, signs, billboards, tanks, and swimming pools. However, for purposes of determining yard dimensions as required in Section 33.1, Dimensional Schedule, fences, retaining walls, animal enclosures, playground equipment and satellite dishes shall not be considered structures.

Structure: For floodplain management purposes only, structure shall mean a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a foundation. For the latter purposes, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Damage: Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Temporary Dwelling: Any camper/trailer (park model trailer, tow behind fifth-wheel, or motor home); platform tents; or other assemblage of materials used for temporary housing and not designed or suitable for permanent residential use and not located in a licensed campground, mobile home or trailer park.

Temporary Occupancy: Occupancy of a temporary dwelling. Except with respect to a Visiting Camper/Trailer, Temporary Occupancy requires a Temporary Occupancy Permit from the Board of Health.

Temporary Occupancy Permit: Permit issued by the Town of Charlemont through the Board of Health pursuant to Charlemont Board of Health Regulations.

Visiting Camper/Trailer: A duly-licensed and registered camper/trailer not owned by the property owner, but which is located on the lot or parcel of a Charlemont property owner.

Wireless Communication Facility: As used in this title, shall be defined in the same manner as in Title 47, United States Code, Section 332(c) (7) (C), as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communication services, enhanced specialized mobile radio and any other wireless services licensed by the FCC and unlicensed wireless services.

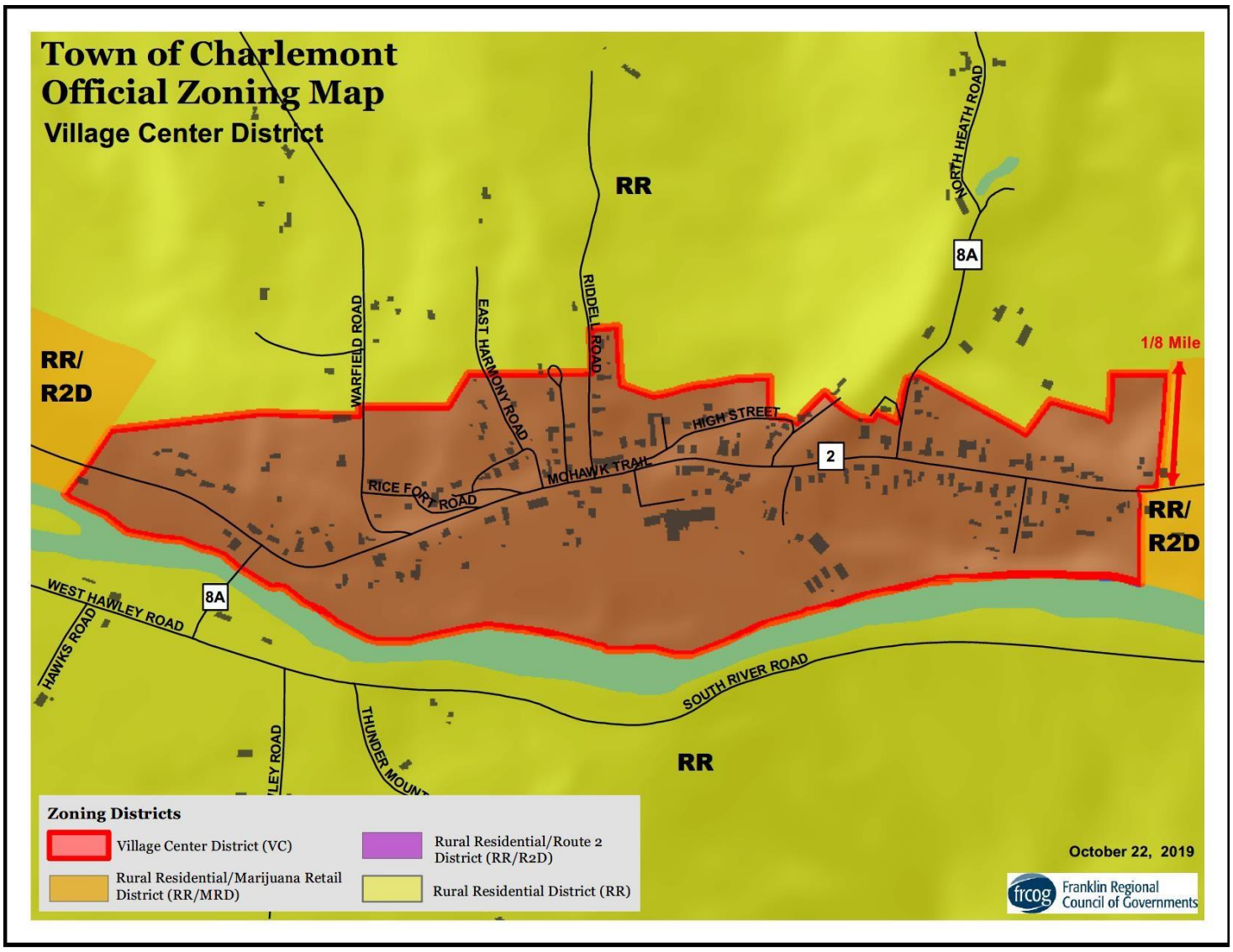
Zone A: Means the 100-year floodplain area where the base flood Elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

Zone A1-30: Means the 100-year floodplain where the base flood elevation has been determined.

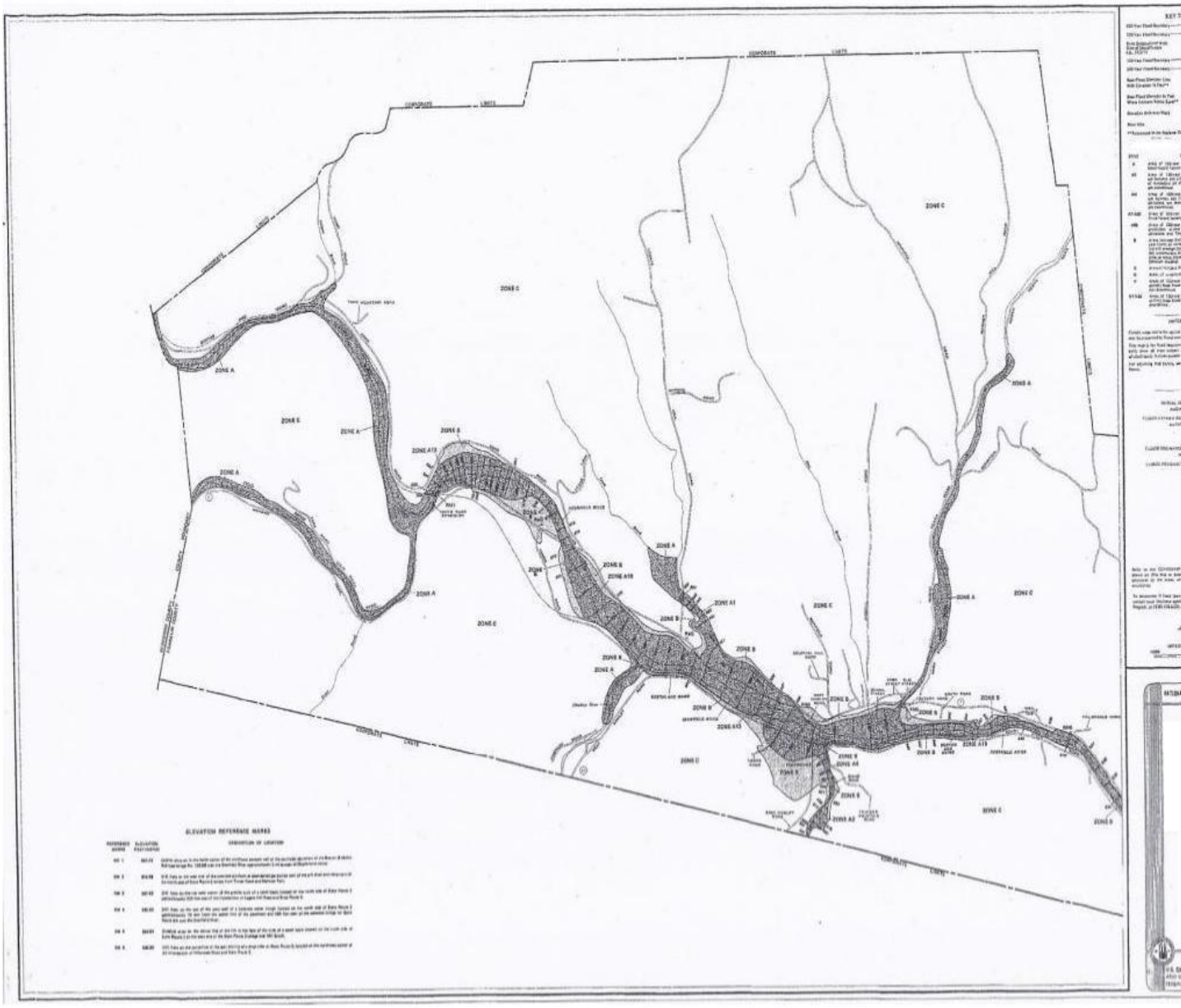
Zones B and C: Are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard.

APPENDIX

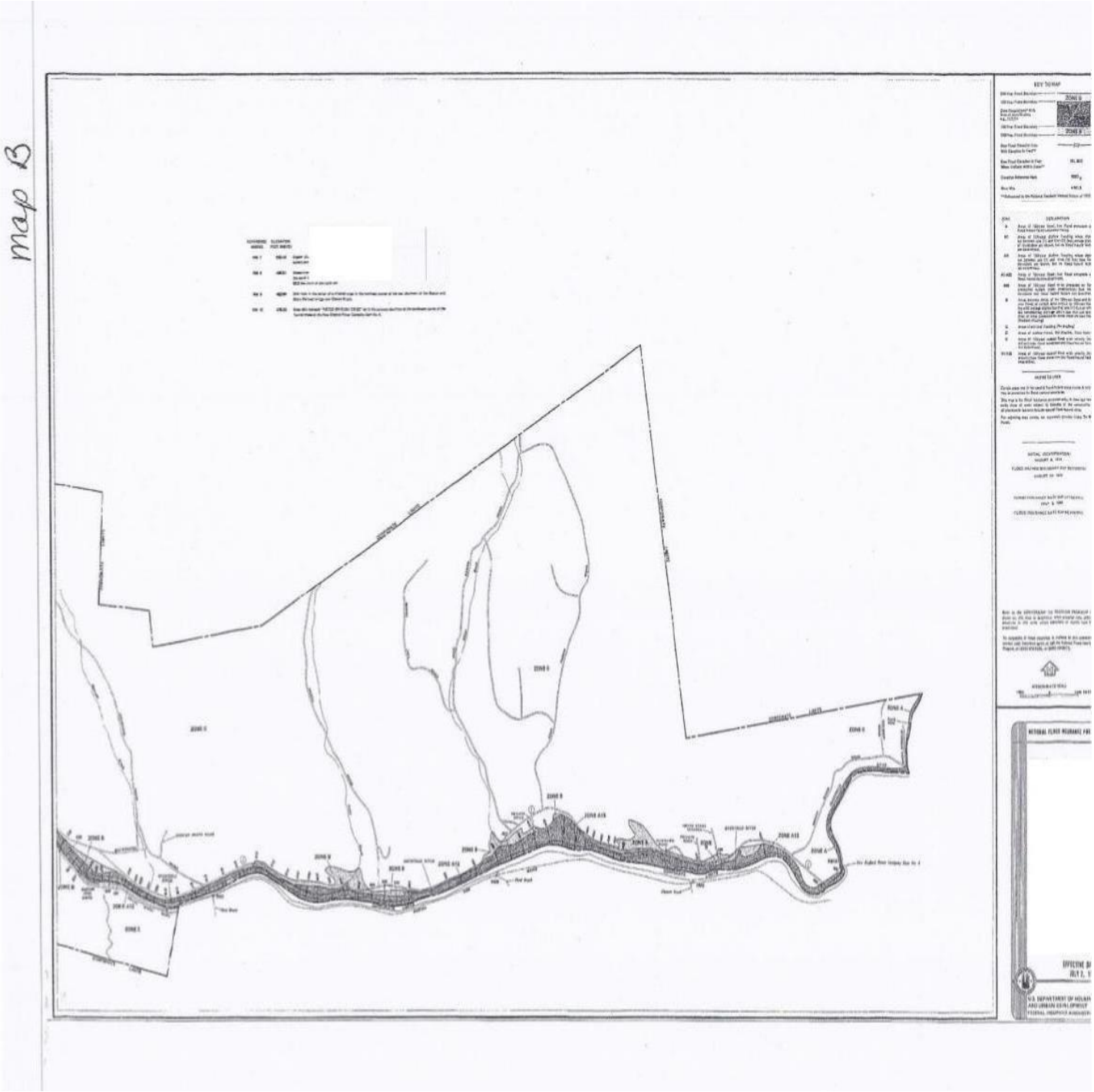
Village Center Map



Floodplain Map A



Floodplain Map B



Official Zoning Map

