

Section 2**ENACTMENT AND APPLICABILITY****(A) Basic Requirements**

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, extended or moved, and uses of land and premises in the Town of South Hadley shall be in conformity with the provisions of this By-Law.

(B) Effective Date

The effective date of the adoption of this By-Law, and any amendments thereto, shall be the date on which such adoption or amendment is voted by a two-thirds majority of Town Meeting members, provided that it is published and posted as required by Chapter 40A, Section 5, of the Mass. General Laws.

(C) Validity and Severability

Should any section or provision of this By-Law be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this By-Law.

(D) Conflict with Other By-Laws

This By-Law shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. However, where this By-Law imposes a greater restriction upon the use of land, buildings or structures the provisions of this By-Law shall control.

(E) Amendments

This By-Law may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in Chapter 40A, Section 5 as amended, and Chapter 40, Section 32 as amended, of the Mass. General Laws.

In all cases where Warrant Articles for zoning amendments or changes are initiated by petition or request from individuals or groups, said individuals or groups shall pay the cost of notice of the public hearing, except that Boards and Departments of the Town of South Hadley shall be exempt from such requirement.

(F) Existing Uses, Buildings and Structures; Nonconforming Uses*(As Amended October 17, 2006 Special Town Mtg.)*

1. Applicability. This By-Law or any amendments thereto shall not apply to the use of any structure or land lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication or notice of the public hearing on such by-law required by Section 6 of the Mass. General Laws, Chapter 40A as amended, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alterations, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

2. Change, Substantial Extension or Alterations. Pre-existing nonconforming structures or uses may be changed, extended or altered only upon approval of a special permit for such purpose by the Planning Board acting as the special permit granting authority, provided that the Planning Board shall find that such change, extension or alteration will not be substantially more detrimental than the existing nonconforming use to the neighborhood in which it is located. This shall not apply to billboards, signs, and other advertising devices subject to the provisions of Sections twenty-nine through thirty-three, inclusive, of Chapter 93, and to Chapter 93D, of the Mass. General Laws.

In any twelve month period, a nonconforming use or structure may not be altered, except as ordered by the Building Commissioner to make it safe, to the extent that the cost of such alterations exceeds fifty (50%) percent of the assessed value of the use or structure at the time of the change.

- a. Waiver of Special Permit Requirement. The Planning Board may waive the requirement for a Special Permit when the changes/alterations are minor (such as, those of a cosmetic nature, those necessary for users/occupants safety, those necessary to make the facility handicapped accessible, or any changes/alterations of a similar nature) and do not increase the capacity or change the use of the facility. Persons desiring such a waiver must submit a written request to the Planning Board and detail the changes/alterations to be made. The Planning Board may act on the request at a regular posted meeting without holding a public hearing. In granting such a waiver, the Planning Board must determine that the proposed changes/alterations will not be more detrimental than the existing nonconforming use to the

neighborhood in which it is located. Granting of a waiver pursuant to this Section of the Zoning By-Law requires an affirmative vote by no less than four (4) of the Planning Board members.

3. Restoration. Any nonconforming use or structure in existence at the time of this By-Law or any amendment thereto may be reconstructed on the original foundation area if damaged or destroyed by fire or other accidental or natural cause; provided, that not more than fifty (50%) percent of the use or structure, exclusive of foundations, has been so damaged or destroyed. Rebuilding or restoration, when permitted, shall be completed within twelve (12) months after such catastrophe or disaster.
4. Abandonment. When a nonconforming use is discontinued, as evidenced by a lack of such use in a structure or vacancy, for a continuous period of twenty-four (24) months, or by substitution of a more compatible use as provided in Paragraph (2) above, such nonconforming use shall not thereafter be re-established and all future uses shall be in conformity with the provisions of this By-Law.
5. Exception to Special Permit Requirement. The requirement of Section 2, Subpart (F), Paragraph 2 that pre-existing nonconforming structures may be changed, extended or altered only upon approval of a special permit for such purpose by the Planning Board shall not apply where the proposed expansion/alteration of the structure will conform to the Zoning Bylaw Dimensional Requirements specified in Section 6, Subpart (B) of the Zoning Bylaw. This exception shall only apply to change, extension, or alteration of nonconforming structures and not nonconforming uses. Nothing in this Section shall relieve the requirements for a Special Permit where a Special Permit is required under Section 5, Subpart (D) or Section 7 or Section 8 of the Zoning Bylaw. Neither shall anything in this Section relieve the requirements for Site Plan Review of any change, extension, or alteration where Site Plan Review is required under Section 5, Subpart (D) or Section 12 of the Zoning Bylaw. *(As Amended October 17, 2006 Special Town Mtg.)*