ZONING BYLAW
OF THE
TOWN OF WESTWOOD,
MASSACHUSETTS

AS ADOPTED MARCH 13, 1961
WITH ALL AMENDMENTS
UP TO AND INCLUDING THE
MAY 2, 2016 TOWN MEETING

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SECTION 1.0 PURPOSE AND AUTHORITY

1.1 **PURPOSE.** These regulations are enacted to promote the general welfare of the Town, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the Town, to preserve the cultural and historical heritage of the community, to protect the natural environment, to increase the amenities of the Town and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, M.G.L. Chapter 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.2 **AUTHORITY.** This Zoning Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto.

1.3 **SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures and land in the Town are regulated as hereinafter provided.

1.4 **APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

1.5 **AMENDMENTS.** This Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in M.G.L. Chapter 40A, section 5 and any amendments thereto.

1.6 **SEPARABILITY.** The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

SECTION 2.0 DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building", "structure", "lot" or "parcel" shall be construed as being followed by the words "or any portion thereof". The word "person" includes a firm, association, organization, partnership, company or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

Access Actual, practical and safe vehicular passage from a street through the front lot line to building site.

Accessory Apartment A self-contained area comprised of living space, kitchen space and a bathroom, within a single family home or as an accessory structure thereto, and which may be occupied by one or more individuals, related or unrelated to the owner of the principal dwelling, and which accessory apartment is subject to the conditions of Section 8.3 of this Bylaw.

Adult Bookstore An establishment having at least fifteen percent (15%) of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L Chapter 272, section 31.

Adult Cabaret A restaurant or other establishment licensed under Section 12 of Chapter 138, of the General Laws, which regularly features exotic dancers, strippers, male or female impersonators or similar entertainers.

Adult Day Care Facility Any premises which on a regular basis receives for temporary custody and care, during the part or all of the day, adults over the age of twenty-one, providing to said adults, training in various activities of daily life, including but not limited to, bathing, dressing, cooking, and hygiene instructions, programs in current events, exercise and art and counseling for caretakers of adults requiring care.

Adult Live Entertainment Establishment An establishment which features live entertainment for its patrons, which consists of entertainers engaging in sexual conduct or nudity as defined in M.G.L. Chapter 272, section 31.

Adult Mini Motion Picture Theater An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31, for observation by patrons therein.

Adult Motion Picture Theater An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31, for observation by patrons therein.

Adult Paraphernalia Store An establishment having at least fifteen percent (15%) of its stock in devices, objects, tools or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31.

Adult Use An Adult Bookstore, Adult Cabaret, Adult Live Entertainment Establishment, Adult Motion Picture Theater, Adult Mini Motion Picture Theater, Adult Paraphernalia Store and/or Adult Video Store as herein defined.

Adult Video Store An establishment having at least fifteen percent (15%) of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31.

Affordable Housing Dwelling units available at a cost of no more than thirty (30) percent of gross household income to households at or below eighty (80) percent of the Boston PMSA median income as most recently reported by the U.S. Housing and Urban Development (HUD), including units listed under M.G.L Chapter 40B and the State's Local Initiative Program.

Agricultural Use, Exempt Agricultural use of property exempted by M.G.L. Chapter 40A, Section 3, and further defined by M.G.L. Chapter 128, Section 1A.

Agricultural Use, Non-exempt Agricultural use of property not exempted by M.G.L. Chapter 40A, Section 3, and consistent with M.G.L. Chapter 128, Section 1A.

Alterations As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another**.**

Animal Clinic or Hospital A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

Assisted Living Residence Dwelling units and associated facilities designed to provide room and board to residents who do not require 24-hour skilled nursing care; to provide

assistance with activities of daily living; and to collect payments for the provision of these services, all as further defined in M.G.L. Chapter 19D, section 1.

Baseline Traffic Conditions The volume/capacity ratio on a street or the available reserve capacity at an intersection resulting from the traffic forecast at a five year horizon, given peak hour trip generation from the premises of 1.0 trip per 1,000 square feet of lot area.

Boarding House A dwelling or part thereof in which lodging is provided by the owner or operator to more than three (3) individuals who are not part of the owner's family.

Building (see structure) A structure enclosed by exterior walls or firewalls, built, 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. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building, Accessory A subordinate, detached building located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

Building Coverage The horizontal area measured within the outside of the exterior walls of the ground floor for all principal and accessory buildings and structures on a lot, exclusive of cornices, eaves, gutters, chimneys, steps, bay windows, balconies and terraces.

Building Envelope The three-dimensional space within which a building or structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height and bulk, by other regulations and/or a combination thereof.

Building Height The vertical distance from grade plane to the average height of the highest roof surface. The limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, amateur radio antennas and other necessary features usually carried above the roof line, provided such features do not cover more than twenty-five percent (25%) of the area of the roof of the building or other structure and are used in no way for human occupancy.

Building Lot Coverage That percentage of the lot or plot area covered by the roof area of a building or buildings.

Building, Principal A building in which is conducted the main or principal use of the lot on which said building is situated.

Building Trade Shop An establishment or part thereof, which may include office space, interior storage and preparation space for use by the practitioner of a building trade such as a builder, carpenter, cabinetmaker, electrician, mason, painter, paperhanger, plumber,

roofer or sign painter.

Business Services Establishment Establishments primarily engaged in providing services to business or government on a fee or contract basis, such as advertising and mailing, employment, management and consulting, protective services.

Campground An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents and major recreational equipment, which is primarily used for recreational purposes and retains on open air or natural character.

Car Wash An establishment where motor vehicles are washed, rinsed, polished and/or waxed, by mechanical or manual means, whether or not operated in conjunction with another motor vehicle use.

Child Care Facility A day care center or school age child care program, as those terms are defined in M.G.L. Chapter 28A, section 9.

Club or Lodge, Private Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising or commercial activities except as may be required generally for the membership and purposes of such organization.

Coffee Shop An establishment where the primary activity is the retail sales of coffee, tea, and/or similar products for consumption on or off the premises.

Commercial Parking Garage A structure or portion of a structure that provides for parking within, below, or on top of the structure which is open to the general public and is not accessory to a particular commercial or industrial establishment.

Commercial Recreation, Indoor A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Commercial indoor recreation shall include the following places of assembly: theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, or other commercial recreational centers conducted for or not for profit.

Commercial Recreation, Outdoor Drive-in theatre, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this Bylaw.

Commercial Vehicle Any motor vehicle bearing commercial plates, or on which is

affixed any writing or logo to designate the business or professional affiliation of said vehicle, or any vehicle with ladders, tools, stock or supplies visibly stored on the exterior of the vehicle.

Construct To build, construct, reconstruct, move upon or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect. The word "constructed" shall be construed to include the words "built", "erected", "reconstructed", "altered", "enlarged", "moved" and "placed".

Contractor's Yard Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies and/or parking of wheeled equipment.

Coordinated Unit An association of dwelling unit owners or a management company operating and maintaining a residential facility as a common entity.

Cultural Facility Any building or structure used for programs or activities involving the arts, humanities, and/or sciences or other endeavors that encourage refinement or development of the mind through observation and interaction, including art galleries or museums, but excluding movie theaters and venues for the performing arts such as music venues or stage theaters.

Data Storage Facility A building that houses computing and communications systems and hardware that provide off-site records and media storage, backup services, and data retrieval, delivery, and destruction services.

Drive-Through Service Feature or characteristic of a use involving sales of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services, such as Automated Teller Machines (ATM).

Driveway An open space, which may be paved, located on a lot, built for vehicular access to a garage or off-street parking or loading space.

Dwelling A building, or any part thereof, designed and occupied as the living quarters of one (1) or more families. Single-family and two-family dwellings shall be designed for and occupied by not more than one (1) or two (2) families, respectively. A multi-family dwelling shall be one designed for and occupied by three (3) or more families. A dwelling shall include one-family and two-family houses, apartments, and boarding or lodging houses, but not including transient accommodations such as in hotels or motels.

Dwelling Unit A dwelling intended for use by one family as a single housekeeping unit.

Earth Material Movement The export, import and/or regrading of soil, loam, sand, gravel, topsoil, borrow, rock, sod peat, humus, clay, stone or other earth material or similar material by means of vehicles and machinery, to, from, or on land within the Town.

Educational Use, Exempt Use of land or structures for educational purpose on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation

Educational Use, Non-exempt Educational facilities not exempted from regulation by M.G.L. Chapter 40A, section 3.

Effective Date The "Effective Date" of any requirement hereof or any amendment thereto subsequently adopted shall be the date on which such requirement or amendment was voted by Town Meeting.

Entertainment Any form of amusement, distraction or similar activity intended to entertain the customers or clientele of a business, including any live or audio-visual presentation regardless of duration.

Essential Services Services provided by a public service corporation or by governmental agencies through erection, construction, alteration or maintenance of gas, electrical, steam or water transmission or distribution systems and collection, communication, supply or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

Establishment Any private or public entity, for-profit or non-profit organization, institution, proprietorship, or partnership regularly engaged in a particular activity.

Family One or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit; or a number of persons but not exceeding four (4) living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

Family Day Care, Large A private dwelling which receives for temporary custody up to ten (10) children, including participating children living in the residence, provided said dwelling and day care provider have received a license from the Commonwealth of Massachusetts to provide family day care as defined in M.G.L. Chapter 28A.

Family Day Care, Small A private dwelling which receives for temporary custody up to six (6) children, including participating children living in the residence, provided said dwelling and day care provider have received a license from the Commonwealth of Massachusetts to provide family day care as defined in M.G.L. Chapter 28A.

Farm Stand, Exempt Facility for the sale of agricultural products on property exempted by M.G.L. Chapter 40A, Section 3, to the extent expressly permitted therein.

Farm Stand, Non-exempt Facility for the sale of agricultural products on property not exempted by M.G.L. Chapter 40A, Section 3.

Fast Order Food Food which is: (1) primarily intended for immediate consumption rather than for use as an ingredient in or component of meals; (2) available upon a short waiting time; and (3) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Fast Order Food Establishment A specific operation separate and distinct from any other operation in the location occupied and in the kind of Fast Order Food sold and which: (1) has as its primary business the sale to the public of Fast Order Food for consumption on or off the premises, and (2) does not meet all the following conditions: (i) provision of non-disposable plates, cups and utensils to all patrons, (ii) availability of individual printed menus for all patrons, (iii) provision of seventy-five (75) percent of the seating in the premises at free standing tables, rather than at counters, and (iv) at least fifty-one (51) percent of the revenues from food sales is attributable to food consumed on premises. The term "fast order food establishment" shall not include "coffee shop", "ice cream parlor" or "retail take-out counter" as herein separately defined.

Fast Order Restaurant A Restaurant that serves Fast Order Food, excluding Fast Order Food Establishments that have Drive-Through Service or that customarily have Drive-Through Service even if such Drive-Through Service would not be provided at the location in question.

Fire Arms/Explosives Sales and Service The sale and/or service and/or repair of firearms, ammunition, or explosives by a firearms dealer, whether it is the principal sales item or incidental to the overall sales. This use includes firearms dealers that transfer and lease any firearms.

Fitness or Health Club A use providing exercise equipment and athletic and recreational facilities for use by patrons, including individualized personal training, sports fields, playing courts, climbing walls, and group exercise classes based on aerobics, cycling (spin cycle), boxing, yoga, pilates, weightlifting, muscle training, and similar activities. A Fitness or Health Club may include a sauna, steam shower, spa services, wellness areas, swimming pool, accessory health-shops, snack bars, child-care facilities, and member lounges and cafes. Outdoor exercise facilities and activities may be included provided that they are accessory to the indoor uses. The inclusion of accessory retail uses shall not cause a Fitness or Health Club to be considered a retail use.

Flea Market A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete or antique and may include selling goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets are conventional, permanent, profit-seeking businesses that require all local permits and licenses.

Floor Area, Gross The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairways, closets, thickness of walls, columns or other features.

Floor Area, Net The total square feet of floor space within the outside dimensions of a building including each floor level, with deduction for hallways, stairways, elevator wells, rest rooms, common hallways and building service areas.

Floor Area Ratio (FAR) The gross floor area of a building, less all floor area of said building attributed to entrance areas, atriums and parking garages, divided by the total gross lot area of the parcel on which it is located. For example, a one acre lot with a FAR of .75 could contain 32,670 square feet of floor area (43,560 x .75=32,670), plus such additional area as may be attributed to entrance areas, atriums or parking garages.

Funeral Home Facility for the conducting of funerals and related activities such as embalming.

Garage, Private Any building or portion of a building, located upon the same lot as a residential building or upon a lot in the same ownership and adjacent to the lot on which the served residential building is located, which is used for the keeping of a motor vehicle or motor vehicles and in which no business or industry dealing with sales, servicing or repair of such vehicles is provided thereon.

General Office A building in which one or more establishments conducts business, clerical, or professional activities on a regular basis and which does not come within the definitions of Business, Services Establishment, General Services Establishment, and Professional Services Establishment.

General Services Establishment An establishment primarily engaged in providing general repair and other similar services to the public, such as appliance, computer, office equipment and bicycle repair, tool sharpening or upholstery.

Golf Course A 9-hole or 18-hole course consisting of tees, greens and fairways with customary and incidental accessory uses including driving range, vehicular parking, clubhouse, retail shop for the sale of golf-related items only and administrative offices. The term “golf course” shall not include miniature golf.

Grade Plane A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

Hazardous Material A substance, or combination of substances, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in serious, or incapacitating illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. These substances shall include, but not limited to, the EPA priority pollutants as described in section 307(a) of the Clean Water Act, as amended.

Hazardous Wastes A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in serious, or incapacitating illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. These wastes shall include, but not be limited to, any wastes which fall within the definitions of hazardous waste under the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, the Water Resources Commission, and the Division of Water Pollution Control under the provision of Sections 27(8), 52, 57, and 58 of Chapter 21 of the General Laws.

Home Occupation An occupation, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof, which does not alter the residential character of the property or negatively affect surrounding residential properties. Examples of home occupations include, but are not limited to, the office of a physician, dentist, attorney, accountant, architect, engineer, real estate agent or insurance agent; or the studio of an artist, musician or dancer; or the studio of a teacher of art, music or dance; or the workroom of a dressmaker, milliner or photographer.

Impervious Any area impenetrable by surface water.

Ice Cream Parlor An establishment where the primary activity is the retail sales of ice cream, frozen yogurt and/or similar products for consumption on or off the premises.

Inoperable Vehicle Any vehicle lacking a valid registration or inspection decal or which is, and for the immediately preceding thirty-one (31) days, has been wholly or partially dismantled, whether or not it has said registration or inspection decal.

Junk Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning cannot be used for its original purpose as readily as when new shall be considered junk.

Junkyard or Automobile Graveyard The use of any area or any lot, whether inside or outside of a building, for the storage, keeping or abandonment of junk, scrap or discarded materials, or the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts thereof.

Kennel A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

Commercial boarding or training kennel - an establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under MGL Chapter 129, Section 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

Commercial breeder kennel - an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

Personal kennel - a pack or collection of 4 or more dogs, 3 months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit.

Veterinary kennel - a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that "veterinary kennel" shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

Large Scale Solar Any Solar Energy Facility which exceeds fifteen (15) kilowatts capacity.

Leachable Wastes Waste materials including, without limitation, solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment.

Light Manufacturing A use engaged in the fabrication, assembly, processing, finishing work or packaging of materials.

Loading Space An on-the-property space for the standing, loading or unloading of vehicles to avoid undue interference with the public use of streets and alleys. Such space

shall be not less than ten (10) feet in width, fourteen (14) feet in height and thirty (30) feet in length, exclusive of access aisles and maneuvering space.

Lot A single parcel of land held in identical ownership throughout, and defined by metes, bounds or boundary lines in a recorded deed or on a recorded plan.

Lot Area The total horizontal area within the boundary lines of a lot.

Lot, Corner A lot on a corner fronting on two (2) intersecting streets. In the case of a corner lot, one lot line shall be designated as the front lot line by the Building Commissioner, following a review of relevant criteria including street address and orientation of existing structures, and the opposite lot line shall be designated a rear lot line, for setback and yard requirements.

Lot, Depth of The mean distance from the street layout of the lot to its opposite rear line measured in the general direction of the side lines of the lot. Where a lot has no frontage on a street, the lot depth shall be the mean distance from the property line determined by the Building Commissioner to be the front lot line to the opposite rear lot line measured in the general direction of the side lines of the lot.

Lot, Frontage of The length of common boundary between a lot and a way legally qualifying to provide frontage for the division of land, pursuant to M.G.L. Chapter 41, section 81L, to be measured continuously along the street layout between side lot lines and their intersection with the street line, which is capable of providing safe and adequate vehicular access from said way to the principal use of the lot.

Lot Line A line dividing one lot from another, or from a street or any public place.

Lot Line, Front Any lot line coinciding with a street line is a front lot line regardless of the orientation of any principal or accessory building or structure on the lot.

Lot Line, Rear Any lot line, or combination of lot lines, which is opposite or approximately opposite the front lot line. In the case of a triangular or irregular-shaped lot, a line ten (10) feet long within the lot, parallel to and farthest from the front lot line shall be designated the rear lot line. In the case of a corner lot, one side lot line shall be designated a rear lot line for purposes of determining setback requirements. It may be any side lot line provided that a front lot line opposite it has sufficient frontage to meet the minimum lot frontage requirements pursuant to Section 5.2, Table of Dimensional Requirements. In all cases, if there is a dispute as to whether a lot line is a side lot line or a rear lot line, it shall be considered a rear lot line.

Lot Line, Side Any lot line other than a front lot line or a rear lot line.

Lot Width The minimum distance between the side lot lines at all points between the front lot line and the nearest point of a principal building.

Manufacturing A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding the following: acid manufacture; cement, bituminous concrete or asphalt manufacture; lime, gypsum or plaster of paris manufacture; production of chlorine or similar noxious gases; distillation of bones; drop-forge industries manufacturing forging with power hammers; explosives manufacture; fertilizer manufacture; garbage, offal, or dead animal reduction or dumping; glue manufacture; hair manufacture; petroleum refining; processing of sauerkraut, vinegar or yeast; rendering or refining of fats or oils; smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill; stockyard or feeding pen; slaughter of animals.

Massage Parlor Premises principally used for the practice of massage by persons licensed by the Board of Health under Section 51 of Chapter 140 of the General Laws.

Medical Center or Clinic A building designed and used for the diagnosis and treatment of human patients that does not include substance rehabilitation or overnight care facilities.

Memory Care Facility A facility that provides housing and specialized care for residents needing memory care for dementia, Alzheimer's or other cognitive impairments.

Mobile Home A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

Moderate Income Housing Dwelling units available at a cost of no more than thirty (30) percent of gross household income to households at or below one hundred twenty (120) percent of the Boston PMSA median income as most recently reported by the U.S. Housing and Urban Development (HUD).

Motel or Hotel A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four (4) month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

Motor Vehicle Body Repair An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage of vehicles for the cannibalization of parts.

Motor Vehicle General Repairs Premises for the servicing and repair of automobiles, but not to include fuel sales.

Motor Vehicle Light Service Premises for the supplying of fuel, oil, lubrication, or minor repair services, but not to include body work, washing, rinsing, polishing, waxing, painting and/or major repairs.

Municipal Facilities Facilities owned or operated by the Town of Westwood.

Nonconforming Structure A structure not in conformance with one or more provisions of this Bylaw which was lawfully in existence or was lawfully begun before the first publication of notice of the public hearing concerning amendment of a zoning provision that would render the structure not in compliance.

Nonconforming Use A use of a building, structure or land not in conformance with one or more provisions of this Bylaw which was lawfully in existence or was lawfully begun before the first publication of notice of the public hearing concerning amendment of a zoning provision that would render the use not in compliance.

Nursing or Convalescent Home Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Office of Health Care Professional An office for a medical doctor, dentist, psychologist, chiropractor, acupuncturist, or similar physical or mental health care professional, including clinical and laboratory analysis activities directly associated with such medical office use, but excluding offices within Medical Centers or Clinics.

Open Space Residential Development A residential development proposed under the procedures of Article 8.3 of this bylaw, using the 4-step design process described therein and employing the practices established in that section for the design, protection and maintenance of common open space.

Other Marijuana Facility Any acquisition, cultivation, possession, processing, sale, dispensing, distribution, or administration of products containing or derived from marijuana, including, without limitation, food, tinctures, aerosols, oils, ointments, or smokables, and/or marijuana-related supplies or materials, other than a Registered Marijuana Dispensary.

Parking Garage A structure, or a portion of a structure, which use is accessory to a commercial or industrial establishment and is primarily for the parking of vehicles operated by the customers, visitors and employees of such an establishment.

Parking Space An area intended and reserved for parking one automobile, provided that the area's dimensions and access meet standards adopted and from time to time amended by the Planning Board. Does not include spaces for storage or display of automobiles intended for sale.

Personal Services Establishment An establishment primarily engaged in providing services involving the care of a person or their apparel and household possessions, such

as a barber or beauty shop, tanning beds, laundry or dry cleaning, photographer's studio or dressmaking or millinery shop.

Pet care facility - a commercial establishment which caters to the needs, comfort, and/or benefit of pets, or which offers pet-oriented services including the grooming of dogs or domesticated animals, but which does not engage in the housing, breeding, boarding, training, or sales of such animals, and does not provide animal daycare.
Premises A lot together with all structures, buildings and uses thereon.

Professional Services Establishment An establishment primarily engaged in the transaction of business or the provision of services within a building or part thereof, such as the professional office of a physician, lawyer, engineer, architect, accountant, real estate or insurance agent or broker, or similar activity, which may include clerical, accounting and administrative activities associated with said activity, but which shall be exclusive of the receipt, sale, storage or processing of merchandise.

Public Communications Use Structure whose use is the FCC-licensed transmission of electronic communications.

Public Utility Communications or energy facilities operated by a public service corporation and regulated by the Department of Telecommunications and Energy.

Recreational Vehicle A vehicle or vehicular attachment, with or without utilities, flush toilets or bath facilities, which is used for recreational purposes, and which is not a residence, including but not limited to such items as a travel trailer, a pick-up camper, a tent trailer, a boat, a boat trailer and a motor home.

Registered Marijuana Dispensary A non-profit entity, lawfully permitted and licensed pursuant to 105 CMR 725 that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, and/or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A Registered Marijuana Dispensary (RMD) may sell only marijuana, marijuana-infused products (MIPs) and marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes.

Research and Development A use engaged in the fields of technology, medical, pharmaceutical, physical, environmental, biological or behavioral sciences, including the production of equipment, apparatus, machines or other devices for research, development, manufacturing advance and practical application in any such field or area, and including office, administrative, laboratory, manufacturing and support space and facilities.

Restaurant An establishment where the primary activity is the preparation, service and sale of meals for consumption on the premises while seated either inside a completely

enclosed building, or in a designated outdoor seating area adjacent to the building in cases where such outdoor seating area has been allowed by a special permit issued by the Planning Board . The term "restaurant" shall not include "fast order food establishment", "coffee shop" or "ice cream parlor" as herein separately defined.

Retail A facility selling goods but not specifically listed in the Table of Use Regulations.

Retail Take-out Counter A counter, accessory to a retail establishment, engaged in the dispensing of prepared food and/or beverage to persons carrying food and beverage away for consumption elsewhere.

Self-Storage or Mini-Storage Facility A facility constructed and configured to allow access to individuals who rent, lease or otherwise utilize, individually self-contained sub-units of the structures for the storage of personal, company or corporate possessions.

Setback The minimum horizontal distance from the lot line to the nearest point of a building or structure.

Shuttle Service The operation of buses or similar motor vehicles designed for the transport of groups of people, together with a covered garage for parking shuttle vehicles and shelters at shuttle stops.

Small Scale Solar Any Solar Energy Facility which has a capacity of fifteen (15) kilowatts or less.

Solid Waste Disposal Facility Refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Westwood for processing, handling, treating and disposing of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and sludges but not raw sewage and similar waste items.

Story The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third (1/3) of the area of the floor immediately below, it shall be deemed to be a story. A basement, as defined in the Massachusetts State Building Code, shall be deemed to be a story when its ceiling is six (6) feet or more above the finished grade. A cellar, as defined in the Massachusetts State Building Code, shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and not used for human occupancy.

Street A street shall be (1) an improved public way laid out and maintained by the Town of Westwood, or the Norfolk County Commissioners, or the Commonwealth of Massachusetts; or (2) a way which the Westwood Town Clerk certifies is maintained by public authority and used as a public way; or (3) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or (4) a way shown on a plan endorsed after January 1, 1995, as not requiring approval under the

Subdivision Control Law; or (5) a way in existence as of September 28, 1969 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. A public or private way shall not be deemed to be a street as to any lot of land that does not have access to and passage over said way.

Street Line A lot line between a street and a lot.

Structure An assembly of materials forming a construction for occupancy or use including among others, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, staging, observation towers, communication towers, flag poles, water tanks, trestles, piers, wharfs, open sheds, coal bins, shelters, fences and display signs, tanks in excess of 500 gallons used for the storage of any fluid other than water and swimming pools. A freestanding fence or wall six (6) feet or less in height, or a fence installed on or immediately adjacent to a wall such that the fence and wall together have a combined height of six (6) feet or less, measured from the lowest point of grade adjacent to the fence, or combined wall and fence, will not be considered a structure.

Taxi Service An individual, business or organization engaged in the operation or dispatch of one or more vehicles used or designed to be used for the conveyance of persons or parcels from place to place for hire, including limousine service, but excluding said service operated or authorized by municipal or state authority.

Temporary Structure A structure without any foundation or footings to be removed within a twelve (12) month time period. Said structure shall conform to the requirements of Section 5.2, Table of Dimensional Requirements and shall receive a permit from the Building Commissioner.

Toxic Materials A combination of pollutants including disease-carrying agents, which after discharge and upon exposure, ingestion, inhalation and assimilation into any organism can cause death, disease, mutations, deficiencies or malfunctions in such organisms or their offspring.

Transport Terminal Terminal facilities for handling freight with or without maintenance facilities.

Upper Story Dwelling Unit A residential dwelling unit located on one or more stories above a ground story use.

Use, Accessory Either a subordinate use of a building, structure or land, or a subordinate, detached building or structure (i) whose use is clearly incidental to the main use of the premises on which located, and (ii) which does not constitute, in effect, a conversion of that main use to the one not permitted.

Use, Principal The main or primary use of any land or lot.

Used The word "Used" shall be construed to include the words "arranged", "designed", "converted", "rented" or "leased to be used".

Warehouse A building used primarily for the storage of goods and materials for distribution but not for sale on the premises. The term "warehouse" shall not include a self-storage or mini-storage facility.

Yard A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving and other customary yard accessories.

Yard, Front A yard extending the full width of the lot and situated between the street line and the nearest point of the principal building.

Yard, Rear A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the principal building projected to the side lines of the lot.

Yard, Side A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

Yard Sale Any display of goods and/or samples for sale of said goods on a residential property.

SECTION 3.0 DISTRICTS

3.1 ESTABLISHMENT OF DISTRICTS

For the purpose of this Bylaw, the Town of Westwood is hereby divided into the following types of districts:

3.1.1 **Residential Districts:**

Single Residence A District (SRA)
Single Residence B District (SRB)
Single Residence C District (SRC)
Single Residence D District (SRD)
Single Residence E District (SRE)
Special Residence District (SR)
General Residence District (GR)

3.1.2 **Nonresidential Districts:**

Local Business District A (LBA)
Local Business District B (LBB)
Administrative-Research-Office District (ARO)
Highway Business District (HB)
Industrial District (I)
Industrial-Office District (IO)

3.1.3 **Overlay Districts:**

Adult Uses Overlay District (AUOD)
Flood Area Overlay District (FAOD)
Flexible Multiple Use Overlay District (FMUOD)
Water Resource Protection Overlay District (WRPOD)
Wireless Communications Overlay District (WCOD)
Upper Story Residential Overlay District (USROD)

3.2 PURPOSES OF NONRESIDENTIAL DISTRICTS

3.2.1 **Local Business.** LBA and LBB Districts are intended as locations for businesses to serve the Town or nearby residential neighborhoods with convenience goods and services, managed so as to reflect proximity to residential environs.

3.2.2 **Administrative-Research-Office.** ARO Districts are intended as locations for businesses engaged in administrative, research and office activities or other uses which may have unusual requirements for space, light and air and which are clean and quiet and not detrimental to the residential use of adjacent property.

3.2.3 **Highway Business.** HB Districts are intended as locations for businesses to serve a larger market area from locations which abut or have access to major highways.

3.2.4 **Industrial.** I and IO Districts are intended as locations for businesses engaged in office, manufacturing, distribution, retail and restaurant activities.

3.3 LOCATION OF DISTRICTS

All districts referred to in this Section are located as shown on a map (the "Zoning Map") filed with the Town Clerk, entitled "Town of Westwood, Massachusetts Zoning Map ", dated November 9, 2015, and said Map, together with all explanatory matter thereon, shall be deemed to be part of this Zoning Bylaw.

3.4 DISTRICT BOUNDARIES

The location of the boundary lines between the zoning districts shown on the Zoning Map shall be determined as follows:

3.4.1 Where a boundary is shown approximately on the location of a property or lot line and the exact location of said property or lot line is not indicated by means of a figure or otherwise, then the property or lot line shall constitute the district boundary line.

3.4.2 Where a boundary is shown upon a street, railroad or utility transmission line, the boundary shall be the center line thereof, unless otherwise indicated.

3.4.3 Where a boundary is shown outside a street, railroad or utility transmission line approximately parallel thereto, it shall be taken as parallel to the center line thereof.

3.4.4 In any case not covered by the other provisions of this Section, the location of a district boundary shall be determined by the distance in feet, if given, from other lines or points shown on the Zoning Map or, if distances are not given, by the scale of the Map.

3.4.5 Wherever any uncertainty exists as to the exact location of a district boundary line, the location of such line shall be determined by the Building Commissioner.

3.5 LOTS IN TWO DISTRICTS

Where a district boundary line divides a lot laid out and duly recorded prior to the effective date of the establishment of such boundary, the regulations applying to the less restricted district may be considered as exceeding not more than fifty (50) feet into the portion of the lot in the more restricted district, but only if the lot has frontage on a street in the less restricted district

SECTION 4.0 USE REGULATIONS

4.1 PRINICIPAL USES

4.1.1 **General.** No building or structure shall be constructed, and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permitted in the district in which said building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized. In the case of lots lying partly within the Industrial District or Highway Business District of the Town of Westwood and partly within another abutting municipality, that portion of the lot lying outside of the Town of Westwood may be used to meet the zoning requirements of this Bylaw, and such lot may have effective access through such abutting municipality. However, in all other cases, no building or structure shall be constructed or used on a lot lying only partly within the Town of Westwood unless the Westwood portion of the lot shall meet the zoning requirements herein set forth, and the lot shall have effective access to the Town of Westwood. There shall be no more than one non-agricultural principal use for each lot in a Residential District, except as may otherwise be provided herein.

4.1.2 **Table of Principal Uses.** The Table of Principal Uses designates which Principal Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter “Y”.

A Use is prohibited in any district under which it is denoted by the letter “N”.

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters “BA”.

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters “PB”.

PRINCIPAL USE	DISTRICTS												
	SRA	**SRB**	**SRC**	**SRD**	**SRE**	**GR**	**SR**	**LBA**	**LBB**	**HB**	**I**	**IO**	**ARO**
4.1.3 RESIDENTIAL USES													
4.1.3.1 Single-Family Dwelling	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.1.3.2 Conversion of One-Family Dwelling to Two-Family Dwelling per Section 8.1	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.3.3 Two-Family Dwelling per Section 8.2	N	N	N	N	N	BA	N	N	N	N	N	N	N
4.1.3.4 Senior Residential Development per Section 8.4	PB	PB	PB	PB	PB	PB	PB	N	N	N	N	N	N
4.1.3.5 Residential Retirement Community per Section 8.5	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.3.6 Nursing or Convalescent Home	N	N	N	N	N	N	N	N	N	N	N	N	BA[1]
4.1.3.7 Assisted Living Residence	N	N	N	N	N	N	N	N	N	N	N	N	BA[1]
4.1.3.8 Open Space Residential Development in accordance with Section 8.3[11]	N	Y	Y	N	Y	N	N	N	N	N	N	N	N
4.1.4 EXEMPT AND INSTITUTIONAL USES													
4.1.4.1 Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.3 Child Care Facility in new building	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.1.4.4 Child Care Facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.5 Agricultural Use, Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.6 Farm Stand. Exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.7 Municipal Facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.8 Essential Services	BA	BA	BA	BA	BA	BA	BA	Y	Y	Y	Y	Y	BA
4.1.4.9 Extension of existing cemetery	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.4.10 Public Utility	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	BA

PRINCIPAL USE	DISTRICTS												
	SRA	**SRB**	**SRC**	**SRD**	**SRE**	**GR**	**SR**	**LBA**	**LBB**	**HB**	**I**	**IO**	**ARO**
4.1.5 COMMERCIAL USES													
4.1.5.1 Agricultural Use, Non-exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.2 Farm Stand, Non-exempt[2]	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.1.5.3 Animal Hospital or Animal Clinic	N	N	N	N	N	N	N	BA	BA	Y	BA	BA	N
4.1.5.4 Funeral Home	N	N	N	N	N	N	N	BA	BA	BA	N	N	BA
4.1.5.5 Motel or Hotel on five (5) acres or more	N	N	N	N	N	N	N	N	N	N	BA	BA	N
4.1.5.6 Retail sales and services, less than 10,000 square feet	N	N	N	N	N	N	N	Y	Y	Y[5]	Y	Y	N
4.1.5.7 Retail sales and services, 10,000 square feet or more	N	N	N	N	N	N	N	N	N[4]	Y[5]	BA[3]	BA[3]	N
4.1.5.8 Motor Vehicle Sales and Rental; other open air sales	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.9 Motor Vehicle General Repairs and Body Repair	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.10 Motor Vehicle Light Service	N	N	N	N	N	N	N	BA	BA	BA	N	N	N
4.1.5.11 Car Wash	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.12 Restaurant without entertainment, less than 10,000 square feet	N	N	N	N	N	N	N	Y[6]	Y[6]	Y[6]	Y[6]	Y[6]	N
4.1.5.13 Restaurant without entertainment, 10,000 square feet or more	N	N	N	N	N	N	N	PB[6]	PB[6]	Y[6]	PB[6]	PB[6]	N
4.1.5.14 Restaurant with entertainment	N	N	N	N	N	N	N	PB[6]	PB[6]	PB[6]	N	N	N
4.1.5.15 Fast Order Food Establishment	N	N	N	N	N	N	N	N	N	BA[7]	N	N	N
4.1.5.16 Coffee Shop	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.17 Ice Cream Parlor	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.18 Pet Care facility	N	N	N	N	N	N	N	Y	Y	Y	BA	BA	N
4.1.5.19 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel	N	N	N	N	N	N	N	N	N	Y	BA	BA	N
4.1.5.20 Professional Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.1.5.21 Business Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y

PRINCIPAL USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5 COMMERCIAL USES, CONTINUED													
4.1.5.22 Office of doctor or dentist not a resident on premises	N	N	N	N	N	BA	N	Y	Y	Y	Y	Y	Y
4.1.5.23 Bank, Financial Institution	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.24 Commercial Recreation, Outdoor	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.25 Commercial Recreation, Indoor	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	BA
4.1.5.26 Golf Course	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.27 Personal Services Establishment	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.28 General Services Establishment	N	N	N	N	N	N	N	N	N	BA	N	N	N
4.1.5.29 Campground, wildlife preserve, fishing grounds operated not for profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1.5.30 Printing/copy/publishing establishment, less than 4,000 square feet	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.1.5.31 Printing/copy/publishing establishment, 4,000 square feet or more	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	N
4.1.5.32 Major Business Development per Section 7.2	N	N	N	N	N	N	N	PB	PB	PB	PB	PB	PB
4.1.5.32 Building Trade Shop in an establishment with less than 8,000 square feet	N	N	N	N	N	N	N	Y[8]	Y[8]	Y	Y	Y	N
4.1.5.34 Building Trade Shop in an establishment with 8,000 square feet or more	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	N
4.1.5.35 Commercial laundry, dry cleaning, dye work, carpet cleaning	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.5.36 Public Communications Use	N	N	N	N	N	N	N	N	N	BA[9]	BA[9]	BA[9]	N
4.1.5.37 Educational Use, Non-Exempt	N	N	N	N	N	N	N	BA	BA	Y	Y	Y	Y
4.1.5.38 Contractor's Yard	N	N	N	N	N	N	N	N	N	BA	BA	N	N
4.1.5.39 Registered Marijuana Dispensary per Section 7.4	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.5.40 Other Marijuana Facility	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.5.41 Fire Arms/Explosives Sales and Service	N	N	N	N	N	N	N	BA	BA	BA	BA	N	N
4.1.5.42 Taxi Service	N	N	N	N	N	N	N	N	N	BA	N	N	N

PRINCIPAL USE	DISTRICTS												
	SRA	**SRB**	**SRC**	**SRD**	**SRE**	**GR**	**SR**	**LBA**	**LBB**	**HB**	**I**	**IO**	**ARO**
4.1.6 INDUSTRIAL USES													
4.1.6.1 Earth Material Movement per Section 7.1	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
4.1.6.2 Light Manufacturing	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
4.1.6.3 Warehouse, wholesale or distribution facility without outdoor storage	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
4.1.6.4 Warehouse, wholesale or distribution facility with outdoor storage	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.6.5 Manufacturing	N	N	N	N	N	N	N	N	N	Y	Y	Y	N
4.1.6.6 Junkyard or Automobile Graveyard	N	N	N	N	N	N	N	N	N	N	N	N	N
4.1.6.7 Research and Development	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y
4.1.6.8 Self-Storage or Mini-Storage Facility	N	N	N	N	N	N	N	N	N	BA	BA	BA	N
4.1.7 OTHER USES													
4.1.7.1 Pay-to-Park Outdoor Parking Facility	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	N
4.1.7.2 Parking Garage	N	N	N	N	N	N	N	N	N	N	N	N	BA
4.1.7.3 Drive-Through Service	N	N	N	N	N	N	N	BA	BA	BA	BA	BA	BA
4.1.7.4 Temporary Structure, building or use not in conformance with this Bylaw, but not for more than one (1) year, or extended over more than a total of three (3) years	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.1.7.5 Large Scale Solar	BA	BA	BA	BA	BA	BA	BA	BA	BA	Y	Y	Y	BA
4.1.7.6 Small Scale Solar	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

4.2 NOTES FOR TABLE OF PRINCIPAL USES

[1] Accessory dwellings may be allowed to the extent expressly allowed by the special permit.

[2] Non-exempt farm stands on municipal properties are permitted and exempt from BA special permit requirements.

[3] Retail sales and services in the Industrial and Industrial-Office Districts between 15,000 square feet and 50,000 square feet shall require a special permit from the Board of Appeals. Retail sales and services over 50,000 square feet shall require only a special permit from the Planning Board pursuant to Section 7.2, Major Business Development.

[4] Except for a retail grocery store which may exceed 10,000 square feet.

[5] For only retail sales and services in the Highway Business District that do not require a special permit pursuant to other sections of the Bylaw and do not involve Adult Uses.

[6] In addition to meeting all other requirements for a special permit for a Fast Order Food Establishment in the Highway Business District, the Applicant shall be required to submit the opinion of a qualified professional expert, and the data upon which such opinion is based, showing to the reasonable satisfaction of the Board of Appeals that the facilities for on-site parking (taking into account all other uses and activities that share the premises with the proposed use) will be sufficient to serve the employees and customers of such establishment without encroaching upon or using neighboring streets or property.

[7] A special permit from the Board of Appeals shall be required if there is outdoor storage of equipment or materials.

[8] Does not include wireless communications facilities.

[10] Open Space Residential Development shall be permitted in the SRB, SRC and SRE districts and the uses delineated in Article 8.0, Special Residential Development, Section 8.3, Open Space Residential Development, shall be the allowed uses in OSRD projects.

4.3 ACCESSORY USES

4.3.1 **Table of Accessory Uses.** The Table of Accessory Uses designates which Accessory Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter “Y”.

A Use is prohibited in any district under which it is denoted by the letter “N”.

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters “BA”.

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters “PB”.

ACCESSORY USE	DISTRICTS												
	SRA	**SRB**	**SRC**	**SRD**	**SRE**	**GR**	**SR**	**LBA**	**LBB**	**HB**	**I**	**IO**	**ARO**
4.3.2 ACCESSORY USES IN ALL DISTRICTS													
4.3.2.1 Any use allowed in that district as a Principal Use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.3.2.2 Any use allowed in that district by special permit as a Principal Use, subject to the same conditions as a Principal Use.	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.2.3 Uses, whether or not on the same premises as uses permitted as of right, accessory to uses permitted as of right, which are necessary in connection with scientific research or scientific development or related production.	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.2.4 When associated with otherwise permitted agricultural operations on a lot with not more than five (5) acres, the following: (1) kennel, (2) salesroom or stand, (3) any building or structure devoted to productive agricultural use which, together with any other such buildings or structures on the premises, covers more than five hundred (500) square feet or contains more than five thousand (5,000) cubic feet.	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4.3.2.5 Commercial Outdoor Seating in association with permitted commercial uses pursuant to Section 4.4.2.	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS													
4.3.3.1 Private garage for not more than three (3) motor vehicles including not more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.2 Private garage and/or the parking or storage area of more than three (3) motor vehicles, or of more than one (1) commercial vehicle with a gross vehicle weight of less than 26,000 pounds, but only where in connection with a Principal Use on the same premises.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.3 Private greenhouse, stable, tool shed, playhouse, tennis court, swimming pool, or other similar building or structure for domestic use. Swimming pools shall be enclosed as required by the Massachusetts State Building Code, as amended from time to time.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.4 Raising or keeping of animals as pets by the resident of the premises.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.5 Renting of rooms by a resident owner, or the furnishing of table board in a dwelling by the resident owner, to not more than three (3) persons other than members of the family.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N

4.3.3.6 Home Occupation pursuant to Section 4.4.1	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N

ACCESSORY USE	DISTRICTS												
	SRA	**SRB**	**SRC**	**SRD**	**SRE**	**GR**	**SR**	**LBA**	**LBB**	**HB**	**I**	**IO**	**ARO**
4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS, CONTINUED													
4.3.3.7 Parking or storage area, for use by the occupant of the dwelling, for the purpose of parking or storing in the rear of the yard and not substantially visible from the street one of the following: one (1) unoccupied recreational vehicle of less than thirty (30) feet length; one (1) inoperative passenger vehicle which has not been partially or wholly dismantled.	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.8 Parking or storage area, for use by the occupant of the dwelling, for the purpose of parking or storing in the rear of the yard and not substantially visible from the street one (1) unoccupied recreational vehicle of thirty (30) feet length or more.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.9 Personal kennel, Veterinary kennel or animal clinic or hospital, if located on the same premises as a dwelling unit and conducted by a resident thereof.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.10 Yard Sale, limited to no more than two days per sale, and no more than two sales per year on any residential property	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.11 The use by a resident builder, carpenter, painter, plumber or other artisan for incidental work and storage in connection with this off-premise trade, subject to the conditions in Section 4.4.1.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.12 Accessory apartment consisting of a second dwelling unit located within a detached one-family dwelling, or a building accessory thereto, subject to the conditions in Section 8.6.	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.13 Family Day Care, Large	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N
4.3.3.14 Family Day Care, Small	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
4.3.3.15 Adult Day Care Facility for no more than twenty (20) adult clients and operated by the owner of the premises	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N

4.3.4 ACCESSORY USES IN ALL NONRESIDENTIAL DISTRICTS													
4.3.4.1 Living quarters for necessary caretakers and watchmen	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.4.2 Transient accommodations for business visitors to the premises	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.4.3 Retail Take-out Counter	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N
4.3.5 ACCESSORY USES IN INDUSTRIAL AND ARO DISTRICTS													
4.3.5.1 Retail uses, such as cafeterias, snack bars, gift shops and vending machines dispensing food, soft drinks and incidental merchandise items; provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.	N	N	N	N	N	N	N	N	N	N	Y	Y	BA[1]
4.3.5.2 Display and sale of products of manufacturing activities conducted on the premises.	N	N	N	N	N	N	N	N	N	N	Y	Y	N
4.3.5.3 Operations required to maintain or support any uses permitted in the Industrial District, if conducted on the same lot as the permitted use, such as maintenance and machine shops, power plants and keeping of animals.	N	N	N	N	N	N	N	N	N	N	Y	Y	N
4.3.5.4 Parking Garage[2]	N	N	N	N	N	N	N	N	N	Y	Y	Y	BA

4.4 NOTES FOR TABLE OF ACCESSORY USES

[1] Provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.

[2] The total square feet of floor space within a parking garage as an accessory use shall not be included in the calculation of Floor Area Ratio.

4.4.1 **Home Occupations.** Home Occupations may be permitted subject to the conditions below:

4.4.1 Not more than two (2) persons other than the residents of the premises shall be regularly employed thereon in connection with such use;

4.4.2 No stock in trade shall be regularly maintained except for products of the occupation itself, or for goods or materials customarily used incidental to its performance;

4.4.3 Such use shall not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property;

4.4.4 No external change shall be made which alters the residential appearance of the buildings or structures on the premises; and

4.4.5 There shall be no exterior display or other outward evidence that the premises are being used for any purpose other than residential (except for a sign as herein permitted).

4.4.2 **Commercial Outdoor Seating.** Outdoor seating for restaurants, fast order food establishments, coffee shops, ice cream parlors, retail take-out counters, professional service establishments, research and development facilities, or other similar allowed use may be permitted upon review and approval, subject to the conditions in Sections 4.4.2.1 through 4.4.2.7 below. Residential uses are exempt and not regulated under this section.

4.4.2.1 Plans for all proposed outdoor seating must be approved by the Town Planner, in writing, in advance of implementation.

4.4.2.2 In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.

4.4.2.3 Outdoor seating areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures, and where necessary, shall be protected from vehicles by means of curbing, curb stops, bollards, or other similar buffering and protection measures.

4.4.2.4 Outdoor seating areas shall at all times comply with the requirements of Section 6.6 [Noise] and Section 6.4 [Exterior Lighting] of this Bylaw.

4.4.2.5 A sufficient number of off-street parking spaces shall be provided to meet the minimum parking requirements for the associated business, including parking spaces related to the outdoor seats.

4.4.2.6 Outdoor seating areas shall be maintained in a neat and orderly condition at all times and shall be managed in such a manner as to not negatively affect any adjacent properties.

4.4.2.7 Once implemented, outdoor seating areas shall be reconfigured upon the order of the Building Commissioner, as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 **Applicability.** This Section shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. Chapter 40A, Section 5 at which this Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

4.5.2 **Nonconforming Uses.** The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

4.5.2.1 Change or substantial extension of the use.

4.5.3 **Nonconforming Structures.** The Board of Appeals may grant a special permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

4.5.3.1 Reconstructed, extended or structurally changed.

4.5.3.2 Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

4.5.4 **New or Expansion of Nonconformity.** The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required setback, shall require the issuance of a special permit from the Board of Appeals.

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

4.5.5.1 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot area, where the alteration will also comply with all of said current requirements.

4.5.5.2 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot frontage, where the alteration will also comply with all of said current requirements.

4.5.5.3 Alteration to a structure which encroaches upon one (1) or more required setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements regardless of whether the lot complies with current lot area and lot frontage requirements.

4.5.5.4 Alteration to the side or face of a structure which encroaches upon a required setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure regardless of whether the lot complies with current lot area and lot frontage requirements.

4.5.5.5 Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

4.5.6 **Special Permit.** In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration or change where it determines that the proposed modification will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

4.5.7 **Abandonment or Non-use.** A nonconforming use or structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this Bylaw.

4.5.8 **Single and Two-Family Reconstruction after Catastrophe or Voluntary Demolition.** Any single and two-family nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions:

4.5.8.1 Reconstruction of said premises shall commence within one (1) year after such voluntary demolition, or within two (2) years after such catastrophe, which time period may be extended by the Building Commissioner for good cause.

4.5.8.2 The building as reconstructed shall:

4.5.8.2.1 be located on the same footprint as the original structure, and shall only be as great in volume or area as the original nonconforming structure; or

4.5.8.2.2 comply with all current setback, yard and building coverage requirements and shall have a maximum building height of twenty-five (25) feet if constructed on a lot that does not comply with current lot area and lot frontage requirements.

4.5.8.3 In the event that the proposed reconstruction does not meet the provisions of Sections 4.5.8.1 and 4.5.8.2, a special permit shall be required from the Board of Appeals for such demolition and reconstruction.

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

SECTION 5.0 DIMENSIONAL REQUIREMENTS

5.1 GENERAL

In all Districts, no building or structure, except a one-story accessory building or structure of accessory use, shall be constructed on a lot unless said building or structure and lot are in conformance with the "Dimensional Requirements" specified in the table of Dimensional Requirements set forth herein for the district in which said building or structure and lot are located and no more than one building or structure constructed as a dwelling, or so used, shall be located on each such lot except as may otherwise be provided herein. In all Districts, no building or structure (except for a flag, utility or light pole) or swimming pool shall be constructed so as to be nearer to the street line or nearer to the side lines or rear line of its lot unless its location is in conformance with said Table. Nothing herein shall prevent the projection of eaves, chimneys or cornices not exceeding eighteen (18) inches in width, or of uncovered steps, window sills or belt courses into any minimum setback distances or other open space.

In the case of an Open Space Residential Development project proposed under sub-article 8.3 in this bylaw, the dimensional and density requirements established therein shall take precedence over those established in Section 5.2, TABLE OF DIMENSIONAL REQUIREMENTS for purposes of increased design flexibility and enhanced open space preservation.

5.2 TABLE OF DIMENSIONAL REQUIREMENTS[1]

	DISTRICTS	DIMENSIONAL REQUIREMENTS								
		Minimum Lot Area (sq ft)	**Minimum Lot Frontage (feet)**	**Minimum Lot Width (feet)**	**Minimum Nonwetland Area[2] (sq ft)**	**Minimum Front Setback[3] (feet)**	**Minimum Side Yard Setback[4] (feet)**	**Minimum Rear Yard Setback[4] (feet)**	**Maximum Building Coverage (%)**	**Maximum Impervious Surface (%)**
5.2.1	**SRA**	12,000	90	90	12,000	25	15[5]	30[6]	25	50
5.2.2	**SRB[13]**	20,000	90	90	15,000	25	15[5]	30[6]	25	50
5.2.3	**SRC[13]**	40,000	125	125	30,000	40	20[7]	30[8]	25	50
5.2.4	**SRD**	15,000	90	90	12,000	25	15[5]	30[6]	25	50
5.2.5	**SRE[13]**	80,000	175	175	60,000	40	20[7]	30[8]	25	50
5.2.6	**GR**	12,000	90	90	12,000	25	15[5]	30[6]	25	50
5.2.7	**SR**	80,000	175	175	60,000	40	20[7]	30[8]	25	50
5.2.8	**LBA**	4,000	40	40	4,000	10	15[9]	15	25	80
5.2.9	**LBB**	4,000	40	40	4,000	0	15[9]	15	25	80
5.2.10	**HB**	10,000	100	100	10,000	50	15	15	50	80
5.2.11	**I**	40,000	200	200	12,000	50	15[10]	15[11]	50	80
5.2.12	**IO**	40,000	200	200	12,000	50	15[10]	15[11]	50	80
5.2.13	**ARO**	80,000	175	175	60,000	50	30[12]	30	30	50

5.3 NOTES FOR TABLE OF DIMENSIONAL REQUIREMENTS

1 Shall not apply to sewage pumping stations operated by the Town.

2 The term "Nonwetland Area" shall mean land other than the fresh water wetland as that term is defined in M.G.L. Chapter 131, Section 40. The Minimum Nonwetland Area shall be measured in contiguous square feet. The Minimum Nonwetland Area requirement of 12,000 square feet in all Residential Districts shall apply to all lots created prior to the date of adoption of this provision. M.G.L. Chapter 40A, Section 6 may also limit the requirements for certain other lots.

3 The minimum front setback distance shall be measured from the nearest street line; provided, however, that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to the center line of said street.

4 The minimum side yard and rear yard setbacks shall be the minimum horizontal distance from the lot line to the nearest point of a building or structure.

5 Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least seventy-five (75) feet shall be set back a minimum of three (3) feet from the side lines of its lot.

6 Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of three (3) feet from the rear line of its lot.

7 Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of fifteen (15) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least one hundred (100) feet shall be set back a minimum of six (6) feet from the side lines of its lot.

8 Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of six (6) feet from the rear line of its lot.

9 Unless the wall facing a side lot line is either a party wall or, if adjoining another lot in the same district, a wall with its outer face coincident with such line. The space between buildings or structures, if any, shall not be reduced to less than fifteen (15) feet.

10 Except that if the side yard abuts a railroad right-of-way, there shall be no minimum side yard setback.

11 Except that if the rear yard abuts a railroad right-of-way, there shall be no minimum rear yard setback.

[12] Each side yard setback shall be increased by one (1) foot for each foot that the height of the building exceeds fifteen (15) feet; provided always that the side yards shall total not less than forty (40) percent of the lot width.

[13] See Section 8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT for density and dimensional requirements for OSRD.

5.4 HEIGHT REGULATIONS

5.4.1 **Building/Structure Heights.** In all Districts, no building or structure shall be constructed so as to exceed in height the "Maximum Height" specified in the following table for the district in which said building is located

DISTRICT	MAXIMUM HEIGHT
5.4.1.1 Single Residence General Residence	Twenty-five (25) feet plus one (1) foot for each additional foot by which: (i) the front setback exceeds the minimum front setback distance, or (ii) the narrower side yard exceeds the minimum side yard setback distance, or (iii) the rear yard exceeds the minimum rear yard setback distance, whichever of the three additional distances is the smallest; provided the height shall not in any case exceed thirty-five (35) feet.
5.4.1.2 Special Residence	Thirty-five (35) feet and a maximum of two (2) stories unless the topography of the land permits three (3) stories provided that at least two (2) stories have entrances at ground level and all dwelling units have at least one (1) exterior wall entirely above ground level.
5.4.1.3 Local Business A and B	Thirty-six (36) feet.
5.4.1.4 Industrial	Seventy (70) feet and a maximum of five (5) stories; provided that the height shall not in any case exceed an elevation of one hundred seventy-eight and one-half (178½) feet above sea level.
5.4.1.5 Industrial-Office	Forty-two (42) feet and a maximum of three (3) stories unless a special permit authorizing a greater height is granted by the Planning Board; provided that no more than sixty

	percent (60%) of the building footprint shall be built upon to a height in excess of four (4) stories and in no event shall any building or other structure exceeding sixty-five (65) feet in height be authorized. Building footprints shall be measured at the building foundation, but shall exclude covered walkways connecting adjacent buildings. In determining whether to grant such a special permit, the Planning Board shall evaluate the proposed building or other structure in terms of the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw. Any additional height which is allowed in an Industrial District by special permit shall be designed to relate harmoniously to the terrain and to the use, scale and architecture of existing buildings and to mitigate the visual impacts on surrounding non-industrial uses. The project proposal shall incorporate aesthetically-conscious design which promotes environmentally compatible uses, pervious surfaces and landscaped areas in exchange for the additional building height.
5.4.1.6 Highway Business Administrative-Research-Office (except Residential Retirement Community)	Thirty-nine (39) feet unless a special permit authorizing a greater height is granted by the Board of Appeals; provided that in no event shall any building or other structure exceeding forty-five (45) feet in height be authorized. In determining whether to grant such a special permit, the Board of Appeals shall evaluate the proposed building or other structure in terms of the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw.

5.4.2 **Height Determination and Exceptions.** In all Districts, the height of a building or structure shall be measured as set forth in the definition of "Building Height" contained in Section 2.0 of this Bylaw, except that in Residential Districts, the height of a building or other structure shall be measured from the highest finished ground elevation adjoining the structure at the exterior walls. The limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, amateur radio antennas and other necessary features usually carried above the roof line, provided such features do not

cover more than twenty-five percent (25%) of the area of the roof of the building or other structure and are not used in any way for human occupancy.

5.5 SPECIAL DIMENSIONAL REGULATIONS

5.5.1 **Exception for Existing Lots.** Any increase in area, frontage, width and yard requirements of this Bylaw shall not apply to a lot for single-family and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage. The provisions of this Subsection shall not be construed to prohibit a lot being built upon, if at the time of the building, building upon such lot is not prohibited by the Zoning Bylaw in effect.

5.5.2 **Lot Shape Requirement for Residential Districts.** Lots in residential districts shall provide satisfactory sites for buildings in relation to their natural topography, and shall to the extent feasible, be generally rectangular in shape. Lots shall not contain irregular shapes or elongations solely to provide necessary square footage. Any new lot created by a subdivision plan shall have a Shape Factor of fifty (50) or less, where the Shape Factor shall be calculated using the following formula: SF = P2/A where P = the perimeter of the lot and A = the area of the lot. The Planning Board may waive the requirements of this section when, in its determination, the strict application of such requirements would result in peculiar or exceptional difficulties, and the waiver of such requirements would pose no substantial detriment to any adjacent property or proximate neighborhood, and would not nullify or substantially derogate from the intent or purpose of this Section.

5.5.3 **Plan Freeze.** If a definitive plan, or a preliminary plan, followed within seven (7) months by a definitive plan is submitted to the Planning Board for approval under the Subdivision Control Law, and written notice of such submission has been given to the Town Clerk before the effective date of the Bylaw, the land shown on such plan shall be governed by the applicable provisions of the Bylaw, if any, in effect at the time of the first such submission while such plan or plans are being processed under the Subdivision Control Law, and, if such definitive plan or an amendment thereof is finally approved, for eight (8) years from the date of the endorsement of such approval.

5.5.4 **Reduction of Occupied Lots.** No lot on which a building or structure is located in any district shall be reduced or changed in size or shape so that the building or structure or lot fails to comply with the lot area, frontage, coverage, setback, yard or other provisions of this Bylaw applicable to the construction of said building or structure on said lot. This prohibition shall not apply when a portion of the lot is taken or conveyed for a public purpose. This Subsection shall not apply to a sewage pumping station operated by the Town.

5.5.5 **Corner Clearance.** No building or structure shall be constructed within the triangular area formed by the exterior lines of intersecting streets and a line joining points on such lines which are twenty-five (25) feet from their point of intersection (or, in the case of a

rounded corner, from the point of intersection of their tangents), and no other building or structure, no tree, shrub or other planting, and no open display, storage or other open use shall be located within said triangular area in such a manner as to interfere with traffic visibility around the corner.

5.5.6 **Uses within Setbacks.** No open storage or display of goods, products, materials or equipment, including motor vehicles, gasoline pumps, vending machines or similar commercial devices shall be located nearer than fifteen (15) feet to the street line.

5.5.7 **Special Permit.** The Planning Board may grant a special permit authorizing a proposed way location at variance with the provisions of Section 5.5.6 if it finds in addition to any other findings required under this Bylaw, that the issuance of a special permit

5.5.7.1 would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw;

5.5.7.2 would reduce the environmental impacts of the proposed project;

5.5.7.3 would enhance the aesthetic quality of the proposed project; and

5.5.7.4 would be consistent with sound engineering practices or the interests of public safety.

SECTION 6.0 GENERAL REGULATIONS

6.1 OFF-STREET PARKING

6.1.1 **General.** No use or premises shall be made, authorized or extended, and no building or structure shall be erected or enlarged, unless there is provided for such use or extension, or for such building erection or enlargement, on the same lot as said use, extension, erection or enlargement, a parking area and loading and unloading spaces all with permanent surfacing (except in the case of a single residence), sufficient to serve the business conducted thereon, including provision for parking spaces for visitors, and for all persons employed in the building or in connection with said use without using adjacent streets therefor. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question. In Nonresidential Districts, no parking, loading and/or unloading area shall be so designed or located as to render necessary the backing of vehicles from such area onto a street.

6.1.2 **Table of Parking Requirements.** The following table of Minimum Number of Required Parking Spaces for Principal Uses sets forth minimum on-site parking space requirements, provided, however, that joint/shared parking spaces conforming to the requirements of Section 6.1.10 or Section 6.1.11 may be allowed, and provided that fewer parking spaces may be authorized upon the grant of a special permit by the Planning Board pursuant to Section 6.1.9 or by grant of a waiver pursuant to Section 6.1.12, where parking is otherwise in compliance with the provisions of this Section.

PRINCIPAL USE	MINIMUM NUMBER OF REQUIRED PARKING SPACES
6.1.3 **RESIDENTIAL USES**	
6.1.3.1 Single-Family Dwelling 6.1.3.2 Conversion of One-Family Dwelling to Two-Family Dwelling per Section 8.1 6.1.3.3 Two-Family Dwelling per Section 8.2	Two (2) spaces per dwelling unit
6.1.3.4 Senior Residential Development per Section 8.5	One and a half (1½) off-street spaces per dwelling unit, one of which is reserved for the use of such dwelling unit and within one hundred fifty (150) feet thereof
6.1.3.5 Residential Retirement Community per Section 8.6	One and a half (1½) spaces per dwelling unit
6.1.3.6 Nursing or Convalescent Home 6.1.3.7 Assisted Living Residence	One (1) space per each sleeping room for double or single occupancy, or where not so divided (as in a dormitory) one (1) space for each two beds
6.1.4 **EXEMPT AND INSTITUTIONAL USES**	

6.1.4.1 Use of land or structures for religious purposes	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, in principal assembly area
6.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per employee
6.1.4.3 Child Care Facility in new building 6.1.4.4 Child Care Facility in existing building	One (1) space per employee and two (2) spaces per classroom
6.1.4.5 Agricultural Use, Exempt 6.1.4.6 Municipal Facilities	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
6.1.4.7 Farm Stand, Exempt	One (1) space for each two hundred fifty (250) square feet of floor area or fraction thereof devoted to selling, storage, service and all other activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
6.1.4.8 Essential Services 6.1.4.9 Public Utility	One (1) space per employee
6.1.4.10 Extension of existing cemetery	Not applicable

6.1.5 **COMMERCIAL USES**

6.1.5.1 Retail sales and services, less than 15,000 square feet 6.1.5.2 Retail sales and services, 15,000 square feet or more 6.1.5.3 Office of doctor or dentist not a resident on premises 6.1.5.4 Bank, Financial Institution 6.1.5.5 Personal Services Establishment 6.1.5.6 General Services Establishment 6.1.5.7 Farm Stand, Non-exempt 6.1.5.8 Animal Clinic or Hospital 6.1.5.9 Pet Care Facility 6.1.5.10 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel 6.1.5.11 Building Trade Shop in an establishment with less than 8,000 square feet 6.1.5.12 Building Trade Shop in an establishment with 8,000 square feet or more 6.1.5.13 Registered Marijuana Dispensary	One (1) space for each two hundred fifty (250) square feet of floor area or fraction thereof devoted to selling, storage, service and all other activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
6.1.5.14 Professional Services Establishment 6.1.5.15 Business Services Establishment	One (1) space for each three hundred thirty-three (333) square feet of floor area or fraction thereof

	devoted to activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
6.1.5.16 Motor Vehicle Sales and Rental; other open air sales 6.1.5.17 Motor Vehicle General Repairs and Body Repair 6.1.5.18 Motor Vehicle Light Service 6.1.5.19 Printing/copy/publishing establishment, less than 4,000 square feet 6.1.5.20 Printing/copy/publishing establishment, 4,000 square feet or more 6.1.5.21 Commercial laundry, dry cleaning, dye work, carpet cleaning	Not less than one (1) space for each two hundred fifty (250) square feet floor area in office use, one (1) space for each two thousand (2,000) square feet floor area in use for storage, and one (1) space for each five hundred (500) square feet floor area in other uses, provided that there is reserved area on the site for potential future parking expansion to not less than one (1) space per five hundred (500) square feet of floor area
6.1.5.22 Funeral Home	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench
6.1.5.23 Motel or Hotel on five (5) acres or more	One (1) space per each sleeping room for double or single occupancy
6.1.5.24 Restaurant without entertainment, less than 10,000 square feet 6.1.5.25 Restaurant with entertainment, 10,000 square feet or more 6.1.5.26 Restaurant with entertainment	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per two (2) employees
6.1.5.27 Coffee Shop 6.1.5.28 Ice Cream Parlor 6.1.5.29 Fast Order Food Establishment	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per two (2) employees, plus three (3) spaces per take-out station
6.1.5.30 Agricultural Use, Non-exempt 6.1.5.31 Commercial Recreation, Outdoor 6.1.5.32 Commercial Recreation, Indoor 6.1.5.33 Golf Course 6.1.5.34 Campground, wildlife preserve, fishing grounds operated not for profit 6.1.5.35 Major Business Development per Section 7.2 6.1.5.36 Public Communication Use 6.1.5.37 Educational Use, Non-Exempt 6.1.5.38 Contractor's Yard	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.

6.1.6 **INDUSTRIAL USES**

6.1.6.1 Light Manufacturing 6.1.6.2 Warehouse, wholesale or distribution facility without outdoor storage 6.1.6.3 Warehouse, wholesale or distribution facility with outdoor storage 6.1.6.4 Manufacturing 6.1.6.5 Research and Development 6.1.6.6 Self-Storage or Mini-Storage Facility	Not less than one (1) space for each two hundred fifty (250) square feet floor area in office use, one (1) space for each two thousand (2,000) square feet floor area in use for storage, and one (1) space for each five hundred (500) square feet floor area in other uses, provided that there is reserved area on the site for potential future parking expansion to not less than one (1) space per five hundred (500)

	square feet of floor area

6.1.6.7 Earth Material Removal per Section 7.1	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients, or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
6.1.6.8 Junkyard or Automobile Graveyard	Not applicable

6.1.7 **OTHER USES**

6.1.7.1 Temporary Structure, building or use not in conformance with this Bylaw, but not for more than one (1) year, or extended over more than a total of three (3) years	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients, or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
6.1.7.2 Commercial outdoor parking 6.1.7.3 Parking Garage 6.1.7.4 Drive-Through Service	Not applicable

6.1.8 **Maximum Parking Requirements.** The minimum parking requirements set forth in Section 6.1.2 shall not be exceeded by more than 5%, unless authorized upon the grant of a waiver by the Planning Board in compliance with the provisions of this Section.

6.1.8.1 If an Applicant has obtained all other necessary zoning permits and approvals, the Planning Board may, subject to the provisions of this Section, grant a waiver that would authorize an increased number of parking spaces than would otherwise be permitted by this Section where it can be demonstrated by such Applicant that the proposed use warrants a greater number of parking spaces than otherwise allowed.

6.1.8.2 A waiver to authorize an increased number of parking spaces shall be granted by the Planning Board only upon its written determination that, in addition to any other findings required under this Bylaw, it finds the following:

6.1.8.2.1 That the particular use proposed warrants an increased number of parking spaces than would otherwise be permitted by this Section; and

6.1.8.2.2 That the issuance of a waiver would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of this Bylaw.

6.1.8.3 The waiver shall be granted upon such conditions as the Planning Board may deem appropriate in carrying out the provisions of this Section.

6.1.9 **Reduction of Required Minimum Number of Parking Spaces.**

6.1.9.1 If an Applicant has obtained all other necessary zoning permits and approvals, the Planning Board may, subject to the provisions of this Section, grant a special permit that would authorize a reduced number of parking spaces than would otherwise be required by this Section where it can be demonstrated by such Applicant that the proposed use does not warrant the number of parking spaces otherwise required.

6.1.9.2 A special permit granted pursuant to this Section shall provide for an increase in the number of parking spaces up to the minimum number otherwise required by this Section if there is a change in use or in the intensity or character of use that results in an increased parking need as determined by the Planning Board.

6.1.9.3 A special permit to authorize a reduced number of parking spaces shall be granted by the Planning Board only upon its written determination that, in addition to any other findings required under this Bylaw, it finds the following:

6.1.9.3.1 That the particular use proposed does not warrant the minimum number of parking spaces otherwise required under this Section;

6.1.9.3.2 That the issuance of a special permit would reduce the environmental impact and enhance the aesthetic quality of the proposed project.

6.1.9.3.3 That the total floor area of the building or structure associated with the special permit is no greater than that which would be permitted absent the grant of a special permit pursuant to this Section.

6.1.9.3.4 That the number of parking spaces otherwise required pursuant to Section 6.1.2 could be accommodated on the subject parcel or on nearby parcels, if a change in use or in the intensity or character of use ever requires an increase of parking pursuant to Section 6.1.8.2, and that sufficient provisions securing the continued availability of land for

such additional parking, and the ability to construct such additional parking, are assured in a manner satisfactory to the Planning Board. Such provisions may include a demonstration of physical and financial ability to construct additional surface or structured parking spaces in compliance with the requirements of Section 6.1.2, or such other assurances as are satisfactory to the Planning Board.

6.1.9.3.5 That the issuance of a special permit would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of this Bylaw.

6.1.9.4 Nothing herein shall be deemed to authorize a special permit waiving strict adherence to parking design requirements or parking space, passageway or driveway dimensional requirements.

6.1.9.5 The special permit shall be granted upon such conditions as the Planning Board may deem appropriate in carrying out the provisions of this Section.

6.1.10 **Joint/Shared Off-Street Parking in Local and Highway Business Districts.** Joint/shared off-street parking facilities may be provided for two or more separate buildings or uses on the same parcel, or on parcels within four hundred (400) feet walking distance of the building entrance to be served, but in such case the total number of parking spaces required shall be the sum of the parking spaces required for the individual buildings or uses, unless a waiver is granted by the Planning Board pursuant to Section 6.1.12. In cases where parking spaces are provided on nearby parcels, a convenient pedestrian connection shall be provided, and the continued availability of said parking spaces shall be adequately assured in a manner satisfactory to the Planning Board, such as by permanent easement recorded on the title records of each affected property.

6.1.11 **Joint/Shared Off-Street Parking in Administrative-Research-Office, Industrial and Industrial-Office Districts.** Joint/shared off-street parking facilities may be provided for two or more separate buildings or uses on the same parcel, or on parcels within six hundred (600) feet walking distance of the building entrance to be served, but in such case the total number of parking spaces required shall be the sum of the parking spaces required for the individual buildings or uses, unless a waiver is granted by the Planning Board pursuant to Section 6.1.12. In cases where parking spaces are provided on nearby parcels, a convenient pedestrian connection shall be provided, and the continued availability of said parking spaces shall be adequately assured in a manner satisfactory to the Planning Board, such as by permanent easement recorded on the title records of each affected property.

6.1.12 **Reduction of Required Number of Joint/Shared Off-Street Parking Spaces for Existing Buildings.** If an Applicant has obtained all other necessary zoning permits and approvals, the Planning Board may, subject to the provisions of this Section, grant a

waiver that would authorize a lesser number of joint/shared off-street parking spaces than would otherwise be required pursuant to Section 6.1.2 and Section 6.1.10 or Section 6.1.11. Said waiver may be granted by majority vote of the Board following a public hearing in accordance with the Board's Rules and Regulations, and only upon the Board's written determination of each of the following findings:

6.1.12.1 That the demand for the joint/shared off-street parking spaces differs significantly by time of day between the various uses; and

6.1.12.2 That a sufficient number of joint/shared off-street parking spaces are available to satisfy the parking demand for each use during the time period with the highest total combined parking demand; and

6.1.12.3 That the buildings associated with the requested waiver are pre-existing and that total floor area of those buildings is no greater than that which would be permitted absent the grant of a waiver pursuant to this Section; and

6.1.12.4 That satisfactory provisions have been made for an increase in the number of joint/shared parking spaces up to the minimum number otherwise required by Section 6.1.10 or 6.1.11, in the event that a change in use, or in intensity or character of use, results in an increased joint/shared parking demand. Such provisions may include a demonstration of physical and financial ability to construct additional surface or structured parking spaces in compliance with the requirements of Section 6.1.10 or 6.1.11, or such other assurances as are satisfactory to the Planning Board.

6.1.12.5 That the issuance of this waiver would not be inconsistent with the intent of this Bylaw.

6.1.13 **Off-Site Municipal Parking Lot.** Where an existing does not meet the minimum parking requirements for a permitted use, off-site municipally-owned parking spaces may be used to meet the minimum parking requirements, provided:

6.1.13.1 That such spaces are located within a Municipal Parking Lot, so dedicated by the Board of Selectmen;

6.1.13.2 That such spaces are within four hundred (400) feet walking distance of the building entrance to be served;

6.1.13.3 That such off-site parking shall not be used to accommodate increased parking requirements due to new construction and/or expansion of existing buildings or structures; and

6.1.13.2 That the Board of Selectmen or its designee documents to the Building Commissioner that there is in fact sufficient capacity in the Municipal Parking Lot to accommodate the excess parking required.

6.1.14 **Special Provisions in Residential Districts.** Any off-street parking located in a Residential District (whether herein required or voluntarily provided) containing five (5) or more parking spaces shall be placed at least twenty-five (25) feet from all street lines and ten (10) feet from side and rear lot lines and shall, if visible at normal eye level from any point on an abutting lot (if also in a Residential District), be screened from such view pursuant to Section 6.3.6, Screening Standards.

6.1.15 **Storage of Inoperative Vehicles and Commercial Vehicles.** Except in the case of a lot used for municipal purposes, and except as allowed in a Nonresidential District pursuant to a permit issued at the discretion of the Board of Selectmen, no motor vehicle which is, and for the immediately preceding thirty-one (31) day period, has been dismantled or inoperative shall be stored or parked in any district, and no commercial vehicle (whether or not operative and registered) of a gross vehicle weight in excess of eight thousand five hundred (8,500) pounds or more than twenty (20) feet in length shall be stored or parked overnight in any Residential District unless such vehicle is not visible at normal eye level from any point on any abutting lot in a Residential District, or if screened from such view pursuant to Section 6.3.6, Screening Standards. None of the foregoing shall be construed to permit any parking or storage of vehicles that would otherwise be in violation of the Use Regulations set forth in Section 4.0 of this Bylaw.

6.1.16 **Replacement, Alteration, Enlargement or Change of Use of a Building or Structure.** The replacement, alteration, enlargement or change of use of a building or structure which results in an increased off-street parking requirement shall require the provision of additional off-street parking.

6.1.17 **Design of Parking Areas.** Except in the case of single residences, all parking areas shall be designed in conformity with the requirements of this Bylaw and parking regulations adopted and from time to time amended by the Planning Board.

6.1.18 **Parking Areas with Fewer Than Ten Parking Spaces.** Parking lots designed for fewer than ten (10) parking spaces shall provide such landscaping as may be required under Section 6.3 of this Bylaw pertaining to enclosure, screening and buffering requirements.

6.1.19 **Parking Areas for Ten or More Parking Spaces.** The following requirements shall apply to all new parking areas containing ten (10) or more parking spaces, and to existing parking areas containing ten (10) or more parking spaces which are being subjected to Section 7.3 of this Bylaw pertaining to Environmental Impact and Design Review. Any additional requirements set forth in Section 6.3 of this Bylaw pertaining to enclosure, screening and buffering requirements shall also apply.

6.1.19.1 **Landscape Design Requirements.** All parking areas applicable to this section shall conform to the following design requirements:

6.1.19.1.1 **Areas Adjacent to Buildings.** Landscaped areas at least five (5) feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point, and shall contain trees and shrubs.

6.1.19.1.2 **Perimeter Planting Areas.** Parking lots shall be bordered on all sides, exclusive of driveways, with a minimum five (5) foot wide planting area, within which trees shall be spaced not more than twenty-seven (27) feet on center and no tree shall be planted less than two (2) feet on center from curbing or sidewalks. In all cases, plantings shall be located so as not to obstruct vehicle sight distances, entrances and exits.

6.1.19.2 **Additional Requirements for Parking Areas for Forty or More Parking Spaces.** The following additional requirements shall apply to all new parking areas containing forty (40) or more parking spaces, and to existing parking areas containing forty (40) or more parking spaces which are being subjected to Section 7.3 of this Bylaw pertaining to Environmental Impact and Design Review.

6.1.19.2.1 **Landscaped Islands.** Landscaped islands shall be located so as to divide a parking lot into sections not exceeding one hundred forty (140) cars per section, to provide visual relief, shade, and wind interruption within the parking area, and to assure safe patterns of internal circulation. Landscaped islands shall be either divider islands or terminal islands, or a combination thereof. Divider islands are defined as landscaped islands along the length of one or more rows. Terminal islands are defined as landscaped islands within or at the end of one or more rows.

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6.1.19.2.1.1 **General Standards.** Each landscaped island shall have a minimum area of one hundred fifty (150) square feet and shall consist of pervious landscaping. Curbing, at least six (6) inches in height, shall surround each landscaped island as protection from vehicles. No tree shall be planted less than four (4) feet on center from curbing.

6.1.19.2.1.2 **Standards for Divider Islands**. The following additional design standards shall apply to divider islands:

a. At least one (1) divider island shall be provided for every four (4) parallel rows of parking.

b. Trees shall be spaced not more than twenty-seven (27) feet on center.
c. At least one (1) shrub shall be provided for every five (5) linear feet, or one (1) shrub per thirty-five (35) square feet of ground area, whichever results in a greater number of shrubs.

6.1.19.2.1.3 **Standards for Terminal Islands**. The following additional design standards apply to terminal islands:

a. Terminal islands shall be used either (1) to separate parking spaces from driveways and other vehicular travel lanes, or (2) to break up large numbers of parking spaces in a single row of spaces.
b. Terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes. In addition, terminal islands shall separate groups of parking spaces in a row, such that no continuous line of adjoining spaces contains more than twenty-five (25) parking spaces.
c. Terminal islands shall contain at least one (1) tree and at least two (2) trees when abutting a double row of parking spaces.
d. Terminal islands shall contain evergreen shrubs planted three (3) feet or less on center, in order to prevent damage due to pedestrian traffic.

6.1.19.2.1.4 **Impervious Surface.** A landscaped island may be up to thirty-three percent (33%) impervious surface, provided that all such area is used for pedestrian walkways and that such walkways are adequately buffered from the parking areas.

6.1.19.3 **Landscape Materials.** All planted trees shall be of a species tolerant of conditions generally found in a parking lot, and shall have a minimum caliper size of four (4) inches (measured four feet above grade level). Shrubs shall be a mix of deciduous and evergreen varieties, tolerant of conditions generally found in a parking lot, and shall be at least twenty-four (24) inches in height at time of planting. To the fullest practicable extent, existing trees and vegetation shall be preserved. Snow storage areas shall be planted with shrubs that are tolerant to weight and extended duration of snow cover. Planting shall be done in accordance with proper landscaping practices. Trees, shrubs, grass and ground cover which die or become diseased shall be replaced by the property owner within six (6) months of such death or disease.

6.1.19.4 **Site Plan Requirements.** All parking areas applicable to this section shall be shown on a site plan which shall be prepared by a professional engineer or landscape architect and shall show the following:

6.1.19.4.1 Boundaries of the new or expanded parking area and all parking spaces, bicycle parking, loading areas, access and egress areas;

6.1.19.4.2 Existing topography, including any proposed grading changes;

6.1.19.4.3 Proposed storm drainage system and calculations of storm drainage runoff to demonstrate compliance with the stormwater management standards as adopted and amended from time to time by the Massachusetts Department of Environmental Protection;

6.1.19.4.4 Utilities, signage, outdoor storage and trash/recycling disposal areas;

6.1.19.4.5 Existing and proposed planting, landscaping and screening; and

6.1.19.4.6 Exterior lighting.

6.1.19.5 **Reduction of Landscaping Requirements.** The Planning Board may modify or reduce the requirements of Section 6.1.19 [Parking Areas for Ten or More Parking Spaces] where in its judgment, for topographic or engineering reasons, these requirements could not reasonably be met.

6.1.20 **Parking Setback Requirements.**

6.1.20.1 There shall be no vehicle parking or loading areas within five (5) feet of any front, side or rear lot line.

6.1.20.2 In a Highway Business District, the fifteen (15) feet nearest the frontage street within the front setback shall be free of parking and service areas. Said distance shall be landscaped with trees and shrubs appropriate to the area and the height and location of such landscaping shall be as required so as not to obstruct vehicular sight distances, entrances and exits.

6.1.21 **Edge of Parking Area.** A substantial bumper of masonry, steel, heavy timber or concrete curb shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.

6.1.22 **Handicapped Parking Spaces.** Designated parking spaces for the exclusive use of the physically handicapped shall be provided in accordance with the rules and regulations of the Architectural Access Board, as amended from time to time.

6.1.23 **Storage.** There shall be no storage of material or equipment within parking areas.

6.1.24 **Outdoor Sales.** No parking areas shall be used as an outdoor sales area.

6.1.25 **Driveways.** No access or egress point to a parking area shall be closer than one hundred fifty (150) feet to the centerline of an intersecting street. There shall be no more than a total of two (2) access and two (2) egress points to any one parking area.

6.1.26 **Entrance from Residential Streets to Nonresidential Districts.** Where a Residential District is bounded by a portion of a Nonresidential District, any side street extending through such Residential District into such Nonresidential District shall not be used, except as herein set forth for any business, commercial or other purpose not permitted as of right in such Residential District. Any nonresidential structure erected in said Nonresidential District shall face and open upon the street set aside for nonresidential purposes, except that show windows in such nonresidential structure may be built and exposed upon said side street within the area set aside as a part of such Nonresidential District, and an entrance may be made at the corner of such nonresidential and residential streets, and all other entrances to said nonresidential structure must face on the nonresidential street, except that in a Local Business District entrances may be made from such residential street to the upper stores of such nonresidential structure.

6.1.27 **Loading.** Adequate off-street loading facilities and space with unimpeded access shall be provided for all new construction and for all building additions greater than one hundred (100) square feet of net floor area. Facilities shall be so sized and arranged that no trucks shall be parked on a public way while loading, unloading or waiting to do so.

6.1.28 **Shared Driveways.** Use of land for shared driveways is permitted in all Districts, however, a shared driveway shall not be considered to adequately provide access for parking as required by this Bylaw on any lot for which a shared driveway is proposed as the sole means of access for parking unless the Planning Board so authorizes by special permit. Authorization shall be granted only if the Planning Board determines that the arrangement improves public safety, such as by reducing the number of curb cuts on a major roadway or by avoiding a driveway at a potentially dangerous location; or serves environmental protection, such as by eliminating a wetlands crossing, and that such an arrangement will be more advantageous to the neighborhood than separate driveways; and unless the Board further finds that the use of a shared driveway does not circumvent the intent of the Subdivision Control Law. The Planning Board shall adopt and may from time to time amend rules and regulations for the administration of this Section.

6.2 SIGNS

6.2.1 **Purpose.** The purpose of this Section is as follows:

6.2.1.1 to promote the public safety and convenience of streets, highways, sidewalks and other pedestrian spaces, and public and private property within public view through the location, sizing, and aesthetics of signage;

6.2.1.2 to reduce distractions, hazards and obstructions from signage that will have an adverse impact on vehicular safety;

6.2.1.3 to discourage excessive visual competition in signage;

6.2.1.4 to ensure that signage will adequately aid communication and orientation, identify uses and activities, and express local history and character; and

6.2.1.5 to preserve or enhance town character by requiring new and replacement signage which is compatible with the surroundings, appropriate to the type of activity to which it pertains, expressive of the identity of individual proprietors or of the community as a whole, and appropriately sized in its context.

6.2.2 **Definitions.** For the purposes of this section, the following terms shall be defined as indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 2.0 of this Bylaw.

6.2.2.1 Awning Sign A sign consisting of letters or graphics painted on, incorporated into, or affixed to any fixed or retractable device, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or other area or space.

6.2.2.2 Banner A sign, frequently constructed of fabric or other flexible material and frequently displayed on a pole or staff which can be freestanding or attached to a building or structure, and temporary in nature.

6.2.2.3 Billboard An off- premises sign which is either a freestanding sign larger than one hundred (100) square feet, or a wall sign covering more than ~~ten~~ fifteen percent (15%) of the area to which it is affixed.

6.2.2.4 Changeable Sign A sign whose wording, design, or appearance changes periodically, or whose illumination is not kept constant in intensity at all times or which exhibits changes in light, color, direction or animation.

6.2.2.5 Construction Sign An on-premises sign at a site under construction or to be developed to identify the contractor, architect, landscape architect and/or engineer's name, address and other pertinent information.

6.2.2.6 Development Identification Sign A sign or group of signs clustered together as a single compositional unit which identifies a development, and may also identify individual business establishments within that development.

6.2.2.7 Directional Sign A sign providing pedestrian and/or vehicular traffic instruction, and/or restrictions on the use of parking or travel areas. "No

Parking", "One Way", "No Outlet", and "Do Not Enter" are examples of directional signs.

6.2.2.8 Directory Sign A listing and/or graphic representation of individual business establishments and other uses within a development or portion of a development.

6.2.2.9 Facade The exterior surface of a building wall facing a street or containing a public entrance, which corresponds to the height and width of the interior space owned or leased by the occupant of the building.

6.2.2.10 Flag A sign, frequently constructed of fabric or other flexible material and frequently displayed on a pole or staff which can be freestanding or attached to a building or structure, and temporary in nature.

6.2.2.11 Freestanding Sign A sign structurally separate from a building or structure that is attached to or part of a self-supporting structure.

6.2.2.12 Historic Designation Sign A sign listing only the date of origin, historic name, original owner, or official historic designation of a historic building or structure.

6.2.2.13 Illuminated Sign A sign illuminated by electricity or other artificial light including reflective or phosphorescent light and shall include the location of the source of illumination.

6.2.2.14 Internally Illuminated Sign A sign which utilizes translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through.

6.2.2.15 Landmark Sign An older sign of artistic or historic merit, uniqueness or extraordinary significance to the Town as identified by the local Historical Commission.

6.2.2.16 Marquee Sign A sign painted on, or attached to, a sheltering structure of permanent construction projecting from and totally supported by the wall and/or the roof of a building.

6.2.2.17 Moveable Sign A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels or supported by legs, sandwich signs and A-frame signs.

6.2.2.18 Municipal Sign A sign installed by the Town.

6.2.2.19 Off-Premises Sign A sign that advertises, calls attention to or identifies an occupant of a premises, or the business transacted on a premises or

advertises the property itself or any part thereof for sale or lease which is located elsewhere than the premises where the sign is maintained.

6.2.2.20 On-Premises Sign A sign that advertises, calls attention to or identifies an occupant of a premises on which the sign is maintained, or the business transacted on a premises or advertises the property itself or any part thereof as for sale or lease.

6.2.2.21 Projecting Sign A sign consisting of letters or graphics which is attached to or suspended from a building or structure such that any part of said sign extends more than six (6) inches from the wall surface of that building or structure.

6.2.2.22 Real Estate Open House Sign A temporary sign announcing a real estate open house during which an agent or owner will show property for sale or lease.

6.2.2.23 Real Estate Sign A temporary sign advertising property being sold or leased.

6.2.2.24 Roof Sign A sign erected, constructed and maintained wholly upon, connected to or over the roof, gutter line, top of wall coping or parapet of any building or structure.

6.2.2.25 Sign Any temporary or permanent lettering, word, numeral, billboard, pictorial representation, display, emblem, trademark, device, banner, pennant, insignia or other figure of similar character, located outdoors or visible outdoors, attached to, painted on, or in any other manner represented on a building or other structure, and which is used to announce, direct, attract, advertise or promote.

6.2.2.26 Special Events Sign A temporary sign that advertises a charitable, nonprofit or civic event, which event may include an open house, registration or similar event associated with a charitable, nonprofit or civic organization.

6.2.2.27 Temporary Sign A sign that is used temporarily and is not permanently mounted. Posters, construction signs, seasonal business signs, real estate signs, yard sale signs, special event signs, banner signs and open house signs are all considered to be temporary signs. Hand-held signs are excluded.

6.2.2.28 Video Media Display Any video display which is used to announce, direct, attract, advertise, or promote. Video media display shall not include displays used solely for the purpose of operating a device to

conduct business on the premises, such as video display portions of ATM machines, gasoline dispensers, or vending machines.

6.2.2.29 Wall Sign A sign consisting of letters or graphics painted on, incorporated into, or affixed parallel to the wall of a building or structure and which extends not more than six (6) inches from the wall surface of that building or structure.

62.2.30 Way Finding Sign A sign providing instructions for circulation throughout a development, including direction to individual business establishments and parking areas related to said business establishments. "Retail Center Parking", "Shuttle Bus Stop Ahead", "Exit to Providence Highway", "Additional Parking in Rear" are examples of way finding signs.

6.2.2.31 Window Sign A sign consisting of letters or graphics painted on, incorporated into, or affixed to either side of the glass surface of a window or door, or any interior sign designed to be visible from the exterior of a building or structure.

6.2.3 **Sign Permits.** No sign, including a temporary sign, shall be erected, displayed, altered or enlarged until a permit for such action has been issued by the Building Commissioner. Applications may be filed by the owner of the land, building or structure, or any person who has the authority to erect a sign on the premises. All applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, color, support systems and location with all relevant measurements. The Building Commissioner shall act within thirty (30) days of receipt of such application and required fee. Sign permits shall be issued only if the Building Commissioner determines that the sign is in compliance with all provisions of this Section and the State Building Code. Not-withstanding the above, historic designation signs, temporary real estate signs, temporary political signs, temporary special event signs, real estate open house signs, and yard sale signs shall not require a sign permit.

6.2.4 **Municipal Signs.** Notwithstanding any provisions to the contrary in Section 6.2 or elsewhere in this Bylaw, municipal signs of any type, number, size, and material are permitted in all districts as authorized by the Town Administrator.

6.2.5 **Signs Allowed in Residential Districts.** The following signs may be erected or maintained in Residential Districts provided such signs are in compliance with all conditions set forth in this Section: Wall signs and freestanding signs.

6.2.5.1 The maximum number of signs shall not exceed one sign for each lawful dwelling unit on the premises, indicating the name of the owner or occupant and/or the address of the building, plus one (1) additional sign pertaining to a permitted accessory use, plus one (1) additional historic sign.

6.2.5.2 The maximum area of each sign shall not exceed one (1) square foot.

6.2.5.3 The sign surface shall be wood or synthetic material made to resemble wood. The supporting framework shall be wood or granite, or synthetic material made to resemble wood or granite.

6.2.5.4 Notwithstanding the above limitations on number and total area of signs, standard-sized directional signs and parking restriction signs shall be permitted as approved by the Building Commissioner.

6.2.6 **Signs Allowed in Local Business A (LBA) and Local Business B (LBB) Districts.** The following signs may be erected or maintained in Local Business A and Local Business B Districts, provided such signs are in compliance with all conditions set forth in this Section: Awning signs, directory signs, freestanding signs, marquee signs, projecting signs, wall signs and window signs.

6.2.6.1 The maximum number of signs shall not exceed the number of commercial establishments located on the premises, plus one (1) additional sign, plus one (1) additional historic sign.

6.2.6.2 The maximum area of one (1) sign associated with a commercial establishment shall not exceed seventy-five (75) square feet, and the maximum area of all other signs associated with that same commercial establishment shall not exceed twenty (20) square feet each.

6.2.6.3 The total square footage of all signs associated with any commercial establishment shall not exceed ten percent (10%) of the facade attributed to that commercial establishment.

6.2.6.4 The sign surface of any sign other than an awning sign shall be wood or synthetic material made to resemble wood. The supporting framework of any sign other than an awning sign shall be wood or granite, or synthetic material made to resemble wood or granite.

6.2.6.5 Notwithstanding the above limitations on number and area of signs, standard-sized directional signs and parking restriction signs shall be permitted as approved by the Building Commissioner.

6.2.7 **Signs Allowed in Highway Business (HB), Industrial (I), Industrial Office (IO), and Administrative-Research-Office (ARO) Districts.** The following signs may be erected or maintained in Highway Business, Industrial, Industrial Office, and Administrative-Research-Office Districts, provided such signs are in compliance with all conditions set forth in this Section: Awning signs, development identification signs, directory signs, freestanding signs, marquee signs, projecting signs, wall signs, wayfinding signs, and window signs.

6.2.7.1 The maximum number of signs shall not exceed the number of commercial establishments located on the premises, plus one (1) additional sign.

6.2.7.2 The maximum area of one (1) sign associated with a commercial establishment shall not exceed one hundred (100) square feet, and the maximum area of all other signs associated with that same commercial establishment shall not exceed thirty (30) square feet each.

6.2.7.3 The total square footage of all signs associated with any commercial establishment shall not exceed fifteen percent (15%) of the facade attributed to that commercial establishment.

6.2.7.4 The sign surface and supporting framework shall be of a material in compliance with the applicable provisions of the Massachusetts State Building Code.

6.2.7.5 Notwithstanding the above limitations on number and area of signs, standard-sized directional signs and parking restriction signs shall be permitted as approved by the Building Commissioner.

6.2.8 **Prohibited Signs.** The following signs shall be prohibited in all districts except as specified herein:

6.2.8.1 Billboards, roof signs, moveable signs, changeable signs, off-premises signs, including off-premises commercial directional signs.

6.2.8.2 Flags, buntings, balloons, streamers, pennants, banners, strings of lights, ribbons, spinners and other similar devices; except that temporary exhibition associated with the commemoration of national holidays, shall be permitted, and properly displayed official flags of governmental jurisdictions and decorative flags on residences shall be permitted.

6.2.8.3 Signs advertising any defunct commercial establishment or organization, except landmark signs which may be preserved and maintained even if they no longer pertain to the present use of the premises.

6.2.8.4 Sign, other than traffic, regulatory or directional signs, which use the words “stop”, “caution”, or “danger”, or incorporate red, amber or green lights resembling traffic signals, or resemble universal “stop” or “yield” signs in shape and color.

6.2.8.5 Signs or sign structures projecting or extending over a public way, including a sidewalk.

6.2.8.6 Notwithstanding the above provisions, municipal signs of all types shall be permitted in all districts as authorized by the Town Administrator.

6.2.9 **Dimensional Requirements.**

6.2.9.1 **Sign Area Requirements.** Maximum sign area requirements shall be as set forth in Sections 6.2.3 through 6.2.5. Sign area measurements shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface. For a sign painted on or applied to a building or structure, the area shall be considered to include all lettering, wording and accompanying designs or symbols together with any background of a different color than the natural color or finish material of the building or structure. For a sign consisting of individual letters or symbols attached to or painted on a surface, building wall or window, the area shall be considered to be that of the smallest rectangle, circle, oval or other simple straight-lined shape which encompasses all of the letters and symbols. The area of supporting framework, such as the brackets and posts, shall not be included in the area if such framework is incidental to the display. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two (2) faces are placed back to back and are at no point more than two (2) feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

6.2.9.2 **Sign Height Requirements.** No part of any sign, or light fixture illuminating said sign, shall be at a height greater than the maximum height permitted pursuant to Section 5.4 of this bylaw for the building or structure to which the sign pertains. No part of any sign, or light fixture illuminating said sign, shall be higher than the highest point of any building or structure on the same premises. In the case of a sign located on a lot where there is no other structure, no part of said sign, or light fixture illuminating said sign, shall exceed a height of ten (10) feet above ground.

6.2.9.3 **Sign Setback Requirements.** Signs exceeding one (1) square foot in area shall be set back at least fifteen (15) feet from the edge of roadway pavement, except for temporary signs which shall be set back at least ten (10) feet from the edge of roadway pavement, but in no case shall signs be placed within the public right-of-way without written permission from the Board of Selectmen. All signs shall meet side and rear setback requirements for accessory structures as set forth in Section 5.2 of this bylaw.

6.2.10 **Illumination and Movement.** Sign illumination and movement shall be prohibited except as specified herein.

6.2.10.1 **Illumination in Residential, Local Business and Administrative-Research-Office Districts.** Illumination of any sign within a Residential District, Local Business District, or Administrative-Research-Office District shall only be external illumination by properly shielded light fixtures, or by edge-lighting, or by halo lighting. Internal illumination shall not be permitted. In all cases illumination shall only be by steady white light. Notwithstanding the above, awning signs shall not be internally illuminated.

6.2.10.2 **Illumination in Highway Business, Industrial, and Industrial Office Districts.** Illumination of any sign within a Highway Business, Industrial, or Industrial Office District shall be external illumination by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign. In all cases illumination shall only be by steady white light. Notwithstanding the above, awning signs shall not be internally illuminated.

6.2.10.3 **Prohibited Means of Illumination.** Illumination of signs by neon or external florescent lighting shall be prohibited in all districts. Changeable signs, variable lit signs, and variable message signs shall be prohibited in all districts, except that signs or portions of signs displaying time, date and/or temperature shall be permitted provided that such signs meet all other provisions of this section. Variable message municipal signs, used to provide public information, traffic or safety messages, shall be permitted in all districts.

6.2.10.4 **Prohibited Means of Sign Movement.** Movement of a sign body or any segment thereof, by rotation, revolution, up and down movement, or any other type of action involving a change of position of a sign body or segment thereof, whether caused by mechanical or other means, shall be prohibited in all districts.

6.2.10.5 **Video Media Display.** Video media display shall be permitted in Local Business and Highway Business Districts, only as follows:

6.2.9.5.1 No video media display shall be positioned so as to be visible from any public way, including any sidewalk, whether such display is located on the interior or exterior of a building or structure.

6.2.9.5.2 No more than four (4) video media displays shall be permitted on any property at one time.

6.2.9.5.3 No single video media display shall exceed one and one-

half (1-1/2) square feet in area.

6.2.11 **Temporary Signs.** Temporary signs shall be prohibited except as specified herein.

6.2.11.1 **General Provisions for Temporary Signs.**

6.2.11.1.1 Temporary signs may only be installed with the permission of the property owner. Temporary signs to be placed on Town property require the prior written permission of the Town Administrator, and shall be in full conformance with applicable town policy for said signs.

6.2.11.1.2 Temporary signs must be removed within the period of time specified herein.

6.2.11.1.3 Temporary signs shall not be attached to utility poles, fences, walls, trees or other vegetation, nor shall they be installed upon a sidewalk or public way.

6.2.11.1.4 No temporary signs shall exceed twenty (20) square feet in area, unless otherwise provided herein.

6.2.11.1.5 There shall no more than two (2) temporary signs installed on any premise at any one time.

6.2.11.1.6 No temporary sign shall be installed such that the highest point of said sign is more than three (3) feet above ground level, unless otherwise provided herein.

6.2.11.1.7 Temporary signs shall not be illuminated.

6.2.11.2 **Temporary Real Estate Signs.** A maximum of two (2) temporary real estate signs shall be permitted, where such signs may be maintained on a property listed for sale or lease during the period of such listing, and shall be removed by the owner or agent within thirty (30) days of conveyance. Such signs shall advertise only the property on which the signs are located. Where permitted, temporary real estate signs shall be limited to the following maximum area requirements:

6.2.11.2.1 In Industrial and Industrial Office Districts such signs shall not exceed thirty-two (32) square feet~~;~~ and shall not be installed such that the highest point of said sign is more than eight (8) feet above ground level.

6.2.11.2.2 In Highway Business and ARO Districts such signs shall not exceed twenty-four (24) square feet~~;~~ and shall not be

installed such that the highest point of said sign is more than six (6) feet above ground level.

6.2.11.2.3 In Local Business Districts such signs shall not exceed twelve (12) square feet~~,~~ and shall not be installed such that the highest point of said sign is more than four (4) feet above ground level.

6.2.11.2.4 In Residential Districts such signs shall not exceed six (6) square feet and shall not be installed such that the highest point of said sign is more than three (3) feet above ground level.

6.2.11.3 **Temporary Construction Signs.** A maximum of two (2) temporary construction signs shall be permitted in non-residential districts only, where such signs may be maintained on a building or property undergoing construction during the period of construction, and for not more than thirty (30) days following the completion of said construction, but in no case longer than six (6) months, unless such period is extended in writing for good cause by the Building Commissioner. Where permitted, temporary construction signs shall be limited to the following maximum area requirements:

6.2.11.3.1 In Industrial and Industrial Office Districts such signs shall not exceed thirty-two (32) square feet~~;~~ and shall not be installed such that the highest point of said sign is more than eight (8) feet above ground level.

6.2.11.3.2 In Highway Business and ARO Districts such signs shall not exceed twenty-four (24) square feet~~;~~ and shall not be installed such that the highest point of said sign is more than six (6) feet above ground level.

6.2.11.3.3 In Local Business Districts such signs shall not exceed twelve (12) square feet~~;~~ and shall not be installed such that the highest point of said sign is more than four (4) feet above ground level.

6.2.11.4 **Temporary Political Signs.** Temporary political signs shall be permitted in all Districts, and shall not require a permit from the Building Commissioner pursuant to Section 6.2 3.

6.2.11.5 **Temporary Banners.** Temporary banners announcing charitable, nonprofit, or civic events to be held within the geographic boundaries of the Town of Westwood, shall be permitted for a period of time not to exceed thirty (30) consecutive days prior to the event. All temporary

banners shall be removed within ten (10) days after such event. Such banners may be erected across public ways with the prior written permission of the Town Administrator upon such terms and conditions as it shall determine, including size, location and design.

6.2.11.6 **Temporary Special Event Signs.** Temporary special events signs, including off-premises temporary special event signs, shall be permitted for a period of time not to exceed fourteen (14) consecutive days prior to the advertised event. All temporary signs shall be removed within two (2) days after such event. Temporary special event signs shall be limited to no more than (6) square feet in area, and to no more than three (3) feet in height. No more than one (1) temporary special event sign shall be displayed on any property at any one time, and no more than four (4) temporary special event signs shall be displayed on any property during the course of a single calendar year. Temporary special event signs shall not require a permit from the Building Commissioner pursuant to Section 6.2 3.

6.2.11.7 **Real Estate Open House Signs.** Open house signs, not exceeding six (6) square feet in area, shall be permitted only on the property which is for sale or lease, and/or at nearby intersections to guide potential buyers to that location, and shall only be permitted during the hours of the open house. Real estate open house signs shall not require a permit from the Building Commissioner pursuant to Section 6.2 3.

6.2.11.8 **Yard Sale Signs.** Yard sale signs, not exceeding six (6) square feet in area, shall be permitted only on the property engaged in the yard sale, and/or at nearby intersections to guide potential buyers to that location, and shall be removed within twenty-four (24) hours after the yard sale.

6.2.12 **Nonconforming Signs.**

6.2.12.1 Nonconforming signs and sign structures may continue to be maintained but shall not be reconstructed, remodeled, relocated, reworded or redesigned unless it is brought into conformity with all provisions of this Zoning Bylaw.

6.2.12.2 Nothing in this Section shall be deemed to prevent the repair and maintenance of a nonconforming sign including general maintenance, repainting and replacement of inoperative or deteriorated parts of the sign face. Supporting structures for nonconforming signs may be replaced, providing that such replacement brings the structure into more conformity as to height, setback and other requirements.

6.2.12.3 A nonconforming sign or sign structure which is destroyed or damaged by a casualty may be restored within six (6) months after such destruction or

damage only after it is shown that the damage did not exceed fifty percent (50%) of the appraised value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding fifty percent (50%), it shall be removed and shall not be reconstructed or replaced unless such action brings the sign and sign structure into conformity with all provisions of this Zoning Bylaw.

6.2.12.4 A nonconforming sign or sign structure shall be removed within thirty (30) days if the building or structure containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the appraised value of the building.

6.2.13 **Sign Materials and Maintenance.** Signs shall be manufactured using industry standard materials that are consistent with a high quality project. Structurally necessary brackets, posts or other supports may be visible if compatible with the appearance of the sign they support. Conduit, tubing, raceways, conductors, transformers and similar equipment shall be concealed from view, to the greatest practical extent. All signs and support structures shall be kept in good repair and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe and orderly appearance. The Building Commissioner may order the repair of a sign that is not secure, safe or in good state of repair by written notice to the owner. If the defect in the sign is not corrected within thirty (30) days of said written notice, the Building Commissioner may order the removal of the sign or impose fines as specified pursuant to Section 10.1, Execution and Enforcement.

6.2.14 **Sign Removal.** Any sign which has been ordered removed by the Building Commissioner or which is abandoned or discontinued, shall be removed by the person, firm or corporation responsible for the sign within thirty (30) days of the written notice.

6.2.15 **Special Permit.** The Board of Appeals may grant a special permit for a sign that does not comply with sign area, height, or setback requirements set forth herein, or which exceeds the maximum number of signs permitted, provided that said sign is otherwise in compliance with all other provisions of this section, and provided further that the Board of Appeals makes the following findings:

6.2.15.1 Applicant has adequately demonstrated that compliance with the provisions of this Section will be an undue hardship.

6.2.15.2 Sign scale is determined to be in reasonable relation to the scale of the building or structure and the sizes of signs on nearby structures.

6.2.15.3 Sign size, shape and placement serves to define or enhance architectural elements of the building or structure such as columns, sill lines, cornices and roof edges.

6.2.15.4 Sign design is harmonious with other signage on the same or adjacent

structures and provides reasonable continuity in mounting location and height, proportions and materials.

6.2.15.5 Sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, and surrounding neighborhood.

6.2.15.6 Sign size, location, design and illumination do not present a safety hazard to vehicular or pedestrian traffic.

6.3 ENCLOSURE, SCREENING AND BUFFERS

6.3.1 **Enclosure Requirements in Highway Business and Industrial Districts.** In the Highway Business District and Industrial Districts all uses permitted as of right, or authorized by special permit, and all uses accessory thereto, shall be conducted within a completely enclosed building or structure, except the following uses provided that no portion of the use conducted outside shall extend nearer to any street or lot line than the corresponding setback distance specified for buildings in the same district:

6.3.1.1 Uses permitted as of right in any Single Residence District;

6.3.1.2 The dispensing of fuel and lubricants at a motor vehicle light service station;

6.3.1.3 The dispensing of food, beverages or goods on premises with drive-through service; and

6.3.1.4 Automobile parking lots.

6.3.2 **Buffer Areas in Nonresidential Districts.** Where a lot in any Industrial District abuts or is within two hundred (200) feet, or in any Local or Highway Business District where a lot abuts or is within twenty (20) feet, of the boundary line of any Residential District (including any Residential District in an adjacent municipality), unless one of the Principal State Highways (as herein defined) or a railroad right-of-way lies between such lot and such Residential District, a buffer area shall be provided on all portions of said lot so abutting (or within the foregoing specified distance of such Residential District). Such buffer area shall be as follows:

6.3.2.1 in the Industrial Districts, at least two hundred (200) feet wide, including the width of any land held by the Westwood Conservation Commission and any part of any public street (as hereinafter defined) located in such Industrial District and lying between such lot and Residential District; and

6.3.2.2 in the Local Business or Highway Business Districts, at least twenty (20) feet wide.

6.3.3 **Definition.** As used in this Section, "Principal State Highways" shall mean Route 128, Route 1 and Route 1A, as designated by the State Department of Public Works on March 11, 1968, and "public street" shall mean a street established and maintained under public authority, or a street plotted or laid out for ultimate public use and shown on a plan approved by the Planning Board.

6.3.4 **Uses within Buffer Areas.** Buffer areas, except as the same are part of a public street, shall be used only as provided herein. No building or structure, except for fences constructed in accordance herewith, shall be constructed or otherwise placed within any portion of the buffer area, whether or not used for business or industrial purposes. However, in any Industrial District the buffer area may contain driveways, and in a Local Business, Highway Business or Industrial District the buffer area may contain sidewalks or pedestrian paths, as long as the applicable screening requirements set forth in Sections 6.3.4.1 or 6.3.4.2 are achieved to the satisfaction of the Planning Board. The following distances nearest the Residential District boundary shall be used and maintained so as to preserve the natural features of the area, including trees, woods, streams and ponds, and as a planting area for lawns with trees, shrubs and other landscape materials:

6.3.4.1 In the Industrial Districts, one hundred twenty-five (125) feet. The remaining seventy-five (75) feet of buffer area may be used for unenclosed surface off-street parking or other permitted outdoor uses, providing such uses are screened from view at normal eye level on said Residential District boundary line.

6.3.4.2 In the Local Business or Highway Business Districts, twenty (20) feet. A suitable planting area shall be interpreted as requiring a substantially sight impervious screen of evergreen foliage at least eight (8) feet in height, or less dense planting of shrubs and trees complemented by a sight impervious fence at least five (5) feet and not more than eight (8) feet in height. Notwithstanding the foregoing, the plantings within any portion of a buffer area located within eight (8) feet of a public street or any other roadway shall be such as to avoid impairment of traffic visibility.

6.3.5 **Uses Requiring Screening.** The following uses of land shall be screened if visible at normal eye level from any point on an abutting lot in a Residential District as set forth herein:

6.3.5.1 Any off-street parking area containing five (5) or more parking spaces and located in or adjacent to a Residential District, and not contained within a structure;

6.3.5.2 Any commercial vehicle (whether or not operative and registered) of a gross vehicle weight in excess of eight thousand five hundred (8,500) pounds or more than twenty (20) feet in length stored or parked overnight in any Residential District;

6.3.5.3 Refuse disposal and dumpster areas, outdoor storage areas of goods and materials;

6.3.5.4 The outdoor storage of used materials, used vehicles or equipment or waste materials;

6.3.5.5 Except in the case of a lot used for municipal purposes, the outdoor parking or storage of two or more buses, trucks or earthmoving equipment items or similar contractor's equipment or heavy vehicles; and

6.3.5.6 Except in the case of a lot used for municipal purposes, the outdoor storage of solid fuel, sand, road salt, manure, fertilizer or other similar substances piled in bulk form.

6.3.6 **Screening Standards.**

6.3.6.1 Screening shall consist of fencing and/or an area of at least three (3) feet in width of densely planted shrubs or trees which are at least two (2) feet high at the time of planting and are of a type that may be expected to form within three (3) years after planting a year-round, continuous, substantially impervious visual screen.

6.3.6.2 Screening as required in this Section shall be located so as not to obstruct vehicle sight distances, entrances and exits. Such screening shall not exceed a height of more than two (2) feet within thirty (30) feet of an intersection or ten (10) feet of a driveway. In no case shall the screening of parking facilities from abutting streets exceed four (4) feet in height.

6.3.6.3 Plantings shall be of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and provide for a year-round, continuous, substantially impervious visual screen.

6.3.6.4 Fences shall be solidly constructed of wood, stone or brick materials. There shall be no metal or chain-link materials used.

6.3.6.5 Screening shall be continuously maintained to effectively serve the purpose for which it is intended. No advertising devices of any kind shall be allowed on screening.

6.3.6.6 Screening shall be continuous except for required access.

6.3.7 **Coordination with Environmental Impact and Design Review.** Any landscaping plan as may be required pursuant to Section 7.3, Environmental Impact and Design Review shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

6.3.8 **Maintenance of Landscaped Areas.** All plant materials required pursuant to this Section shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

6.3.9 **Screening Standards Special Permit.** By the grant of a special permit, the Planning Board may waive or modify the requirements of Section 6.3.6 when in its judgment the strict application of such requirements would result in peculiar or exceptional difficulties, or exceptional and undue hardship or in a specific instance where for topographic or other reasons, fences, walls and screening as herein required could not possibly screen the activities conducted at ground level.

6.3.10 **Perimeter Fence Special Permit.** The Board of Appeals may grant a special permit to install a freestanding fence a maximum of eight (8) feet in height, or a fence installed on or immediately adjacent to a wall such that the fence and wall together have a combined height of a maximum of eight (8) feet, measured from the lowest point of grade adjacent to the fence or combined wall and fence, only upon its written determination that the adverse effects of the project will not outweigh its beneficial impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the project in relation to the site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

6.3.10.1 degree to which existing landscaping, vegetation and other screening will be maintained;

6.3.10.2 proximity to abutting residences;

6.3.10.3 proximity to heavily traveled roadways; and

6.3.10.4 consistency with the interests of public safety, particularly sight distances for traffic visibility.

6.4 EXTERIOR LIGHTING

6.4.1 **Purpose.** The purpose of this Section is to enhance public safety by providing for adequate and appropriate outdoor lighting, protect community character, promote energy conservation and protect against light trespass and glare.

6.4.2 **Definitions.** For the purposes of this Section, the following terms shall be defined as indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 2.0 of this Bylaw.

6.4.2.1 Color Rendering Index (CRI) A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of

comparable color temperature. CRI values generally range from 0 to 100, where 100 represents incandescent light.

6.4.2.2 Fixture The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens or diffuser lens.

6.4.2.3 Glare Light emitted from a luminaire with intensity great enough to produce annoyance, discomfort or a reduction in a viewer's ability to see.

6.4.2.4 Lamp The component of a luminaire that produces the actual light.

6.4.2.5 Light Trespass The shining of direct light produced by a luminaire beyond the boundaries of the lot on which it is located.

6.4.2.6 Lumen A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For purposes of this Bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

6.4.2.7 Luminaire A complete lighting system, including a lamp or lamps and a fixture.

6.4.3 **Applicability.** Outdoor illumination by flood or spot luminaires rated at nine hundred (900) lumens or more (which is approximately equal to one 60-watt incandescent light bulb) or by any other luminaires rated at one thousand eight hundred (1800) lumens or more (which is approximately equal to one 120-watt incandescent light bulb) shall be subject to the provisions of this Section, with the following exceptions: emergency lighting; hazard warning; temporary decorative or holiday lighting; public roadway illumination or other lighting required by or installed by governmental agencies. It shall also not apply to any luminaire intended solely to illuminate any freestanding sign, flag or the walls of any building but such luminaire shall be shielded so that its direct light is confined to the surface of such sign, flag or building.

6.4.3.1 The replacement of existing fixtures shall be subject to the provisions of this Section, however, the replacement of existing nonconforming lamps or fixtures with the same or lower output nonconforming lamps or fixtures is exempted.

6.4.3.2 The Planning Board in performing review pursuant to Section 7.3, Environmental Impact and Design Review may determine that special circumstances of the site, context or design make an alternative lighting design at least equally effective in meeting the purposes of this Section and in such cases, may modify the requirements of this Section.

6.4.4 **Exterior Lighting Plan.** Applications subject to the provisions of Section 7.3, Environmental Impact and Design Review shall submit a lighting plan which shall include the following information, except to the extent waived by the Planning Board. All other lighting not subject to the provisions of said Section 7.3 does not require a lighting plan but shall meet the standards as set forth in this Section, unless as may otherwise be provided herein. The lighting plan shall include the following information:

6.4.4.1 location, orientation and type of outdoor luminaire, including the height of the luminaire;

6.4.4.2 luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;

6.4.4.3 type of lamp such as metal halide, compact fluorescent, high pressure sodium and its associated Color Rendering Index (CRI);

6.4.4.4 photometric plan showing the intensity of illumination expressed in foot-candles at ground level within the interior of the property and at the property boundaries. The plan shall also include the following illumination information in a table format: Minimum; Maximum; Average; Average to Minimum and Maximum to Minimum; and

6.4.4.5 evidence that any light trespass does not exceed the limitations set forth in Chart IV herein.

6.4.5 **Flickering and Flashing Lights.** No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.

6.4.6 **Wall Mounted Fixtures.** In Nonresidential Districts, a luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than fifteen (15) feet above grade and shall be shielded to control glare.

6.4.7 **Pole Mounted Fixtures.** Pole mounted exterior lighting fixture types are defined and restricted as follows:

6.4.7.1 Type A. No light cutoff.

6.4.7.2 Type B. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from straight down, and essentially no light is emitted above the horizontal.

6.4.7.3 Type C. Luminaire shielded such that total cutoff is at less than 90 degrees from straight down, and no light source is in direct view of an observer five (5) feet above the ground at any point off the premises.

6.4.8 **Pole Mounted Fixtures Height Limitation.** Illustrations of pole mounted exterior lighting fixture types are shown in Chart I herein. Pole mounted fixtures shall not exceed the applicable pole mounted height limitation set forth in Chart II in any district. The Type A pole mounted exterior lighting fixture is prohibited in all Nonresidential Districts.

CHART I. ILLUSTRATIONS

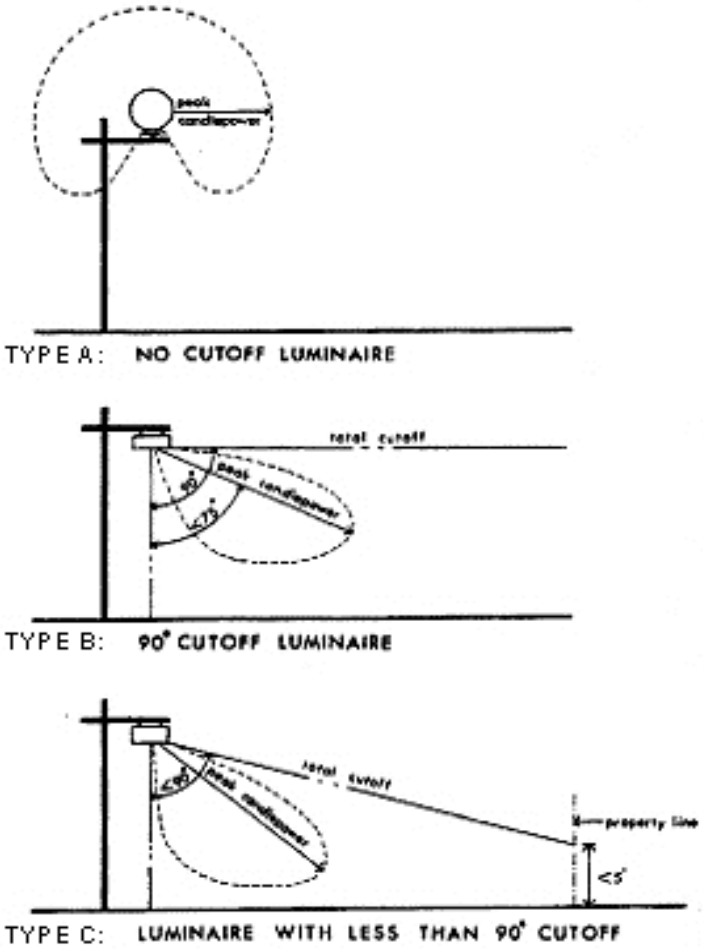

CHART II. POLE MOUNTING HEIGHT LIMITATIONS

	District	
	Residential	Nonresidential
	Maximum Luminaire Mounting Height (feet above grade) "District" is that in which fixtures are located.	
Fixture Type A	10	Not allowed
Fixture Type B	15	25
Fixture Type C	20	30

6.4.9 **Ceiling Mounted Fixtures.** In Nonresidential Districts, luminaires mounted on an exterior ceiling such as under a canopy shall be mounted with the refractor or lens flush with or recessed in the ceiling or fixture.

6.4.10 **Lighting Levels.** In Nonresidential Districts, exterior lighting shall not exceed the following levels on the ground set forth in Chart III herein:

CHART III. LIGHTING LEVELS (horizontal foot-candles)

	Minimum*	Average*	Maximum*
Driveways and Parking	0.5	5.0	10.0
Under Building or Canopy	1.0	25.0	40.0
All Other Nonresidential Areas	0.5	1.0	3.0

* Applicable to the entire lighted area

6.4.11 **Light Trespass Limitations.** Light trespass in excess of the applicable limitation set forth in Chart IV herein is prohibited in all Districts.

CHART IV. LIGHT TRESPASS LIMITATIONS

	District	
	Residential	Nonresidential
	Maximum Light Trespass (horizontal foot-candles)* "District" is that into which the light trespass occurs.	
Fixture Type A	0.2	Not allowed
Fixture Type B	0.3	0.5
Fixture Type C	0.5	1.0

* Except no limit within a street right-of-way.

6.5 FLOOR AREA RATIO LIMITATION

6.5.1 **FAR Limitations in the Highway Business, Industrial-Office and Administrative-Research-Office Districts.** In the Highway Business, Industrial-Office and Administrative-Research-Office Districts, the floor area ratio (FAR) resulting from new construction, renovation or addition shall not exceed 0.4 on any lot, except that the Planning Board may grant a special permit for FAR not to exceed 0.8 upon its written determination, in addition to any other findings required under this Bylaw, that it meets the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw and its off-site impacts on traffic will be mitigated or compensated as herein provided.

6.5.2 **FAR Limitations in the Industrial District.** In the Industrial District, the floor area ratio (FAR) resulting from new construction, renovation or addition shall not exceed 0.6 on any lot, except that the Planning Board may grant a special permit for FAR not to exceed 1.0 upon its written determination, in addition to any other findings required under this Bylaw, that it meets the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw and its off-site impacts on traffic will be mitigated or compensated as herein provided.

6.5.3 **Traffic Mitigation.** Applications for approval of an FAR exceeding 0.4 in the Highway Business, Industrial-Office and Administrative-Research-Office Districts and 0.6 in the

Industrial District shall include a traffic impact study prepared consistent with study guidelines adopted and from time to time amended by the Planning Board. Such applications shall be approved only upon determination by the Planning Board that, based upon facilities as existing or committed to be improved by the Town or the Applicant, on no street or intersection will peak hour congestion fall below baseline traffic conditions as the result of projected traffic.

6.6 NOISE

6.6.1 **Applicability.** The following noise standards, unless otherwise specifically indicated, shall apply to noise as heard at any location off the premises within a designated noise zone, except for that produced by warning devices, agricultural activity, temporary construction or maintenance work, yard maintenance, public events or other special circumstances, but specifically not excluding recurrent vehicle noise associated with fixed points, such as that of refrigerator trucks at loading areas.

6.6.2 **Noise Zones.** The following noise zones are hereby created:

NOISE ZONE A: Nonresidential Districts.

NOISE ZONE B: Locations in any Residential District, but within two hundred (200) feet of a state-numbered highway.

NOISE ZONE C: All other locations.

6.6.3 **Limitations.** No development shall be allowed which would result in the following standards being exceeded by more than twenty (20) decibels at any time, or by more than ten (10) decibels for more than ten (10) minutes in an hour, or at all for more than thirty (30) minutes in an hour, measured at any point off-site. If the generated noise has a single dominant frequency above four thousand eight hundred (4,800) cycles per second, these standards shall be reduced by five (5) decibels.

ALLOWABLE EXTERIOR NOISE LEVEL

NOISE ZONE	7:00 AM - 9:00 PM	9:00 PM - 7:00 AM
A	65 decibels	60 decibels
B	60 decibels	55 decibels
C	55 decibels	50 decibels

SECTION 7.0 SPECIAL REGULATIONS

7.1 EARTH MATERIAL MOVEMENT (EMM)

7.1.1 **Special Permit Required.** No soil, loam, sand, gravel, topsoil, borrow, rock, sod peat, humus, clay, stone or other earth material shall be exported, imported and/or regraded on any premises within the Town unless such export, import and/or regrading will constitute an exempt operation as hereinafter provided or is done pursuant to a special permit therefor granted by the Planning Board.

7.1.2 **Application Requirements.** An application for a special permit for Earth Material Movement (EMM) shall be accompanied by a site plan and all other application materials required by the rules and regulations of the Planning Board. The site plan shall be prepared by a Registered Land Surveyor or Registered Professional Engineer and shall include the following information:

7.1.2.1 Existing topographical contours of the subject land shown at two(2) foot intervals;

7.1.2.2 Existing topographical contours of adjacent land shown at two (2) foot intervals, if available;

7.1.2.3 Topographical contours as proposed after completion of the

7.1.2.4 Proposed lateral support to adjacent properties;

7.1.2.5 Proposed drainage and soil erosion prevention measures;

7.1.2.6 Quantity and composition of earth material to be exported, imported or regraded;

7.1.2.7 Other information necessary to indicate the complete physical characteristics of the operation.

7.1.3 **Special Permit Decision.** An EMM Special Permit shall be granted by the Planning Board only upon its written determination that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town, and will be in harmony with the general purpose and intent of this Section. No special permit for the movement of earth material (including temporary structures accessory thereto), shall be granted if the Board finds that operations conducted thereunder would:

7.1.3.1 Be injurious or dangerous to the public health or safety;

7.1.3.2 Produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property;

7.1.3.3 Result in transportation of materials on ways giving access to the subject land which will cause traffic congestion or hazards;

7.1.3.4 Result in transportation which will cause undue injury to roadway surfaces;

7.1.3.5 Result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted;

7.1.3.6 Have a material adverse effect on the natural or engineered drainage patterns of groundwater or surface water; or

7.1.3.7 Have a material adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land.

7.1.4 **Conditions.** In granting a special permit hereunder, the Planning Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to:

7.1.4.1 Area and limits of work;

7.1.4.2 Method of import, export and/or regrading of earth material;

7.1.4.3 Type and location of temporary structures;

7.1.4.4 Duration of time and termination date of import, export and/or regrading of earth material;

7.1.4.5 Hours of operation;

7.1.4.6 Policing of traffic entering and leaving the site;

7.1.4.7 Routes for transporting earth material through the Town;

7.1.4.8 Area and depth of excavation and/or fill;

7.1.4.9 Proximity to street and lot lines;

7.1.4.10 Grades of slopes;

7.1.4.11 Reestablishment of ground levels and grades;

7.1.4.12 Provisions for temporary and permanent drainage and erosion control;

7.1.45.13 Disposition of boulders, tree stumps and other debris;

7.1.4.14 Replacement of loam over the area of removal;

7.1.4.15 Planting of the area to suitable cover, including trees; and

7.1.4.16 Cleaning of roadway surfaces during and following transport of earth material.

7.1.5 **Fill Material.** A statement may be required from a certified professional to verify the source and content of fill material if the special permit is issued for the placement of fill. The analysis of the content of the fill material may be required so as to detect the presence and quantity of hazardous or substandard materials. This analysis shall be conducted by a certified professional hired by the Planning Board at the expense of the Applicant.

7.1.6 **Surety and Performance Bond.** A surety and performance bond, cash or other adequate security may be required to insure compliance with the terms, conditions, limitations and safeguards of such special permit and to indemnify the Town for any harm to any public well, roadway, wetland or other resource caused by such import, export and/or regrading of earth material and the equipment used for such operations on the premises or by ancillary activities.

7.1.7 **Time Limit.** No special permit for the export, import and/or regrading of earth material shall be granted for a period of more than one (1) year in a Residential District or more than three (3) years in a Nonresidential District, although the special permit may be renewed for additional periods in the same manner as for the initial issuance.

7.1.8 **Exempt Operations.** The movement of earth material in any of the following operations shall constitute an exempt operation and shall not require an EMM special permit:

7.1.8.1 **Less Than 200 Cubic Yards in Residential Districts.** Export, import and/or regrading of less than two hundred (200) cubic yards of earth material in the aggregate in any year on any one premises in a Residential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed grade elevations.

7.1.8.2 **Less Than 250 Cubic Yards in Nonresidential Districts.** Export, import and/or regrading of less than two hundred (250) cubic yards of earth material in the aggregate in any year on any one premises within a Nonresidential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed natural grade elevations.

7.1.8.3 **Excavation for Foundations.** Export and/or regrading of earth material necessarily excavated in connection with the lawful construction of a

building or structure, or of a driveway, sidewalk or path incidental to any such building or structure, provided that the quantity of earth material removed does not exceed that actually displaced by the portion of building, structure, driveway, sidewalk or path below finished grade, and provided that resultant finished slopes are less than fifteen percent (15%) and finished elevations are less than five (5) feet above surrounding and undisturbed natural grade elevations.

7.1.8.4 **Agricultural, Horticulture or Floriculture Uses.** Export, import and/or regrading of earth material consisting of compost, peat, manure, loam or other vegetative or earthen matter by exempt agricultural, horticulture or floriculture uses necessary for, or directly related to, the planting, cultivation or harvesting of vegetative products or the raising or care of animals.

7.1.8.5 **Governmental Uses.** Export, import and/or regrading of earth material on land in use by the Town or other governmental agency.

7.1.9 **Subdivisions.** The export, import and/or regrading of earth material on any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the export, import and/or regrading of earth material on the premises, even though in connection with the construction of streets and the installation of municipal services shown on a subdivision plan, and an EMM Special Permit shall be required pursuant to this Section.

7.1.10 **Existing Earth Material Removal Operations.** A sand or gravel pit, quarry or other earth material removal activity in lawful operation on any premises on the effective date of this Bylaw may continue as an exempt operation unless and until abandoned, or if operating under a prior special permit issued by the Board of Appeals or Planning Board, until the expiration thereof. Discontinuance for more than twelve (12) consecutive months shall be deemed to constitute abandonment. However, unless specifically authorized by such prior special permit or by a new special permit issued hereunder (i) the depth of excavation shall not be increased below the grade of the lowest point excavated on the effective date of this Bylaw; (ii) the total area of excavation shall not be increased by more than fifty percent (50%) over its area on said date; and (iii) the amount of material removed per day shall not exceed by more than fifty percent (50%) the daily average for the twelve (12) months preceding said date or the actual period of operation, if less than twelve (12) months.

7.2 MAJOR BUSINESS DEVELOPMENT (MBD)

7.2.1 **Purpose.** The purpose of this Section is to assure that large-scale business developments are carefully tested against the Town's decision criteria relating to locations and uses, and to assure that adequate provisions are made for impacts of development.

7.2.2 **Applicability.** In the following categories, new or the expansion of existing buildings or structures and outdoor uses, exterior alterations, exterior additions and exterior changes that result in an increase of:

7.2.2.1 more than fifty thousand (50,000) square feet net floor area in use for one or more of the following categories:

7.2.2.1.1 store for retail sale of goods not requiring a special permit, and not involving Adult Uses or live animals;

7.2.2.1.2 bank or other financial institution;

7.2.2.1.3 restaurant (but not a Fast Order Food Establishment) with no mechanical or live entertainment regularly furnished;

7.2.2.1.4 printing/copy/publishing establishment;

7.2.2.2 more than one hundred seventy five thousand (175,000) square feet net floor area in any use other than those in Section 7.2.2.1 and those permitted as of right in Single Residence Districts;

7.2.2.3 parking or storage for two hundred fifty (250) or more motor vehicles.

7.2.3 **Special Permit Required.** A MBD shall require the issuance of a special permit granted by the Planning Board in compliance with the provisions of this Section. Application for any other special permits which may also be required and for which the Planning Board is the designated Special Permit Granting Authority may be consolidated with a MBD application and acted upon concurrently by the Planning Board.

7.2.4 **Application Requirements.** An application for a special permit for a MBD shall be accompanied by a site plan and all other application materials required by the rules and regulations of the Planning Board in addition to the following:

7.2.4.1 Application materials required for Section 7.3, Environmental Impact and Design Review;

7.2.4.2 A presentation model at a minimum scale of one (1) inch equals twenty (20) feet (or such other scale as the Planning Board shall determine) showing the parcel, abutting streets, proposed contours, proposed buildings and the massing of abutting buildings;

7.2.4.3 Description of the types and quantities of proposed on-site activities;

7.2.4.4 Analysis indicating how the project serves job, service or other interests of Town residents;

7.2.4.5 Impact analyses on appropriate issues as may be identified by the Town, including identification of public facility improvements to be made by the Applicant and others;

7.2.4.6 Description of project timing and phasing.

7.2.5 **Decision.** A special permit for a MBD shall be granted by the Planning Board only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

7.2.5.1 ability of roads, water and drainage facilities as existing, or as committed by the Town or the Applicant to be improved, to serve the project adequately and safely without material deterioration in service to other locations;

7.2.5.2 degree of assurance that no planned process or unplanned contingency will result in hazard or contamination of air, land or water resources;

7.2.5.3 visual compatibility with the vicinity, including consideration of site arrangement, consistency in architectural scale (or reasonability of departure), retention of existing site features, especially trees and architectural character;

7.2.5.4 degree of threat to environmental resources, including loss of valuable trees and other vegetation, disturbance to habitats and soil through erosion;

7.2.5.5 buffering and screening from any nearby uses of different character; and

7.2.5.6 degree to which the proposal serves job, service or other interests of Town residents.

7.2.6 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Planning Board to hire consultants in connection with the review and evaluation of applications for special permits pursuant to this Section. The Planning Board will be reimbursed by the Applicant for the reasonable fees and expenses of such consultants, and each application for a special permit hereunder shall contain an agreement by the Applicant to that effect.

7.3 ENVIRONMENTAL IMPACT AND DESIGN REVIEW (EIDR)

7.3.1 **Purpose.** The purpose of this Section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the Town and

upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The environmental impact and design review process is intended to promote the specific purposes listed in Section 1.1, Purpose.

7.3.2 **Applicability.** The following types of activities and uses shall require review and approval pursuant to the provisions of this Section, unless found to be de minimis by the Building Commissioner. Nothing herein shall be deemed to permit any use or structure not otherwise permitted as of right or by special permit under this Zoning Bylaw, or to give rise to an implication as to whether or not a particular use or structure is permitted as of right or by special permit under this Zoning Bylaw. The following shall require approval hereunder:

7.3.2.1 Construction, expansion, exterior alteration(exclusive of signs governed by the provisions of Section 6.2), or change of use of any municipal, institutional, commercial, industrial, or multi-family property.

7.3.2.2 Reconfiguration, restriping or expansion, by three (3) or more parking spaces, of a parking area or facility containing five (5) or more parking spaces.

7.3.2.3 Any change in use which results in a use prohibited or requiring a special permit in a Water Resource Protection Overlay District, whether or not within such a district and whether or not requiring a building permit.

7.3.24 Construction of an Open Space Residential Development (OSRD) pursuant to Section 8.3 of this bylaw.

7.3.2.5 Construction, installation or alteration of a Minor Wireless Communication Facility pursuant to Section 9.4 of this bylaw.

7.3.3 **Exempt Uses.** In cases where M.G.L. Chapter 40A, Section 3 provides certain exemptions from zoning restrictions for uses protected thereunder, review and approval pursuant to this Section shall be limited consistent with those statutory provisions and on other matters shall be advisory only. For all uses exempt under M.G.L. Chapter 40A, Section 3, the Planning Board shall make determinations of compliance with dimensional and parking requirements of this Bylaw, including requirements related to setbacks, building height, building coverage, impervious surface, parking and circulation, buffers, screening, landscape, lighting, and stormwater management . Application and review procedures for such uses shall be as provided herein, except that the Planning Board shall waive the requirement of any submittals which are unnecessary for the Planning Board's regulatory determinations.

7.3.4 **Single-Family Dwelling Exemption.** Notwithstanding the foregoing, exterior alterations, exterior additions and exterior changes (including fences, walls and driveways), if made to a single-family dwelling, shall be exempt from the regulations of this Section.

7.3.5 **Procedures.** An application for environmental impact and design review shall be accompanied by a site plan and other application materials in accordance with the requirements specified below and the Planning Board's rules and regulations. The Planning Board shall hold a public hearing in accordance with its rules and regulations and shall provide its decision forthwith to the Building Commissioner and Applicant.

7.3.6 **Administrative Review and Approval of Minor Alterations.** An application for environmental impact and design review involving exterior alterations to buildings or sites, which alterations are determined by the Building Commissioner to be minor in nature, shall be reviewed and considered for approval by the Town Planner. Application and submittal items shall be the same as set forth in this Section and in the Planning Board's rules and regulations for Planning Board consideration, except in the number of paper copies required, which shall be reduced to a number determined by the Town Planner to be sufficient for review purposes. The Town Planner, within 21 days of receipt of a complete application, shall review the application and submittal items for conformance with the standards set forth in Section 7.3.7, and shall issue an Administrative Approval, an Administrative Approval with Conditions, or an Administrative Denial of said application. In the case of an Administrative Approval with Conditions or an Administrative Denial, the applicant may apply to the Planning Board for further consideration of the EIDR Application in the course of a duly noticed public hearing.

7.3.7 **Submittal Requirements.** To assist the Planning Board in its evaluation of an application for environmental impact and design approval hereunder, the Applicant shall submit the following materials at the time of application, except to the extent waived by the Planning Board:

7.3.7.1 **Site Plan.** The site plan shall be prepared by a Registered Professional Engineer, Registered Landscape Architect and/or Registered Professional Land Surveyor and shall show the following information, except to the extent waived by the Planning Board:

7.3.7.1.1 Existing and proposed planting, landscaping and screening, which shall show the location, dimension and arrangement of all open spaces and yards, including type and size of planting materials, methods to be employed for screening and proposed grades and a plan for maintenance;

7.3.7.1.2 Location, type, size and dimension of existing trees, rock masses and other natural features with designations as to which features will be retained;

7.3.7.1.3 Dimension and location of existing and proposed buildings and structures;

7.3.7.1.4 Existing topography, including any proposed grade changes;

7.3.7.1.5 Parking areas and facilities, traffic circulation, driveways, loading areas, access and egress points;

7.3.7.1.6 Storm drainage, including direction of flow and means of ultimate disposal. Stormwater drainage runoff calculations used for the drainage system design shall be prepared by a Registered Professional Engineer and must support the sizing of all drainage structures and pipes and demonstrate compliance with the stormwater management standards adopted and as amended from time to time by the Massachusetts Department of Environmental Protection;

7.3.7.1.7 Provisions for sanitary sewerage and water supply, including fire protection measures; and

7.3.7.1.8 Location of all utilities, signage, outdoor storage and trash disposal areas.

7.3.7.1.9 Location and description of any proposed disturbance to existing vegetation, or alteration of natural or historic features, which are proposed in relation to temporary access, utility installation, or other aspects of construction, including provisions for site restoration.

7.3.7.2 **Exterior Lighting Plan.** The Exterior Lighting Plan shall show the information as required in Section 6.4.4 of this Bylaw, except to the extent waived by the Planning Board.

7.3.7.3 **Traffic Study.** The traffic study shall be prepared by a Registered Professional Engineer consistent with study guidelines adopted and from time to time amended by the Planning Board, except to the extent waived by the Planning Board.

7.3.7.4 **Drawings/Renderings.** A drawing or rendering of the proposed building, including color and type of surface materials showing front, rear and side elevations.

7.3.7.5 **Photographs.** Photographs showing any existing structures to be altered, the proposed building site and surrounding properties. Applications for alterations and additions shall include photographs showing each existing structure to be altered and its relationship to adjacent properties.

7.3.7.6 **Impact Statement.** An explanation of how each of the environmental impact and design standards cited herein is incorporated into the design of the proposed development. Where a particular standard is not applicable a statement to that effect will suffice. An environmental impact statement

prepared in accordance with state or federal regulations may be accepted as a substitute in lieu of this statement.

7.3.7.7 **Model.** A presentation model at a minimum scale of one (1) inch equals twenty (20) feet (or such other scale as the Planning Board shall determine) showing the tract, abutting streets, proposed contours, proposed buildings and the massing of abutting buildings, except to the extent waived by the Planning Board. This Subsection is not applicable to additions, alterations or changes which increase gross floor area by less than one hundred percent (100%).

7.3.8 **Environmental Impact and Design Standards.** The following standards shall be utilized by the Planning Board to review and evaluate all applications pursuant to this Section. These standards are intended to provide a frame of reference for the Applicant in the development of their project and building plans as well as criteria for review by the Planning Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in this Section shall also apply to all accessory buildings, structures, freestanding signs and other site features, however related to the principal buildings or structures.

7.3.8.1 **Preservation of Landscape.** The landscape shall be preserved in its natural state, insofar as practicable. Tree and soil removal shall be minimized, and any grade changes shall be consistent with the general appearance of neighboring developed areas. Due regard shall be given to the attractive utilization of the natural features of the area, including trees, woods, streams and ponds. All open areas which cannot be preserved in their natural state shall be replanted as far as practicable with as many trees and plantings as previously existed.

7.3.8.2 **Relation of Buildings to Environment.** The proposed development shall be related harmoniously to the terrain and to the use, scale and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed building. The Planning Board may require a modification in massing so as to reduce the effect of shadows on abutting property, public open space or streets.

7.3.8.3 **Open Space.** All open space shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

7.3.8.4 **Circulation, Traffic Impact and Alternative Means of Transportation.** With respect to vehicular and pedestrian circulation and traffic, including entrances, ramps, walkways, drives and parking, special attention shall be given to location, number and function of access points to the public streets (especially in relation to existing traffic flow, traffic controls and

mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, the arrangement, safety and convenience of both vehicle and bicycle parking areas and the effect thereof upon the use and enjoyment of proposed buildings and structures and the neighboring properties, and the traffic impact of the proposed development on nearby public and private streets. Each proposed facility is encouraged to incorporate alternative means of transportation, including bicycle and shuttle bus, and shall make adequate provision for the convenience of vehicular and pedestrian movement within the site in which the facility is to be located, and in relation to nearby streets, property and improvements.

7.3.8.5 **Stormwater Drainage and Erosion Control.** Special attention shall be given to proper site surface drainage (i) so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system and (ii) so as to minimize any adverse impact upon nearby "downstream" properties. Stormwater shall be removed from all roofs, canopies and paved areas in a manner complying with the stormwater management standards adopted and as amended from time to time by the Massachusetts Department of Environmental Protection. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. Erosion and sediment controls must be implemented to prevent any negative impacts during construction or other land disturbance activities. Permanent post-development erosion controls must be implemented and maintained where necessary.

7.3.8.6 **Advertising Features.** The size, location, design, color texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.

7.3.8.7 **Special Features.** Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties. All towers, antennas and poles shall be sited, designed and sized to have minimal visual impact on nearby properties.

7.3.8.8 **Safety.** With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be designed to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of an accident or attempted criminal act. Traffic to and

from any facility shall not cause safety hazards or increased congestion in nearby residential neighborhoods.

7.3.8.9 **Heritage.** With respect to the Town's heritage, removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

7.3.8.10 **Microclimate.** With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage or the installation of machinery which emits heat, vapor or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air and water resources or on noise and temperature levels of the immediate environment.

7.3.8.11 **Energy Efficiency.** To the maximum extent reasonably practicable, proposals shall utilize energy-efficient technology and renewable energy resources and shall adhere to the principles of energy-conscious design with regard to orientation, building materials, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of the building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.

7.3.8.12 **Detrimental Effects.** No proposed facility shall be detrimental to the health, safety or welfare of persons working or living in the neighborhood, or by reason of danger of fire or explosion, environmental pollution, corrosion, toxic or noxious fumes, gas, smoke, soot, dust, odors, noise or vibrations or other hazards.

7.3.8.13 **Nearby Properties.** Nearby properties shall be protected against detrimental uses on the site.

7.3.8.14 **Specific Standards for High and Washington Street.** Where the nature of the following design features is considered significant to the preservation or enhancement of the desirable visual quality and property values of a particular part of High Street or Washington Street, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs and design elements such as door and window size and location and door and window detailing, including materials for sills, lintels, frames and thresholds and any other major design elements.

7.3.8.15 **Air Quality.** Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the Environmental Protection Agency (EPA) under the Clean Air Act, and

any use required to apply to the Massachusetts Department of Environmental Protection under 310 CMR 7.00 or to EPA under Section 112 of the Clean Air Act for permission to emit asbestos, benzene, beryllium, mercury, vinyl chloride, or radionuclides shall be permitted only upon determination by the Planning Board that compliance with the requirements of those agencies is assured, and that health and safety are adequately protected.

7.3.8.16 **Plants and Animals.** Location and design shall not cause avoidable damage to wildlife habitats or corridors, or to any plant species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program, or to any tree with more than a twenty-four (24) inch trunk diameter one (1) foot above grade. An application for a MBD special permit must include documentation to the Planning Board of having consulted with the Conservation Commission and the Massachusetts Natural Heritage Program regarding these considerations, and that the proposed site either contains no such habitats or materials, or that all feasible efforts to avoid, minimize or compensate for damage have been reflected in the development proposal.

7.3.8.17 **Vibration.** Except for blasting and other activities within the jurisdiction of the Board of Fire Prevention Regulations, no use shall be allowed which produces vibration at or beyond the boundaries of the premises exceeding two-thirds (2/3) the frequency/amplitude limitations established by the Board of Fire Prevention Regulations at 527 CMR 13.11 (18) for three (3) minutes or more in any hour between 7:00 am and 9:00 pm or for thirty (30) seconds or more in any hour between 9:00 pm and 7:00 am.

7.3.8.18 **Electrical Disturbances.** No EMF emission shall be permitted which adversely affects the operation of any equipment on other properties.

7.3.8.19 **Historic and Archaeological Sites.** Location and design shall not cause avoidable damage or impairment to the historic or archaeological value of buildings on sites recorded on the Massachusetts Register of Historic Places. An application for a MBD special permit shall submit documentation that either the site does not contain or impact such buildings or sites, or that any potential damage or impairment has been effectively mitigated.

7.3.8.20 **Solid Waste.** Each development must document arrangements for satisfactory disposal of tree stumps and debris resulting from construction, and must make permanent arrangement for satisfactory on-site storage of refuse pending its removal, such storage to be screened from public view, secure from vermin, birds or other animals, and located to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

7.3.8.21 **Water Quality.** Any development subject to review pursuant to this Section which involves a use prohibited or requiring a special permit in a Water Resource Protection Overlay District pursuant to Section 9.3 may be allowed if such development is located outside of the Water Resource Protection Overlay District and if the material regulated is less than twenty (20) gallons liquid or less than one hundred fifty (150) pounds dry weight. If exceeding those limits the use shall be allowed only if the Planning Board, in its review of the application pursuant to this Section, determines that the Applicant has documented that adequate safeguards for protecting the integrity of groundwater quality have been assured. Any development subject to review pursuant to this Section which involves a use prohibited or requiring a special permit under Section 9.3 and is located within a Water Resource Protection Overlay District may be allowed if such development has been granted a special permit pursuant to the provisions of Section 9.3.

7.3.9 **Decision.** Environmental impact and design approval shall be granted upon the determination of the Planning Board that the application meets the objectives cited herein. The Planning Board may impose reasonable conditions at the expense of the Applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points and other aspects of the development, so as to:

7.3.9.1 Minimize the volume of cut and fill, the number of removed trees six (6) inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion and threat of air and water pollution;

7.3.9.2 Maximize pedestrian and vehicular safety on the site and egress to and from the site;

7.3.9.3 Minimize obstruction of scenic views from publicly accessible locations;

7.3.9.4 Minimize visual intrusion by controlling the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned;

7.3.9.5 Minimize glare from headlights and lighting intrusion;

7.3.9.6 Minimize unreasonable departure from the character, materials and scale of buildings in the vicinity, as viewed from public ways and places;

7.3.9.7 Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling or containment of hazardous substances; and

7.3.9.8 Ensure compliance with the provisions of this Bylaw, including parking, landscaping, exterior lighting and noise.

7.3.10 **Modifications.** Once environmental impact and design approval has been granted by the Planning Board, any subsequent changes in which the Building Commissioner has determined will substantially affect or alter the visual appearance of the building facade or roof or will substantially affect or alter traffic flow or modify the site plan, a new application shall be submitted pursuant to this Section.

7.3.11 **Lapse.** Environmental impact and design approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant of the environmental impact and design approval. The Planning Board may extend such approval, for good cause, upon the written request of the Applicant.

7.3.12 **Regulations.** The Planning Board may adopt reasonable rules and regulations for the administration of this Section.

7.3.13 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for environmental impact and design review.

7.3.14 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Planning Board to hire consultants in connection with the review and evaluation of applications for environmental impact and design approval under this Section. The Planning Board will be reimbursed by the Applicant for the reasonable fees and expenses of such consultants, and each application for a permit hereunder shall contain an agreement by the Applicant to that effect.

SECTION 7.4 REGISTERED MARIJUANA DISPENSARIES

7.4.1 **Purpose.** The purpose of this Section is to assure that Registered Marijuana Dispensaries (RMDs) are carefully designed, located and operated in accordance with applicable state and local laws, rules and regulations, and to assure that adequate provisions are made for impacts of such facilities upon the character of the Town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof.

7.4.2 **Special Permit Required.** No RMD shall be constructed or operated except pursuant to a special permit therefor granted by the Board of Appeals in accordance with Section 7.4.

7.4.3 **Application Requirements.** An application for a special permit for a RMD shall be accompanied by a site plan and all other application materials required by the rules and

regulations of the Board of Appeals.

7.4.4 **Referral of Application to Board of Health.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Board of Health, whereupon said Board may, at its discretion, review the proposed RMD project and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Board of Health, or until said Board of Health has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report.

7.4.5 **Referral of Application to Police Chief.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Police Chief, whereupon said Police Chief may, at his or her discretion, review the proposed RMD project and report in writing recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Police Chief, or until said Police Chief has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report.

7.4.6 **Referral of Application to Planning Board.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Planning Board, whereupon said Board may, at its discretion, review the proposed RMD project and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report. Said Planning Board report shall indicate the status of the proposed RMD's Environmental Impact and Design Review (EIDR) application which is required pursuant to Section 7.3 of this Bylaw. If the Board of Appeals shall vote to grant a RMD Special Permit prior to the Planning Board's issuance of an EIDR Approval for the RMD project, the Board of Appeals' decision shall be conditional upon the granting of such EIDR Approval by the Planning Board and subject to any conditions thereof.

7.4.7 **Findings.** No RMD Special Permit shall be granted unless the Board of Appeals finds that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town.

SECTION 7.5 ACCESS APPROVAL OVERLAY DISTRICT

7.5.1 **Purpose.** This overlay district shall be called the Clapboardtree Street/Canton Street Corridors Access Approval Overlay District. The purpose of this overlay district is to maintain the integrity, viability and safety of certain portions of Clapboardtree Street and Canton Street that are subject to or potentially subject to traffic by non-residential or multi-family residential uses of adjacent properties. In order to protect residentially zoned districts in Westwood and in the general public interest, it is vital to ensure that the limited public road, highway, private way and ancillary traffic resources adjacent to and contributing to traffic on Clapboardtree Street and Canton Street, the Route

1A/Clapboardtree Street/Everett Street/Washington Street intersection and the University Avenue/Canton Street intersection are not overburdened, becoming inoperable and unsafe "gateways" to our community and causing detriment to the public safety and harm to the residents currently within this district.

7.5.2 **Granting Authority**. The Planning Board shall be the granting authority for all approvals required under this Section.

7.5.3 **Applicability.** The Clapboardtree Street Corridor Overlay shall apply to all land abutting Clapboardtree Street from Milk Street to Everett Street. The Canton Street Corridor Overlay shall apply to all land abutting Canton Street from Hemlock Drive to the beginning of Dedham Street:

7.5.3.1 Except as provided herein, an Access Approval shall be required for a new or modified curb cut that provides access for a commercial, institutional or multifamily use to any public road within the overlay district. The Access Approval shall be required prior to the issuance of a curb cut permit by the Department of Public Works.

7.5.3.2 The Access Approval requirement shall not apply to any existing or proposed curb cut on a state highway.

7.5.3.3 The Access Approval requirements shall not apply to any existing or proposed curb cuts for projects which are anticipated to add fewer than fifty (50) vehicle trips per day to Clapboardtree Street or Canton Street, and which are not anticipated to negatively affect the level of service of either the Route 1A/Clapboardtree Street/Everett Street/Washington Street intersection or the University Avenue/Canton Street intersection, and which are otherwise determined by the Town Planner to have de minimis effects on traffic within the overlay district.

7.5.3.4 This Section 7.5 shall not apply to any building or use which prior to March 27, 2015 has (i) been issued a special permit pursuant to General Laws Chapter 40A, Section 9, and (ii) has submitted an application for a curb cut permit for an access drive to serve that building or use.

7.5.3.5 This overlay district's regulations supplement the zoning regulations of the underlying zoning district. The overlay district is an additional zoning requirement that does not change the underlying zoning.

7.5.3.6 When the overlay district standards conflict with applicable standards of the underlying zoning district or with other regulations of this bylaw, the regulations of the overlay district shall govern. When no special overlay district standards are specified, the base district standards and all other applicable regulations of this bylaw shall govern.

7.5.4 **Procedures.** An application for Access Approval shall be accompanied by a site plan and other application materials in accordance with the requirements specified below and in the Planning Board's rules and regulations. The Planning Board shall hold a public hearing in accordance with its rules and regulations and shall provide its decision forthwith to the Applicant and Director of Public Works. The public hearing shall be noticed in accordance with the notice requirements set forth in the Planning Board's rules and regulations. A written decision shall be filed with the Town Clerk within ninety (90) days following the closure of the public hearing.

7.5.5 **Submittal Requirements.** To assist the Planning Board in its evaluation of an application for Access Approval hereunder, the Applicant shall submit the following materials at the time of application, except to the extent waived by the Planning Board:

7.5.5.1 **Application Form.** The application form as provided in the rules and regulations.

7.5.5.2 **Traffic Impact Study.** A detailed traffic impact analysis shall be provided for any new or expanded development which will have an anticipated change in traffic volume in excess of an average of 50 additional vehicle trips per day. The traffic impact shall analyze access and egress to Clapboardtree Street or Canton Street, as the case may be, and the impact at all intersections within one mile of the proposed curb cut.

a. Determination of Traffic Impact. In determining traffic generation under this provision, the data contained in the most recent edition of the Institute of Traffic Engineers publication "Trip Generation" shall be used.

b. The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. The Planning Board may engage, at the applicant's expense, a traffic engineer to peer review the traffic impact analysis.

7.5.5.3 **Site Plan.** A site plan, prepared by a Registered Professional Engineer, Registered Landscape Architect and/or Registered Professional Land Surveyor, showing the location of all structures, the number and location of parking and loading spaces, and the layout of all site drives. The purpose of this requirement is to provide the context for the proposed curb cut, and nothing herein shall authorize the Planning Board to regulate parking, the layout of internal driveways, and other aspects of a proposed development not related directly to the use of the proposed curb cut by project-related traffic.

7.5.6 **Decision.** All new curb cuts or proposed changes for existing curb cuts, except as exempt pursuant to Section 7.5.3.2 or Section 7.5.3.3, shall require the receipt of an Access Approval from the Planning Board. Access Approval shall be granted upon the

determination of the Planning Board that the application meets the objectives cited herein. The Planning Board shall not deny an application for an Access Approval but, consistent with the guidelines above, may impose reasonable conditions at the expense of the Applicant, including performance guarantees, to promote these objectives. The Access Approval requirement shall not give rise to an implication as to whether or not a particular use or structure is permitted as of right or by special permit under this Zoning Bylaw. Review of uses protected by M.G.L. Chapter 40A, Section 3 shall be limited consistent with that statutory provision.

7.5.6.1 The Planning Board shall base its decision on the safety, design and expected performance of the proposed access/egress point as detailed in the traffic study and on the site plan, as well as the effect of the additional vehicles on existing intersections within one mile of the curb cut. In order to issue the Access Approval, the Planning Board must find that the traffic generated by the proposed project will adequately protect the public interest and will not cause material detriment to the public safety of residents within the district and the Town of Westwood. If the Planning Board cannot make this finding based on the traffic impact analysis and peer review of said analysis, if any, the Planning Board shall condition its Access Approval as necessary to enable positive findings to be made.

7.5.6.2 All reasonable efforts shall be made to align curb cuts with existing curb cuts on the opposite side of the street in order to maximize pedestrian and vehicular safety.

7.5.6.3 The Planning Board may require off-site mitigation within up to one mile of the curb cut if necessary to protect public safety.

7.5.7 **Modifications.** Once an Access Approval has been granted by the Planning Board, if any subsequent changes are proposed to a project approved hereunder, which changes are determined by the Town Planner to modify the site plan or proposed use so as to negatively affect or alter traffic flow or volume, an application for modification of the Access Approval shall be submitted pursuant to this Section.

7.5.8 **Lapse.** Access Approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant of the Access Approval. The Planning Board may extend such approval, for good cause, upon the written request of the Applicant.

7.5.9 **Regulations.** The Planning Board may adopt reasonable rules and regulations for the administration of this Section.

7.5.10 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for Access Approval.

7.5.11 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Planning Board to hire consultants in connection with the review and evaluation of applications for Access Approval under this Section. The Planning Board

will be reimbursed by the Applicant for the reasonable fees and expenses of such consultants, and each application for approval hereunder shall contain an agreement by the Applicant to that effect.

SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS

8.1 CONVERSION OF ONE-FAMILY DWELLING

8.1.1 **Purposes.** The purposes of this section are as follows:

8.1.1.1 to preserve culturally, historically, or architecturally significant residential structures of value to the community;

8.1.1.2 to encourage the preservation of community character through the maintenance of existing residential properties and their surrounding landscapes;

8.1.1.3 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character.

8.1.2 **Special Permit Required.** Upon the grant of a special permit by the Board of Appeals, the conversion and/or use of a one-family dwelling to a dwelling for not more than two (2) families may be authorized, provided that such one-family dwelling was constructed on or before December 31, 1938, and provided that the exterior character of the property remains consistent with that of a single-family dwelling, and provided that no accessory apartment is in existence on the same property pursuant to Section 8.6 of this Bylaw.

8.1.3 **Alterations, Relocations, or Additions.** The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.

8.1.4 All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed. The maximum number of special permits to be issued and in effect shall not exceed one percent (1%) of the current number of single-family and two-family dwelling units in Town.

8.2 TWO-FAMILY DWELLINGS

Upon the grant of a special permit by the Board of Appeals, a dwelling for occupancy by more than one (1) family, if located on a lot having an area larger than the minimum hereinafter required for the construction of a one-family dwelling in the same district by an additional four thousand (4,000) square feet for each family in excess of one accommodated thereon may be authorized; provided that said dwelling unit shall be limited to occupancy by no more than two (2) families.

8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT

8.3.1 **Purposes.** The purposes of Open Space Residential Development (OSRD) are as follows:

8.3.1.1 to conserve natural, hydrological and wetlands resources, wildlife habitat, scenic corridors and views, agriculture, horticulture and forestry operations, cultural resources and other natural and man-made features of value to the community;

8.3.1.2 to lessen the amount of disturbance to soils, topography and vegetation on the site, and to provide roads and infrastructure in more efficient and less intrusive ways than with conventional subdivisions;

8.3.1.3 to provide the opportunity for more flexibility and imagination in the design of residential developments;

8.3.1.4 to assure that the 4-step Design Process (as defined in 8.3.12) guides the design of an OSRD by identifying the resources and amenities to be protected, prior to laying out buildings, roadways, and lots;

8.3.1.5 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character.

8.3.16 to encourage senior housing development, affordable housing development, historic preservation, and greater conservation of open space.

8.3.2 **Definitions.** For the purposes of this Section, the following terms are defined:

8.3.2.1 **Single-family Attached Dwelling Units.** Single-family Attached Dwelling Units shall mean buildings where two (2) or more individual single-family dwelling units are physically connected to like dwellings for at least a portion of one or more of their exterior walls. Single-family Attached Dwelling Units may include townhouses in traditional row or other configuration or shape; or individual single-family dwelling units meeting at a common lot line. Single-family Attached Dwelling Units shall not include any building where any dwelling unit is located above or below any other dwelling unit.

8.3.2.2 **Cluster.** Cluster shall mean a distinct area or "pod" of housing within an OSRD development, separated physically and visually from other clusters of housing by open space and/or other facilities or common areas.

8.3.2.3 **Tract.** Tract shall mean the boundaries and area of the original parcel of land proposed for the OSRD, prior to further division.

8.3.2.4 **Age-Restricted Dwelling Units.** Age-Restricted Dwelling Units shall mean dwelling units where occupancy shall be restricted in perpetuity to households where at least one person has reached fifty-five (55) years of age.

8.3.3 **Eligible Districts.** An OSRD shall be permitted only within the Single Residence B (SRB), Single Residence C (SRC), and Single Residence E (SRE) districts, pursuant to the requirements of this Section.

8.3.4 **Minimum Tract Requirements.** The minimum tract of land for an OSRD shall consist of one parcel or two or more contiguous parcels, with a minimum area of 120,000 square feet in SRB, 200,000 square feet in SRC, and 400,000 square feet in SRE, prior to further division. The Planning Board may make a finding that two or more parcels separated by a road or other infrastructural element are effectively contiguous if such is consistent with the purposes of this Section.

8.3.5 **Uses Allowed As of Right.** The following uses are allowed as of right in an OSRD:

8.3.5.1 Detached single-family Dwelling Units.

8.3.6 **Special Permit Uses.** The following uses are only allowed by OSRD Special Permit in an OSRD:

8.3.6.1 Single-family Attached Dwelling Units;
8.3.6.2 Bonus Dwelling Units.

8.3.7 **Facilities and Amenities.** The following facilities and amenities are allowed in an OSRD:

8.3.7.1 Common open space areas for active or passive recreation, preservation of habitat and natural resources, maintenance of scenic amenities, buffering between uses, both within the site and from abutting properties, connecting greenways to abutting protected open space, lawn and landscaped areas within the site, pedestrian and bicycle trails, and similar features;

8.3.7.2 Recreational amenities primarily for residents of the OSRD, including but not limited to: a community center, swimming pool, beach, tennis court, or children's playground;

8.3.7.3 Accessory uses necessary to the operation and maintenance of the development, including but not limited to detached structures for parking, sheds for equipment and tool storage, structures housing heating/ventilating and air conditioning, pumping stations or similar facilities, and energy generating facilities allowed by this bylaw.

8.3.8 **Planning Board Approvals Required.**

8.3.8.1 **Subdivision Approval Required.** When applicable under M.G.L. c. 41, § 81K through § 81GG and the Westwood Rules and Regulations Governing the Subdivision of Land, an OSRD shall require a Definitive Subdivision

Plan approval. No building permit shall be issued for any new structure within an OSRD subdivision prior to the recording of an endorsed Definitive Subdivision Plan with the Norfolk Registry of Deeds.

8.3.8.2 **Site Plan Approval Required.** An OSRD Project shall be subject to Environmental Impact and Design Review (EIDR) approval pursuant to Section 7.3 of this bylaw, and no building permit shall be issued for any structure within the OSRD prior to the recording of the OSRD-EIDR Approval in the office of the town clerk.

8.3.8.3 **Uses Requiring Special Permit.** An OSRD containing one or more structures of Single-family Attached Dwelling Units, and/or one or more Bonus Dwelling Units, shall require an OSRD Special Permit issued by the Planning Board. The OSRD Project shall be subject to EIDR approval pursuant to Section 7.3 of this Bylaw, which shall be consolidated into a mandatory site plan approval component of the OSRD Special Permit, and no separate EIDR Approval shall be required. No building permit shall be issued for any structure within the OSRD prior to the recording of the OSRD Special Permit in the office of the town clerk.

8.3.9 **Density and Dimensional Requirements.**

8.3.9.1 **Base Density from Underlying District.** The base number of dwelling units allowed in an OSRD shall be determined by the minimum lot size in the underlying district, SRB, SRC, and SRE, except as provided in Section 8.3.9.4 herein in regard to Bonus Dwelling Units.

8.3.9.2 **Yield Calculation.** The maximum base number of dwelling units to which an OSRD is entitled shall be determined by the Planning Board following the submission of a Yield Calculation, as set forth below. The Yield Calculation shall be submitted as part of the OSRD-EIDR or OSRD Special Permit application, and shall be submitted on a preliminary basis as part of a preliminary review meeting, as provided for in Section 8.3.14 and Section 8.3.15 herein.

The Yield Calculation is determined by the following steps:

Step One: Subtract from the total original area of the development tract 100% of all wetlands and all such other land as may be determined by the Board to be unsuitable for development, including but not limited to, significant rock outcroppings and areas with slopes in excess of 15%.

Step Two: Reduce that result by 10%, as an infrastructure factor.

Step Three: Divide that result by the minimum lot size required in the underlying district.

Step Four: For results less than 2, eliminate any fractional part, and for results greater than 2, round up to the next whole number for fractions of .5 or greater, and round down to the previous whole number for fractions less than .5.

Step Five: The result shall then be adjusted by the addition of the following number of units, to attain general parity with that of a conventional subdivision:

Step Four Result	Added Units
1 to 3 units	0
4 to 8 units	1
9 to 13 units	2
14 to 18 units	3
Over 18 units	4

Yield: The result is the maximum base number of dwelling units allowed, provided that all other conditions required in Section 8.3 are met.

8.3.9.3 **OSRD Dimensional Requirements.** The following dimensional requirements shall apply within an OSRD, in place of the requirements set forth in Section 5.2, Table of Dimensional Requirements:

Minimum Dimensional Requirements in OSRD		
	Detached Single-family Dwelling Units	**Single-family Attached Dwelling Units**
8.3.9.3.1 Lot Size	10,000 sq. ft.	7500 sq. ft.
8.3.9.3.2 Lot Frontage on existing street	100% of lot frontage requirement in underlying district	100% of lot frontage requirement in underlying district
8.3.9.3.3 Lot Frontage on an interior drive	75’	75’
8.3.9.3.4 Perimeter Tract Setback	30’	30’
8.3.9.3.5 Front Setback on existing street	100% of front setback in underlying district	100% of front setback in underlying district
8.3.9.3.6 Front Setback on an	20’	10’

interior drive		
8.3.9.3.7 Side setback for principal structure	10’	10’
8.3.9.3.8 Rear setback for principal structure	10’	10’
8.3.9.3.9 Side and rear setbacks for accessory structures	5’	5’

8.3.9.3.10 **Lot Frontage and Lot Width Reduction.** The Planning Board may reduce the minimum frontage and lot width requirements if dwelling unit dimensions, location on curved frontage or a street terminus, or other conditions justify doing so, provided the reduction is consistent with the intent of this Section. Reduced frontage lots shall be located on streets and interior site drives fronting within the interior of the OSRD tract, unless the Planning Board finds that location on a way exterior to the tract is not detrimental to the neighborhood.

8.3.9.3.11 **Front Setback in Multiple Districts.** In cases where an OSRD lies in more than one eligible district, if the tract lies 2/3 or more in one district, the front setback for that district shall apply in total. In cases where the OSRD lies less than 2/3 in one district, the frontage shall be the average of the required minimum front setbacks in the two districts.

8.3.9.3.12 **Side Yard Setback Reduction.** This setback requirement shall apply to Detached Single-family Dwelling Units and end units of structures containing Single-family Attached Dwelling Units. The Planning Board may reduce the side yard requirement if dwelling unit dimensions or other conditions justify doing so, provided the reduction is consistent with the intent of this Section.

8.3.9.3.13 More than one principal structure may be allowed on one lot.

8.3.9.4 **Bonus Dwelling Units Allowed by Special Permit.** The Planning Board may grant one or more Bonus Dwelling Units beyond the maximum base number of dwelling units allowed pursuant to the Yield Calculation in Section 8.3.9.2, using one or more of the following options:

8.3.9.4.1 **Age-Restricted Housing.** Where all dwelling units within an OSRD are restricted to meet the definition of Age-

Restricted Dwelling Units in Section 8.3.2.4, then a bonus equal to three times (3) the maximum base number of dwelling units may be allowed. Where all dwelling units within an OSRD cluster are restricted to meet the definition of Age-Restricted Dwelling Units in Section 8.3.2.4, then a bonus equal to three times (3) the number of dwelling units in that cluster may be allowed. All Bonus Dwelling Units allowed under this provision must be Age-Restricted Dwelling Units.

8.3.9.4.2 **Affordable Housing.** For every one (1) dwelling unit restricted in perpetuity to meet the definition of Affordable Housing in Section 2.0, over and above the minimum number of affordable dwelling units required pursuant to the Affordability Requirements in Section 8.3.11, a bonus equal to two (2) additional market rate dwelling units may be allowed.

8.3.9.4.3 **Moderate Income Housing.** For every one (1) dwelling unit restricted in perpetuity to meet the definition of Moderate Income Housing in Section 2.0, a bonus equal to one (1) additional market rate dwelling unit may be allowed.

8.3.9.4.4 **Historic Preservation.** Where an OSRD preserves a historically significant building or historically significant major structure, including a barn or other accessory structure, a bonus equal to one (1) additional dwelling unit may be allowed. The determination of historical significance and the suitability of [preservation initiatives shall be made by the Planning Board, which may choose to consult with the Westwood Historical Commission.

8.3.9.4.5 **Additional Open Space.** For each additional five (5) percent of the tract protected as common open space above the minimum required below in Section 8.3.10.1, a bonus equal to ten (10) percent of the maximum base number of dwelling units may be allowed. Where the calculation of Bonus Dwelling Units results in a fraction, for results less than 2, eliminate any fractional part, and for results greater than 2, round up to the next whole number for fractions of .5 or greater, and round down to the previous whole number for fractions less than .5.

8.3.9.4.6 **Aggregate Yield.** The Aggregate Yield for an OSRD shall be based on any combination of the bonuses listed above,

provided that all other conditions required in Section 8.3 are met. Except as permitted in Section 8.3.9.4.1, the total number of Bonus Dwelling Units for the OSRD shall not exceed, in the aggregate, fifty (50) percent of the maximum base number of dwelling units allowed pursuant to the Yield Calculation in Section 8.3.9.2, except in cases where all Bonus Dwelling Units exceeding fifty (50) percent of the maximum base number of dwelling units are Age-Restricted Dwelling Units permitted pursuant to Section 8.3.9.4.1.

8.3.9.4.7 **Fiscal Impact.** In all cases, the maximum allowable number of Bonus Dwelling Units shall be determined by the Board, in its sole discretion, following the Board's acceptance of a fiscal impact report demonstrating that said units will have no significant negative fiscal impact on the town.

8.3.10 **Common Open Space Requirements.**

8.3.10.1 **Minimum Open Space Requirement.** In the SRC and SRE districts, the OSRD shall protect in perpetuity at least fifty (50) percent of the total tract as common open space, or sixty (60) percent where the OSRD must employ shared or individual septic systems or other on-site treatment, because no public sanitary sewer collection system is available. In the SRB district, the OSRD shall protect in perpetuity at least sixty (60) percent of the total tract as common open space. The common open space shall not be further divided or subdivided, and a restriction to such effect shall be noted on the EIDR plans recorded at the Registry of Deeds.

8.3.10.2 **Limitations on Composition of Open Space.** In no case shall more than seventy-five (75) percent of the land area used to satisfy the minimum open space requirement consist of wetlands or other non-buildable land area.

8.3.10.3 **OSRD Open Space Standards.** The landscape shall be preserved in its natural state. When necessary for utilities, roadways and similar purposes which cannot be avoided, or where desirable improvements to the landscape will be made, disturbances shall be minimized, by keeping to a minimum the removal of tree and forest vegetation, the excavation and removal of soil and the major alteration of existing topography. The massing and shape of the open space shall be designed to maximize its functionality for wildlife habitat and conservation, passive recreation, agriculture, horticulture, forestry, and equestrian use. Cultural and

historical resources and scenic amenities may also be incorporated into the open space.

The open space shall be contiguous to the maximum extent possible. Connectivity between open space areas within the development tract, and to open space areas external to it, shall be incorporated wherever possible. No open space area shall be less than 50 feet in its smallest dimension. Open space traversed by a roadway may be considered by the Planning Board to be connected. Not more than five (5) percent of the open space areas may be covered by pavement or paved roads and allowable accessory structures.

Structures located within the common open space shall only include those structures used to support proper use of the open space, including but not limited to equipment storage, temporary shelters, sanitary facilities, and trail information stations. New or existing trails or walkways shall be constructed or retained, as applicable, for the purpose of providing reasonable access to the open space. No cluster, at its nearest point, shall lie farther than three-hundred (300) feet from the closest point of the open space, with the exception of minor adjustments allowed by the Planning Board where compliance with this standard is impractical. Underground utilities, stormwater management facilities, and shared wastewater treatment systems serving the site may be located within the common open space. Surface collection systems such as retention and detention ponds shall not count toward the minimum common open space requirement. Existing or proposed utility easements shall not be counted as common open space unless allowed by the Planning Board.

8.3.10.4 **Ownership, Protection and Maintenance of the Open Space.**

8.3.10.4.1 **Conveyance.** The common open space may be conveyed to any of the following entities:

1) The Town of Westwood or its Conservation Commission.
2) A non-profit organization whose primary purpose is to conserve and maintain open space.
3) A corporation or trust owned jointly or in common by the owners residing in the OSRD. When the open space is conveyed to said corporation or trust, maintenance of the open space shall be guaranteed in perpetuity. The corporation or trust shall provide for mandatory assessments of each lot and unit for maintenance purposes. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions to affect these requirements. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

8.3.10.4.2 **Conservation Restrictions.** When common open space is not conveyed to the Town or to its Conservation Commission, a conservation restriction or agricultural or forest preservation restriction enforceable by the Westwood Conservation Commission or other board under M.G.L. c. 184, § 31, is required, in compliance with the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources, or their successor agencies. Said restriction shall be recorded in the manner provided by statute. The Board of Selectmen is hereby authorized to accept such restrictions if the Conservation Commission declines to do so. The common open space shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth in this Section, and shall be maintained in a manner which will ensure its suitability for its intended purposes.

8.3.10.4.3 **Conservation Covenants.** Any common open space that does not qualify for inclusion in a conservation restriction or agricultural preservation restriction, or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts, shall be subject to a restrictive covenant, which shall be approved by the Planning Board and Board of Selectmen, and which shall be duly recorded at the Registry of Deeds and subject to the Extension of Period provisions in Sections 27 and 28 of M.G.L. chapter 184. The Town of Westwood shall retain the right to enforce such covenants.

8.3.10.4.4 **Special Maintenance Provisions.** The Town shall be granted an easement over the common open space in all cases, to ensure its perpetual maintenance as open space consistent with the purposes of this Section. Such easement shall provide that in the event the corporation, trust, or other owner fails to maintain the open space in good functional condition, the Town may, after notice to the owners and a public hearing, enter the common open space to provide reasonable maintenance, in order to prevent or abate a nuisance. The cost of such maintenance shall be assessed against the properties within the development and/or to the owner of the common open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

8.3.11 **Affordability Requirements**. Where any project authorized under a OSRD Special Permit will result in the development of at least eight (8) new dwelling units, the

minimum number of dwelling units specified in the table below shall be restricted to meet the definition of Affordable Housing in Section 2.0 of this Bylaw and in the Rules and Regulations. All such affordable dwelling units shall be contained within the OSRD unless the Planning Board determines a proposed alternative to be at least equivalent in serving the Town's housing needs after consultation with the Westwood Housing Partnership and the Westwood Housing Authority. The affordable dwelling units authorized under the provisions of this Bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or affordable dwelling units developed under additional programs adopted by the Commonwealth of Massachusetts or its agencies. All said dwelling units shall count toward Westwood's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended and all affordable dwelling units shall remain affordable in perpetuity.

Total Number of Dwelling Units	**Minimum Number of Affordable Dwelling Units**
1 to 7 units	0
8 to 9 units	1
10 to 15 units	2
16 to 22 units	3
23 to 26 units	4
27 or more units	15% of the total number of dwelling units, rounded up to the next whole number

8.3.12 **OSRD 4-step Design Process.** The application shall contain graphic and written material sufficient to demonstrate to the Planning Board that the four-step design process set forth below was performed by a registered landscape architect, or a team which includes a registered landscape architect, in establishing the layout of open space, housing units and clusters, streets, and lots.

Step One: **Identification of Conservation Areas.** The first step in the design process shall be to identify, analyze, and incorporate in the plans the natural, hydrological and wetlands resources, wildlife habitat, scenic corridors and views, agriculture, horticulture and forestry operations, cultural resources and other natural and man-made features of value to the community that exist on the OSRD tract and immediate vicinity. In addition, the OSRD concept design shall be considered in the larger context of neighborhood character, transportation and transit services, district land use patterns, cultural issues and other factors that might affect, or be affected by, the OSRD. The outcome of Step One is both to identify likely open space protection areas, and to identify in a preliminary way the potentially developable parts of the OSRD tract.

Step Two: **Location of Housing Sites (Clusters).** The second step shall be to locate the approximate siting of residential structures within the potentially developable areas, including the delineation of private yards and shared amenities so as to reflect an integrated community. The number of dwelling units with direct access to the natural and man-made amenities of the OSRD should be maximized.

Step Three: **Alignment of Streets, Interior Drives, and Trails.** The third step shall be to align streets and interior drives in order to provide access to the housing clusters and residential structures. New trails should be laid out to create internal and external connections to existing and/or potential streets, interior drives, sidewalks, and trails.

Step Four: **Drawing of Lots and Easement Lines.** The final step shall be to draw in the lot lines depicting the subdivision of the OSRD tract, including all easements and deed restrictions shown on the plan. In the case of condominium or cooperatives without individual lot ownership, assumed lot lines for illustrative purposes may be depicted on the plans.

8.3.13 **Design Standards.** The following minimum design standards shall apply to any OSRD site plan and shall guide the design of the site as an OSRD:

8.3.13.1 **Landscape Preservation.** Insofar as practicable, an OSRD shall preserve the landscape in its natural state by minimizing tree and vegetative cover removal and alterations to the pre-development natural topography. Mature trees of six (6) inch caliper or greater, measured four feet above average grade level, shall in particular be retained to the maximum practical extent. The location and orientation of housing sites or clusters shall be such as to maintain maximum natural topography. This design-with-the-land approach shall be employed in all site planning, wherein retention of natural topographic and vegetative features, views and natural drainage courses shall be treated as fixed determinants of housing cluster locations or interior drive layouts, rather than altering the site to accommodate a fixed development plan.

8.3.13.2 **Roadway and Infrastructure Design.** The standards for all OSRDs, whether involving a definitive plan approval or not, shall be those of the Westwood Rules and Regulations Governing the Subdivision of Land, in regard to the alignment, width, and design of streets and interior drives in an OSRD, as well as all related infrastructural elements within and along rights of way. Streets and interior drives in an OSRD shall be designed to be in compliance with the locational and dead end standards in those Rules and Regulations. Related infrastructural elements shall include, but not be limited to, the following: sewage collection, water distribution, stormwater management, power and energy transmission, and telecommunications. However, applicants are encouraged to consider alternate designs for

interior drives and other infrastructural elements that might involve variations to those standards, including but not limited to narrower rights of way and paved travel lanes, as long as adequate grade, width and construction are maintained. The Planning Board may grant design waivers in accordance with prescribed procedures.

In all cases, streets and interior drives shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views into and within the development site.

8.3.13.3 **Pedestrian and Bicycle Circulation.** Where appropriate, walkways and/or multi-purpose trails shall be provided within the OSRD to connect dwellings with parking areas, recreation facilities and open space, and adjacent land uses.

8.3.13.4 **Visibility of Open Space.** Open space in the OSRD shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

8.3.13.5 **Architectural Design and Neighborhood Compatibility.** In overall scale, architectural detailing, building massing, height, exterior materials, and roofline articulation, residential structures in an OSRD shall be reasonably compatible with existing structures in surrounding residential areas, when there is a functional or visual relationship between the surrounding structures and the proposed structures. The Planning Board may limit and/or redistribute the number of dwelling units contained in a single structure, if it determines that the proposed structure would otherwise compromise or obstruct desired views from abutting properties or from public ways, or if the proposed configuration has a negative environmental impact upon any abutting property.

8.3.13.6 **Cultural Resources.** The removal or disruption of historic or archaeological resources or traditional or significant uses, structures, or architectural elements shall be minimized.

8.3.13.7 **Stormwater Management.** To the extent practicable, the use of low impact development and soft drainage techniques shall be employed in the design of an OSRD, subject to compliance with all applicable local and state standards and requirements.

8.3.13.8 **Off-street Parking.** All off-street parking in an OSRD shall comply with the requirements of Section 6.0 in this bylaw, except in the case of an age-restricted OSRD, or age-restricted OSRD cluster, where parking requirements shall be as provided in Section 8.3.13.10.4.

8.3.13.9 **Mix of Housing Types.** Any mix of one or more of the allowed housing types, shall be permitted in an OSRD, up to the maximum number of dwelling units permitted under this Section.

8.3.13.10 **Design Standards for Age-Restricted Dwelling Units.** Where Age-Restricted Dwelling Units within an OSRD, or within an OSRD cluster, are developed pursuant to Section 8.3.9.4.1, such dwelling units shall be located and designed in such a manner as to serve the physical and social needs of senior residents, fifty-five (55) years of age and older, with a range of income levels and physical abilities. The following additional design standards for Age-Restricted Dwelling Units shall apply:

8.3.13.10.1 **Coordinated Development.** The age-restricted OSRD, or age-restricted OSRD cluster, shall be developed as a coordinated unit, under common management and serving a common function.

8.3.13.10.2 **Accessibility.** All Age-Restricted Dwelling Units shall be designed to accommodate suitable means of access and egress for people with disabilities in conformance with 521 CMR Section 9. Additionally, in cases where supplemental wheelchair ramps and/or lifts are necessary to achieve suitable means of access and egress, architectural plans for individual dwelling units shall demonstrate the location and means of incorporating such ramps and/or lifts. Such ramps and/or lifts shall be installed by the owner of any dwelling unit if required by a resident of said dwelling unit.

8.3.13.10.3 **Limit on Number of Bedrooms.** There shall be not more than two (2) bedrooms in any Age-Restricted Dwelling Unit, nor shall there be any den, office, bonus room, loft, attic, or similar area which could be converted for use as a third bedroom.

8.3.13.10.4 **Off-Street Parking.** Off-street parking may be reduced to one and one-half (1 ½) parking spaces per Age-Restricted Dwelling Unit at the discretion of the Board. At least one parking space shall be reserved for each Age-Restricted Dwelling unit and located within one hundred fifty (150) feet thereof. Adequate provisions shall be made for additional visitor parking spaces, in a manner and amount deemed appropriate by the Board.

8.3.13.10.5 **Community Facilities.** The age-restricted OSRD, or age-restricted OSRD cluster, shall contain appropriately designed on-site community facilities to serve the recreational and social needs of residents, unless the Board determines that such is unnecessary due to location of the development in close walking distance to similar off-site facilities.

8.3.14 **Pre-application Review by Land Use Committee.** All OSRD special permit applicants are required to meet informally for a Pre-application Review with the Town's Land Use Committee prior to submitting a Preliminary OSRD Special Permit Application to the Planning Board, and to accompany this discussion with a Sketch Plan and Project Narrative pursuant to the provisions of Section 8.3.14.1 and 8.3.14.2. OSRD-EIDR applicants are encouraged, but not required, to participate in a Pre-application Review with the Land Use Committee. The purposes of a Pre-application Review are to solicit guidance from the Town's review staff, which consists of but is not limited to, the Director of Community & Economic Development, Town Planner, Town Engineer, Health Director, Public Works Director, Fire Chief, Building Commissioner, Zoning Board Administrator, Police Chief, Public Safety Officer, Conservation Agent, Housing Administrator, Licensing Administrator and Land Use Specialist at the earliest possible stage in the process, in order to identify site design issues and to establish an approximate number of allowed residential dwelling units, thereby keeping the applicant's costs for landscape design, site engineering and other technical expertise to a minimum. The Land Use Committee shall prepare a written non-binding Preliminary Recommendation to the Planning Board, including an initial determination of compliance with the Zoning Bylaw and the Planning Board's Subdivision Rules and Regulations, and including comments on the suitability of the proposed location, density, and traffic impacts. The Land Use Committee's Preliminary Recommendation shall be a required component of a Preliminary OSRD Special Permit Application.

8.3.14.1 **Sketch Plan.** A Sketch Plan shall be submitted in advance of the Pre-application Review meeting with the Land Use Committee. The Sketch Plan shall be a minimally detailed, schematic drawing of the proposed OSRD that contains sufficient information in regard to existing and proposed conditions to allow the Land Use Committee to understand the nature and physical impact of the development on the land. Site constraints that figure into the analysis may be delineated from existing secondary sources such as local wetlands maps, Massachusetts Department of Environmental Protection Wetlands Conservancy Program maps, Natural Heritage maps, MA Geographic Information system resources, USDA soils maps, information from deed documentation, and other governmental, institutional and private sources.

8.3.14.2 **Project Narrative.** A Project Narrative shall be submitted in advance of the Pre-application Review meeting with the Land Use Committee. The Project Narrative shall contain sufficient information in regard to the proposed OSRD to allow the Land Use Committee to understand the nature of the proposed development, including but not limited to the number and type of proposed base and Bonus Dwelling Units, and information related to the anticipated environmental and traffic impacts of the proposed development.

8.3.15 **Preliminary Review by Planning Board**. All OSRD Special Permit applicants shall submit a Preliminary OSRD Application for the Planning Board's review. The

submission of a preliminary application allows the Applicant, the Planning Board, the Board of Health, the Conservation Commission, the Public Works and Public Safety Departments, other Town agencies, boards, committees, and property abutters to consider and discuss issues and clarify the details of such proposal before a full OSRD Application is filed. The primary purpose of the preliminary application shall be to determine the suitability of the land, and to confirm the maximum base number of dwelling units and maximum number of Bonus Dwelling Units, if any.

8.3.15.1 **Submission Requirements**. Any person wishing to submit a Preliminary OSRD Application shall file with the Planning Board an application form, Project Narrative, Preliminary OSRD Plan, and a written recommendation from the Land Use Committee pursuant to Section 8.3.14. The number of copies and filing fee shall be in accordance with the Board's rules and regulations. The Preliminary OSRD Plan shall include the designation "Preliminary OSRD Plan", north point, scale, date, legend, zoning classification, major site features including fences, buildings, trees with 10 inches caliper or larger, topography of the land showing five foot contours, existing boundaries, the approximate boundary lines of proposed lots with approximate building footprint areas and dimensions, wetland boundaries, and the yield calculation.

8.3.15.2 **Public Hearing.** The Planning Board's review of the Preliminary OSRD Application shall be in the course of a duly noticed public hearing in accordance with the Board's Rules and Regulations.

8.3.15.3 **Planning Board Preliminary Review Action.** The Planning Board shall hold a public hearing within forty-five (45) days after submission of a complete Preliminary OSRD Application and act on the application within thirty (30) days of the close of the hearing. The action of the Board shall be by vote of a simple majority of the Board, and shall be recorded in the form of a written Preliminary Review Action. The Board's Preliminary Review Action shall constitute a determination of the maximum project density. If the Board requires plan modifications or disapproves the Preliminary OSRD Application, it shall state its reasons for doing so in the Preliminary Review Action. An affirmative Preliminary Review Action, with or without modifications to the Preliminary OSRD Plan, does not constitute approval of the Final OSRD Plan, but facilitates that Applicant's preparation of the Final OSRD Application submission. In the event of disapproval, the Board shall state its findings as to how the Preliminary OSRD Application does not meet the purposes and requirements of this bylaw. An affirmative Preliminary Review Action shall be required prior to the submission of a Final OSRD Application.

8.3.16 **Final Review by Planning Board**. All applicants seeking OSRD-EIDR Approval or OSRD Special Permit Approval shall submit a Final OSRD Application for the Planning Board's review and consideration.

8.3.16.1 **Submission Requirements**. Any applicant wishing to submit a Final OSRD Application shall file with the Planning Board an application form, Project Narrative, Final OSRD Plan, Demonstration of OSRD 4-step Process pursuant to Section 8.3.12, Traffic Impact Report, Fiscal Impact Report, and a copy of an affirmative Preliminary Plan Action pursuant to Section 8.3.15.3. The number of copies and filing fee shall be in accordance with the Board's Rules and Regulations. The Final OSRD Plan shall include the designation "Final OSRD Plan", north point, scale, date, legend, zoning classification, major site features including fences, buildings, trees with 10 inches caliper or larger, topography of the land showing five foot contours, existing boundaries, the boundary lines of proposed lots with approximate building footprint areas and dimensions, wetland boundaries, and the yield calculation.

8.3.16.2 **Public Hearing.** A duly noticed public hearing in accordance with the Board's Rules and Regulations shall be conducted by the Planning Board within sixty-five (65) days of submission of the Final OSRD Application and plans.

8.3.16.3 **OSRD-Environmental Impact and Design Review (EIDR) Requirements.**

8.3.16.3.1 **General.** All OSRD applications shall be subject to the EIDR process in Section 7.3 of this bylaw. In the case of an application for an OSRD Special Permit, the EIDR component shall be consolidated within the Board's OSRD Special Permit review pursuant to Section 8.3.16.4. The Planning Board may waive particular submission requirements for OSRD's if they are determined to be inapplicable or unnecessary for EIDR review purposes, provided that doing so is consistent with the purposes of this Section.

8.3.16.3.2 **OSRD-EIDR Decision.** In the case of an application for OSRD-EIDR Approval, the Board shall render a written OSRD-EIDR decision within ninety (90) days of the close of the public hearing. Said decision shall be based upon a determination by the Planning Board that the OSRD application meets the criteria below.

1) Consistency with the purposes of Section 8.3.

2) Demonstration of proper and complete application of the OSRD 4-step design process.

3) General consistency with all applicable elements of the EIDR standards in Section 7.3.7.

4) Responsiveness to all applicable elements of the Design Standards in Section 8.3.13.

5) Establishment of measures sufficient to provide for effective protection and maintenance of the common open space.

8.3.16.4 **OSRD Special Permit Review Requirements.**

8.3.16.4.1 **General.** All OSRD applications for projects including Single-family Attached Dwelling Units as defined in Section 8.3.2.1 and/or requesting Bonus Dwelling Units pursuant to Section 8.3.9.4, shall require OSRD Special Permit Approval by the Planning Board.

8.3.16.4.2 **OSRD Special Permit Decision.** The Board shall render a written OSRD Special Permit decision within ninety (90) days of the close of the public hearing. Said decision shall be based upon consideration by the Planning Board of the OSRD special permit criteria below. Failure to take action within the 90 day period shall be deemed to constitute constructive approval of the OSRD Special Permit application.

8.3.16.4.2.1 **OSRD Special Permit Decision for Single-family Attached Dwelling Units**. Approval shall be granted by means of a written OSRD Special Permit decision, based upon a finding by the Planning Board that the OSRD application demonstrates consistency with the standards below:

1) Consistency with the purposes of Section 8.3.

2) Demonstration of proper and complete application of the OSRD 4-step design process.

3) General consistency with Section 10.3 [Special Permits] of the Zoning Bylaw.

4) Compatibility with the scale, visual character and amenities in the surrounding neighborhood.

5) Compatibility of the Single-family Attached Dwelling Units with the other housing types and

clusters within the OSRD, using site design, architectural elements, building massing, and open space and landscaping, thereby creating a unified development that succeeds in establishing a harmonious residential environment.

6) Responsiveness to all applicable elements of the Design Standards in Section 8.3.13.

7) Establishment of measures sufficient to provide for effective protection and maintenance of the common open space.

8.3.16.4.2.2 OSRD **Special Permit Decision for Bonus Dwelling Units.** Approval shall be granted by means of a written OSRD Special Permit decision, based upon a finding by the Planning Board that the proposed density bonus meets one or more of the allowed bonuses in Section 8.3.9.4 and demonstrates consistency with the standards below:

1) Conformance with the Aggregate Yield requirements of Section 8.3.9.4.6.

2) Demonstration of no significant negative fiscal impact to the town.

3) Consistency with the purposes of Section 8.3.

4) Demonstration of proper and complete application of the OSRD 4-step design process.

5) Compatibility with the scale, visual character and amenities surrounding neighborhood.

6) General consistency with Section 10.3 [Special Permits] of the Zoning Bylaw.

7) Responsiveness to all applicable elements of the Design Standards in Section 8.3.13.

8) Establishment of measures sufficient to provide for effective protection and maintenance of the common open space.

9) Suitability of the proposed design, location, and layout of the overall OSRD, and of each individual dwelling unit and all proposed common facilities, to uniquely serve the physical and social needs of the residents.

10) Impact on the quantity and quality of the available housing choices for the residents of the affordable dwelling units, moderate income dwelling units, and/or residents fifty-five (55) years of age or older, with a range of income levels and physical abilities, and demonstrated market for all proposed Age-Restricted Dwelling Units.

8.3.17 **Special Conditions and Performance Guarantee.** The Planning Board may impose reasonable conditions as part of any OSRD-EIDR or OSRD Special Permit approval and may require suitable performance guarantees to assure compliance with those conditions.

8.3.18 **Regulations.** The Planning Board may adopt OSRD rules and regulations consistent with this Zoning Bylaw and the laws of the Commonwealth.

8.4 RESIDENTIAL RETIREMENT COMMUNITY (RRC)

8.4.1 **Special Permit Required.** A Residential Retirement Community shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.

8.4.2 **General.** A RRC is a development of land comprising townhouse or apartment type dwellings, under-over type dwellings, multiple type dwellings, or any combination of such housing types, with resident services, operated or sponsored as a Coordinated Unit by a corporation or organization having among its principal purposes the provision of housing for retired and aging persons. Such facility may also include a restorative care center/skilled nursing facility. A Coordinated Unit is a building or group of buildings under common management and serving purposes which assist the elderly in maintaining an independent lifestyle. The program of resident services may include restorative care center/skilled nursing, transportation, laundry, financial, barber/beautician, medical evaluation, home health, adult day care and respite care services, meals on wheels, both scheduled and unscheduled exercise, recreational and educational activities, and other similar services or activities. These programs and services will be primarily for the benefit of residents of the RRC and/or the Town.

8.4.3 **Restrictions.** A RRC shall be subject to the following restrictions:

8.4.3.1 **Age Limitation.** Occupancy of dwelling units shall be limited to persons who have reached the age of sixty-two (62) years and any close relative of a person who has reached the age of sixty-two (62) years, residing with such person. For purposes hereof, “close relative” shall mean a lineal ancestor, lineal descendant, brother, sister, aunt or uncle, and shall include

a person so related by legal adoption and by the half blood.

8.4.3.2 **Lot Area.** The minimum lot area shall be five (5) acres.

8.4.3.3 **Lot Frontage.** The minimum lot frontage shall be one hundred sixty (160) feet.

8.4.3.4 **Building Height.** The maximum building height shall be five (5) stories, provided that no more than sixty percent (60%) of the building footprint shall be built upon to a height in excess of four (4) stories. Building footprints shall be measured at the building foundation, but shall exclude covered walkways connecting adjacent buildings.

8.4.3.5 **Density Limitation.** The total number of dwelling units within a RRC shall not exceed four and one-half (4½) dwelling units per acre or one and one-half (1½) nursing facility beds per acre.

8.4.4 **Procedures.** An application for a special permit for a RRC shall be filed in accordance with the rules and regulations of the Board of Appeals.

8.4.5 **Plans.** An application for a special permit for a RRC shall submit a plan in conformance with the rules and regulations of the Board of Appeals.

8.4.6 **Decision.** A special permit for a RRC shall be granted by the Board of Appeals, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.

8.4.7 **Compliance with Subdivision Rules and Regulations.** Nothing contained herein shall in any way exempt a proposed RRC involving a subdivision from compliance with the rules and regulations of the Planning Board governing the subdivision of land or the rules and regulations of any other Town board having jurisdiction. Nor shall this Section in any way affect the right of the Board of Health and of the Planning Board to approve, with or without modifications, or disapprove a subdivision plan in accordance with the provisions of such rules and regulations and of the Subdivision Control Law.

8.5 ACCESSORY APARTMENTS

8.5.1 **Purposes.** The purposes of this section are as follows:

8.5.1.1 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character; and

8.5.1.2 to encourage preservation of community character through the continued ownership of existing residential properties and their surrounding landscapes.

8.5.2 **Special Permit Required.** An Accessory Apartment shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.

8.5.3 **Applicability.** The principal dwelling or accessory building or structure to be altered or constructed to contain an Accessory Apartment shall be a single-family dwelling or building accessory thereto.

8.5.4 **Limited Number of Special Permits.** The maximum number of special permits to be issued and in effect shall not exceed one percent (1%) of the current number of single-family and two-family dwelling units in Town. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed.

8.5.5 **General Requirements.** An Accessory Apartment shall be subject to the following general requirements:

8.5.5.1 There shall be no more than one (1) Accessory Apartment per lot.

8.5.5.2 No Accessory Apartment shall be permitted on a property which also contains a Conversion of a One-family Dwelling pursuant to Section 8.1.

8.5.5.3 No Accessory Apartment shall be permitted on a property which also contains a boarding house.

8.5.5.4 The owner of the premises within which the Accessory Apartment is located shall occupy either the principal dwelling or the Accessory Apartment. For purposes of this Section, the owner shall be one or more individuals who constitute a family, who holds title to the premises, and for whom the premises is the primary residence for voting and tax purposes. An affidavit certifying owner occupancy shall be filed with the Building Commissioner upon initial occupancy and every four years thereafter.

8.5.5.5 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated by the occupancy of the Accessory Apartment, in accordance with the requirements of the Board of Health.

8.5.6 **Design Requirements.** An Accessory Apartment shall be subject to the following design requirements:

8.5.6.1 The exterior character of the property containing an Accessory Apartment within a principal or accessory building or structure shall maintain the appearance of a single-family property.

8.5.6.2 The floor area of the Accessory Apartment shall not be less than five hundred (500) square feet.

8.5.6.3 The floor area of the Accessory Apartment shall not exceed the lesser of nine hundred (900) square feet, or thirty-three percent (33%) of the floor area of the combined dwelling or dwellings if the footprint of the principal dwelling remains unchanged, or twenty-four percent (24%) of the floor area of the combined dwelling if the footprint of the principal dwelling is enlarged.

8.5.6.4 Adequate provision shall be made for direct ingress and egress to and from the Accessory Apartment without passage through any other portion of the principal structure, except that passage to and from the Accessory Apartment shall be permitted through a garage or breezeway connected to the principal structure.

8.5.6.5 All stairways to upper stories shall be enclosed within the exterior walls of the building in which the Accessory Apartment is located.

8.5.7 **Alterations, Relocations, or Additions.** The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.

8.5.8 **Parking Requirements.** An Accessory Apartment shall be subject to the following parking requirements:

8.5.8.1 Off-street parking shall be provided for each automobile used by an occupant of the Accessory Apartment. Said parking shall be in addition to the number of parking spaces required pursuant to Section 6.1.3.1 of this Bylaw.

8.5.8.2 Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicle shall be regularly parked on the premises other than in such a parking space. No parking space shall be located within a street right-of-way.

8.5.8.3 If a total of more than four (4) parking spaces are required to serve the principle dwelling and the Accessory Apartment, the provision

of such additional spaces shall require a special permit pursuant to Section 4.3.3.2 of this Bylaw.

8.5.8.4 Where there are more than four (4) outdoor parking spaces associated with the principal dwelling and the Accessory Apartment, said parking spaces shall be screened with evergreen or dense deciduous plantings, walls or fences, or a combination thereof acceptable to the Zoning Board of Appeals. Said screening shall be sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.

8.5.9 **Building Permit and Certificate of Occupancy Required.** No accessory apartment shall be constructed without the issuance of a building permit by the Building Commissioner. No use of an Accessory Apartment shall be permitted unless a certificate of occupancy therefor, issued by the Building Commissioner, shall be in effect. A certificate of occupancy shall not be issued unless the Building Commissioner determines that the accessory apartment is in conformity with the provisions of this Section and any special permit issued therefor.

8.5.10 **Expiration of Special Permit.** A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of ninety (90) days following such time as neither the principal dwelling nor the accessory apartment is occupied as the primary residence of the owner thereof for voting and tax purposes. Failure to provide recertification of owner occupancy pursuant to Section 8.6.5.4 shall be grounds for automatic expiration.

SECTION 9.0 OVERLAY DISTRICTS

9.1 ADULT USES OVERLAY DISTRICT (AUOD)

9.1.1 **Purpose.** It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment uses are distinguishable from other business uses and that the location of adult entertainment uses degrade the quality of life in the areas of the community where they are located, with impacts including increased levels of crime, blight and late hours of operation resulting in noise and traffic late into the night. Therefore this Bylaw is enacted pursuant to M.G.L. Chapter 40A, Section 9 and Section 9A to serve compelling Town interests by regulating and limiting the location of adult entertainment enterprises as defined herein. The regulation of the Adult Uses Overlay District (AUOD) is to provide detailed review of the location, design and operation of Adult Uses to minimize any adverse impacts on the character of the Town and nearby properties and preserve the quality of its neighborhoods, commercial district and the quality of life through effective land use planning.

9.1.2 **Location.** The AUOD is herein established as an overlay district. The AUOD shall include the area as shown on the Zoning Map, located east of University Avenue, between Yale Street and Rosemont Road. The AUOD is located on the following parcels as shown on the Westwood Board of Assessors Map 38, Lots 3, 4, 5, 9 and 14, as of May 5, 1997.

9.1.3 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the AUOD may be used for any purpose permitted as of right or by special permit in the underlying district.

9.1.4 **Special Permit Uses.** Adult Uses may be authorized in the AUOD by special permit from the Board of Appeals subject to the following requirements and conditions:

9.1.4.1 Except as permitted herein, Adult Uses may not be located within five hundred (500) feet of any Single, General or Special Residence District, except as separated by a limited access highway, which is part of the interstate highway system, or an active railroad right-of-way with no at-grade vehicular crossing accessing said Districts or within five hundred (500) feet of any church, school, park, playfield or any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12, or any establishment with a common victualler license that allows consumption of alcoholic beverages on its premises. The distances specified above shall be measured by the minimum horizontal distance from the lot line of the premises of any of the uses and/or zoning districts set forth herein to the lot line of the premises of the Adult Use.

9.1.4.2 Appearance of buildings for Adult Uses shall be consistent with the appearance of buildings in similar (but not specifically 'adult') use in the Town, not employing unusual color or building design which would attract attention to the premises.

9.1.4.3 Special permits shall be granted for Adult Uses only upon determination by the Board of Appeals that the location and design of the facility is in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.

9.1.4.4 A special permit granted for an Adult Use shall be subject to annual renewal.

9.2 FLOOD AREA OVERLAY DISTRICT (FAOD)

9.2.1 **Purpose.** The purpose of the Flood Area Overlay District (FAOD) is to reduce flood losses, to preserve and maintain the ground water table, to protect the public health and safety of persons and property against hazards of flood water inundation and to limit and control the development of flood prone areas.

9.2.2 **Location.** The FAOD is herein established as an overlay district. The FAOD includes all Special Flood Hazard Areas, designated as Zone A and AE as set forth on the Norfolk County Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, including map panels 25021C0038E, 25021C0039E, 25021C0159E, 25021C0176E, 25021C0177E, 25021C0178E, 25021C0179E, 25021C0181E, 25021C0183E, 25021C0184E, and 25021C0186E, effective as of July 17, 2012~~,~~. The exact boundaries of the FAOD are defined by the one percent (1%) annual chance base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Board of Health and Building Commissioner.

9.2.3 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the FAOD may be used for any purpose permitted as of right or by special permit in the underlying district.

9.2.4 **Development Standards.** The following development standards shall apply within the FAOD:

9.2.4.1 All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with:

a. Chapter 131, Section 40 of the Massachusetts General Laws, as amended from time to time;
b. Sections of the Massachusetts State Building Code addressing floodplain and coastal high hazard areas, under 780 CMR, as amended from time to time;
c. Wetlands Protection Regulations promulgated by the Massachusetts Department of Environmental Protection (MA-DEP), under 310 CMR 10.00, as amended from time to time;
d. Inland Wetlands Restrictions promulgated by MA-DEP, under 310 CMR 13.00, as amended from time to time; and
e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, promulgated by MA_DEP under 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 these state regulations.

9.2.4.2 In Zone AE, along watercourses that have a regulatory floodway designated on the FIRM, 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.

9.2.4.3 In Zones A and AE, along watercourses that have no designated regulatory floodway, 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.

9.2.4.4 New construction or substantial improvement of residential structures within the FAOD shall have the lowest floor (including basement) elevated to or above the one percent (1%) annual chance flood level as shown on the FIRM. Nonresidential structures within the FAOD shall either be similarly elevated or, together with attendant utility and sanitary facilities, be watertight flood-proofed to or above the one percent (1%) annual chance flood level. Substantial improvement shall include any repair, construction or alteration costing fifty percent (50%) or more of the actual cash value of the structure before improvement or, if damaged, before damage occurred.

9.2.4.5 Where watertight flood-proofing of a structure is permitted, a Registered Professional Engineer or Registered Professional Architect shall certify to the Building Commissioner that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift forces and other factors associated with the one percent (1%) annual chance flood level. In all events, construction shall conform with the minimum standards of the Massachusetts State Building Code. The Building Commissioner shall obtain and maintain records of elevation and

flood-proofing for new construction or substantial improvements to existing sites and these certificates shall be maintained for a permanent record by the Building Commissioner.

9.2.4.6 Base flood elevation data shall be required for developments involving more than 5 acres or more than 50 lots, within unnumbered A zones.

9.2.5 **Exemption by Special Permit.** The Board of Appeals may by special permit exempt from the requirements of this Section any structures within the FAOD which would be functionally impaired by such measures, which would require waterside location and which are not used for sustained human occupancy; provided that the Board of Appeals finds that such structures do not substantially derogate from the purposes herein.

9.2.6 **Notification of Watercourse Alteration.** The Town Engineer shall notify adjacent communities, the National Flood Insurance Program (NFIP) State Coordinator, and the NFIP Program Specialist, of any alteration or relocation of a watercourse.

9.3 WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)

9.3.1 **Purpose.** The purpose of the Water Resource Protection Overlay District (WRPOD) is to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the Town and to protect public health by preventing excessive degradation of the Town's water resources.

9.3.2 **Location.** The WRPOD is herein established as an overlay district. The WRPOD shall include the areas as shown on the Zoning Map, around White Lodge Wells 1, 2, 3 and 4; Rockmeadow Well; and Buckmaster Pond.

9.3.3 **Definition.** For purposes of this Section, 'dispose' shall be construed consistently with 'disposal' as that term is defined in 310 CMR 30.010; that is, to be on-site disposal, whether planned or accidental, but not such things as are transported from the site subject to Department of Environmental Protection-approved manifests.

9.3.4 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the WRPOD may be used for any purpose permitted as of right or by special permit in the underlying district; provided that application for a building or occupancy permit for a nonresidential use within the WRPOD must include documentation that the proposal has been reviewed for compliance with water resource protection requirements set forth herein, and must include documented assurance that there will be compliance with any conditions to agency approvals. The following uses shall be deemed to be permitted in the WRPOD provided that they meet the hazardous material storage requirements set forth in Subsection 9.3.7.5 herein and may also be subject to regulations as may otherwise be provided herein:

9.3.4.1 Any use of land or buildings which involves the generation, treatment, storage, disposal or other handling of toxic or hazardous materials or wastes, but only in quantities associated with normal household use and only if otherwise allowable at that location;

9.3.4.2 Storage of liquid petroleum products of any kind, but only if incidental to the following:

9.3.4.2.1 normal household use, ordinary maintenance, the heating of a structure and de minimis accessory uses;

9.3.4.2.2 waste oil retention facilities required by M.G.L. Chapter 21, Section 52A;

9.3.4.2.3 treatment works approved under 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

9.3.4.3 Facilities that generate, treat, store or dispose of hazardous waste which is subject to M.G.L. Chapter 21C and 310 CMR 30.00, but only for the following:

9.3.4.3.1 very small quantity generators as defined under 310 CMR 30.00;

9.3.4.3.2 waste oil retention facilities required by M.G.L. Chapter 21, Section 52A;

9.3.4.3.3 treatment works approved under 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

9.3.5 **Special Permit Uses.** The following uses may be authorized in the WRPOD by special permit from the Board of Appeals and may also be subject to regulations as may otherwise be provided herein:

9.3.5.1 Any use of land or buildings which involves the generation, treatment, storage, disposal or other handling of toxic or hazardous materials or wastes in quantities greater than those associated with normal household use and only if otherwise allowable at that location. The storage of hazardous materials shall meet the requirements of Subsection 9.3.7.5 and such storage and transfer safety requirements as the Board of Appeals may require.

9.3.5.2 Storage of liquid petroleum products of any kind for the sole use for emergency or back-up generators only for business, professional or other office uses where the Board of Appeals determines that such generator is required by statute, rule, regulation or operational necessity and where the

Board of Appeals determines that the use of alternative fuels such as propane or natural gas is not feasible for the demonstrated need. The storage of liquid petroleum shall meet the hazardous materials storage requirements set forth in Subsection 9.3.7.5 herein and such storage and transfer safety requirements as the Board of Appeals may require.

9.3.5.3 Storage of commercial fertilizers and soil conditioners, as defined in M.G.L. Chapter 128, Section 64, but only in a structure with an impermeable cover and impervious surface which the Board of Appeals finds is sufficiently designed to prevent the discharge of contaminated run-off or leachate.

9.3.5.4 Stockpiling of animal manures, but only in a structure with an impermeable cover and impervious surface which the Board of Appeals finds is sufficiently designed to prevent the discharge of contaminated run-off or leachate.

9.3.5.5 New buildings or structures, parking areas, disposal facilities, point source discharges, or additions to any of those, which are located within four hundred (400) feet of a public water supply well, or change in use within existing buildings or structures to a use prohibited or requiring a special permit hereunder, unless the portion of such development lying within four hundred (400) feet of a public water supply well is essential to the provision of public water supply, but only upon determination by the Board of Appeals that denial of such development would result in a substantial economic loss for the property involved, and that any threat from proposed development to the integrity of water quality has been minimized.

9.3.6 **Prohibited Uses.** The following uses are prohibited in the WRPOD:

9.3.6.1 Landfills and open dumps, as defined in 310 CMR 19.006;

9.3.6.2 Landfilling of sludge and septage;

9.3.6.3 Automobile graveyards and junkyards, as defined in M.G.L. Chapter 140B, Section 1;

9.3.6.4 Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roadways;

9.3.6.5 Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice which has been removed from roadways located outside of the WRPOD; and

9.3.6.6 Removal of soil except for excavations for the construction of building foundations, roadway construction or the installation of utility works, the removal of soil, loam, sand, gravel or any other mineral substances within four (4) feet of the historical high water level, as determined by the Board of Health, unless the substances removed are deposited on site to achieve a final grading greater than four (4) feet above the historical high water mark within forty-five (45) days of removal.

9.3.7 **Requirements.** The following requirements shall apply in the WRPOD:

9.3.7.1 **Minimum Lot Area.** The minimum lot area shall be as required in the underlying zoning district.

9.3.7.2 **Drainage.** All drainage shall meet the stormwater management standards adopted and as amended from time to time by the Massachusetts Department of Environmental Protection. The WRPOD is a "critical area" under these standards.

9.3.7.3 **Vegetation.** No less than twenty percent (20%) of that portion of the lot area situated within a WRPOD shall be maintained as a vegetation area. If impervious materials cover more than fifteen percent (15%) of that portion of the lot area situated within a WRPOD, all storm drainage shall be recharged on-site.

9.3.7.4 **Split Lots.** Where the premises are partially outside of the WRPOD, site design shall to the degree feasible locate potential pollution sources such as on-site disposal systems outside of the WRPOD.

9.3.7.5 **Storage of Hazardous Materials.** Liquid hazardous materials, as defined in M.G.L. Chapter 21E, and also as required herein, shall be stored in the WRPOD only if stored above ground level and on an impervious surface and either in 1) a container or above ground tank within a building, or 2) outdoors in a covered container or above ground tank. All such containers and tanks shall be located in an area that has a containment system designed and operated to hold either ten percent (10%) of the total possible storage capacity of all containers, or one hundred ten percent (110%) of the largest container's storage capacity, whichever is greater. These storage requirements shall not apply to storage of products used for normal household use in quantities associated with normal household use. These storage requirements shall not apply to the replacement of existing tanks or systems for the dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.

9.3.7.6 **Public Sewer.** All uses requiring wastewater disposal shall be connected to a public sewerage system if available, and if such system is not

available, any on-site disposal system shall be subject to the limitations of 310 CMR 22.21(2)(a) 5 and 6.

9.3.8 **Application.** Application for a special permit in a WRPOD shall include the following:

9.3.8.1 The written opinion of a Registered Professional Engineer, addressed to the Board of Appeals, as to the impact of the proposed use upon the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the Town. This opinion shall bear the stamp and signature of the Professional Registered Engineer responsible for its preparation;

9.3.8.2 Complete listing of toxic or hazardous materials which are to be:

9.3.8.2.1 stored, manufactured or used on or transported over any land in the WRPOD in such a quantity that the use, spilling or discharge thereof might cause a danger to public health or safety; and/or

9.3.8.2.2 contained in industrial wastewater or sewage generation in excess of six (6) gallons per day per one thousand (1,000) square feet of lot area or fifteen thousand (15,000) gallons per day total. Such listing shall be accompanied by a description of measures to prevent vandalism, spills, corrosion and leakage and by a spill control plan;

9.3.8.3 Description of any hazardous or toxic waste to be generated;

9.3.8.4 Such further description of the proposed use and its operation as necessary to demonstrate that the use is not prohibited by this Section and will be in compliance with each of the requirements set forth herein;

9.3.8.5 Evidence of conformity with applicable requirements of the Massachusetts Department of Environmental Protection and of Town Bylaws and regulations, such as Article 17, the Hazardous Materials Bylaw;

9.3.8.6 Locus plan at an appropriate scale showing the boundaries of the property subject to the application in relation to the WRPOD boundaries; and

9.3.8.7 Site plan, if required by the Board of Appeals.

9.3.9 **Referral of Application to Other Boards.** Within ten (10) days after receipt of the WRPOD special permit application, the Board of Appeals shall forward a copy thereof to the Building Commissioner, Dedham-Westwood Water District, Planning Board, Conservation Commission, Board of Health and Fire Chief which may, at their discretion, conduct such investigations as they deem to be appropriate and report in

writing their recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from said review agencies or until thirty-five (35) days has elapsed after receipt of such application without submission of a report. If such report is not received by the Board of Appeals within said thirty-five (35) days, it shall be deemed lack of objection to the issuance of the special permit.

9.3.10 **Review Meetings.** The Applicant or any one of the review agencies may request that the Building Commissioner schedule a meeting of said review agencies to perform a preliminary staff review of the proposed application in an effort to identify relevant issues and the regulatory framework applicable to the proposed project during the review period. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant or Board of Appeals.

9.3.11 **Decision.** A special permit required pursuant to this Section shall be granted by the Board of Appeals only upon its written determination of the following:

9.3.11.1 the application materials are sufficiently detailed, definite and credible to support positive findings relative to the standards of the Bylaw;

9.3.11.2 the proposed use meets the standards of this Section;

9.3.11.3 neither during construction nor thereafter will the use have material adverse impact upon the existing or potential quality or quantity of the existing and potential groundwater supply and groundwater recharge areas in the WRPOD; and

9.3.11.4 proposed control and response measures adequately and reliably mitigate risks to groundwater quality resulting from accident or system failure.

9.3.12 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Board of Appeals to hire consultants in connection with the review and evaluation of applications for special permits under this Section. The Board of Appeals will be reimbursed by the Applicant for the reasonable fees and expenses of such consultants, and each application for a special permit hereunder shall contain an agreement by the Applicant to that effect.

9.4 WIRELESS COMMUNICATION OVERLAY DISTRICT (WCOD)

9.4.1 **Purpose.** The purpose of the Wireless Communication Overlay District (WCOD) is to permit and regulate the use of wireless communication facilities within the Town and to encourage their location and use in a manner which minimizes negative visual and environmental impacts. It is intended that this Section be in compliance with the Federal Telecommunications Act of 1996 in that the requirements of this section: (i) do not prohibit or have the effect of prohibiting the provision of wireless communication

services; (ii) are not intended to discriminate unreasonably among providers of functionally equivalent services; and (iii) do not regulate wireless communication services on the basis of environmental effect of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning emissions. This Section does not apply to the construction or use of an antenna structure by a federally licensed amateur radio operator, as exempted by M.G.L. Chapter 40A, Section 3.

9.4.2 **Location.** The Wireless Communication Overlay District– **(**WCOD 1) is herein established as an overlay district as shown on the Official Zoning Map and as described herein:

9.4.2.1 **The WCOD** shall comprise all land within the following zoning districts:

Administrative-Research-Office (ARO)
Highway Business (HB)
Industrial (I)
Industrial-Office (IO)

9.4.2.2 The WCOD shall also include the following specific parcels, or discreet portions of parcels, as shown on the Westwood Board of Assessors' Map, as of January 1, 2014:

Parcel 04-001 (Hale Reservation, limited to existing utility easement);
Parcel 09-065 (Dedham-Westwood Water District water towers);
Parcel 14-046 (High Street Fire Station);
Parcel 14-071 (Town Hall);
Parcel 14-072 (Police Station);
Parcel 14-079 (Westwood Public Library);
Parcel 14-094 (Deerfield School);
Parcel 14-096 (St. John's Episcopal Church);
Parcel 14-140 (First Baptist Church);
Parcel 14-181 (Colburn School Building);
Parcel 16-005 (Hanlon School); Parcel 16-238 (St. Denis Church);
Parcel 16-250 (First Evangelical Free Church);
Parcel 20-072 (Baker Conservation Area, limited to portion so designated on plan entitled "Wireless Communications Overlay District, Parcel 20-072 (Baker Conservation Area), Westwood, Massachusetts", prepared by BETA Engineering, and dated April 15, 2013);
Parcel 21-044 (St. Margaret Mary Church);
Parcel 21-047 (Thurston Middle School);
Parcel 21-048 (Westwood High School);
Parcel 21-050 (First Parish of Westwood United Church);
Parcel 21-064 (First Parish of Westwood United Church);
Parcel 23-189 (Islington Community Center);

Parcel 23-215 (Islington Fire Station and Morrison Field);
Parcel 24-135 (Downey School);
Parcels 27-022 and 27-221 (June Street Conservation Area, limited to portion so designated on plan entitled "Wireless Communications Overlay District, Parcels 27-022 and 27-221 (June Street Conservation Area), Westwood, Massachusetts", prepared by BETA Engineering, and dated April 15, 2013);
Parcel 28-077 (Sheehan School);
Parcel 28-078 (Sheehan Fields, limited to portion so designated on plan entitled "Wireless Communications Overlay District, Parcel 28-078 (Sheehan Fields), Westwood, Massachusetts", prepared by BETA Engineering, and dated April 15, 2013);
Parcel 28-329 (Temple Beth David);
Parcels 29-123 (Westwood Lodge);
Parcel 35-089 (Martha Jones School); and
That abandoned portion of public right-of-way which extends from the intersection of Grove Street and Country Club Road to Route 128.

9.4.3 **Definitions.** For the purposes of this Section, the following definitions shall apply:

9.4.3.1 **Wireless communication facility**. Any tower, pole, antenna, receiving or transmitting equipment of any kind, and any equipment or structure related to wireless communication activities such as cellular telephone service, personal communication service (PCS), enhanced specialized mobile radio service, paging, light radio, and any other functionally equivalent service, including access ways, screening materials and landscaping associated with said facility.

9.4.3.2 **Minor wireless communication facility.** A wireless communication facility for which all components are located fully within a building or structure, and are not visible from the exterior of said building or structure, or for which any components located outside of, or attached to, an existing building or structure are less than ten (10) feet in height.

9.4.3.3 **Major wireless communication facility.** A wireless communication facility not meeting the limitations specified for a Minor wireless communication facility.

9.4.4 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in a WCOD may be used for any purpose permitted as of right or by special permit in the underlying district. Minor wireless communication facilities and Major wireless communication facilities may be permitted in the WCOD as set forth in this Section. Wireless communication facilities, whether Major or Minor, shall not be permitted outside the boundaries of the WCOD.

9.4.5 **Permits Required.**

9.4.5.1 Minor wireless communication facilities to be located entirely within the interior of an existing building or structure, and not involving a change to the exterior size or appearance of the building or structure, or to be located entirely within the interior of an addition to an existing building where said addition is approved pursuant to Section 7.3 of this bylaw, and which facilities are not visible from the exterior, shall be a permitted use in the WCOD, provided that the wireless communication facility complies with FCC standards for radio frequency emissions and receives a building permit from the Building Inspector. However, any addition to an existing building which is designed primarily to house a wireless communication facility, shall require a WCOD EIDR Approval from the Planning Board in compliance with the provisions of this section and Section 7.3 of this bylaw.

9.4.5.2 Minor wireless communication facilities to be located outside of, or attached to, an existing building or structure, including an existing communication facility, utility transmission tower or pole, water tower or related facility, shall be a permitted use in the WCOD, provided that the wireless communication facility is no more than ten (10) feet in height, adds no more than ten (10) feet in height to the building or structure, and receives a WCOD EIDR Approval pursuant to this section and Section 7.3 of this bylaw.

9.4.5.3 Minor wireless communication facilities to be located entirely within the interior of a new building which is designed primarily to house a wireless communication facility, and which facilities are not visible from the exterior, shall be permitted in the WCOD only upon the issuance of a WCOD Special Permit from the Planning Board in compliance with the provisions of this section.

9.4.5.4 Major wireless communication facilities may be permitted in the WCOD only upon the issuance of a WCOD Special Permit from the Planning Board, which shall include a determination by the Planning Board that the location of the proposed facility would provide adequate screening and/or buffering such that the proposed facility would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw.

9.4.5.5 **Administrative Review and Approval of Minor Alterations.** Minor alterations of an existing wireless communications facility operating under a valid WCOD Special Permit and/or WCOD EIDR Approval, which alterations will result in no visible exterior changes to an existing wireless facility, or which will result in visible exterior changes to an existing

wireless facility which are determined by the Building Commissioner to be sufficiently minor in nature, may be permitted upon the issuance of an Administrative WCOD EIDR Approval pursuant to Section 7.3.6 [Administrative Review and Approval for Minor Alterations] of this Bylaw.

9.4.6 **Application and Submittal Requirements.** An application for a WCOD Special Permit or WCOD EIDR Approval shall be filed in accordance with the Planning Board's Rules and Regulations for Wireless Communication Overlay District Special Permits, and shall include the following, except to the extent waived by the Planning Board:

9.4.6.1 Locus map at a scale of 1":200' which shall show all streets, landscape features, dwellings units and all other structures within five hundred (500) feet of the proposed wireless communication facility.

9.4.6.2 Site plan prepared by a Registered Professional Engineer at a scale of 1":40' which shall show the following information:

9.4.6.2.1 Location, size and height of the wireless communication facility, including the location, size and height of all accessory structures and equipment.

9.4.6.2.2 Property boundaries of the site.

9.4.6.2.3 Topographical site information, including existing and proposed elevations.

9.4.6.2.4 Fencing, landscaping, lighting and signage.

9.4.6.2.5 Areas to be cleared of vegetation and trees.

9.4.6.2.6 Location and identification of all existing buildings, structures and uses of land located on the site.

9.4.6.2.7 Location and identification of all existing buildings, structures and uses of land located within five hundred (500) feet of the property boundaries of the site.

9.4.6.3 Profile or elevation drawings to illustrate the view lines from the wireless communication facility to all nearby residences and public areas.

9.4.6.4 Color photograph or computerized rendition of the wireless communication facility and its components and accessory structures. For a Major wireless communication facility, a rendition shall also be prepared to illustrate the view lines from all neighboring streets.

9.4.6.5 Description of the wireless communication facility and the technical, economic and other reasons for the proposed location, height and design.

9.4.6.6 Visual representation of the area of solid Radiofrequency Radiation (RFR) coverage and the area of marginal RFR coverage of the wireless communication facility, existing and proposed.

9.4.6.7 Confirmation that the wireless communication facility complies with all applicable federal and state standards, regulations, statutes and other requirements. This shall include, if applicable, a written statement that the wireless communication facility is in compliance with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.

9.4.6.8 A description of the wireless communication facility's capacity, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.

9.4.6.9 Documentation that the Applicant has the legal right to install and use the wireless communication facility.

9.4.6.10 After the submittal of an application, the Planning Board may require that the Applicant perform a "balloon test" or other test in the field sufficient to illustrate the proposed height and location of the wireless communication facility in relation to the surrounding area.

9.4.7 **Development Standards.**

9.4.7.1 An Applicant proposing a wireless communication facility must demonstrate to the satisfaction of the Planning Board that the visual and aesthetic impacts of the wireless communication facility on nearby properties will be minimal. The Applicant must also demonstrate that the facility must be located at the proposed site due to technical, topographical or other unique circumstances, and that no reasonable combination of locations, techniques, or technologies will mitigate the height or visual impact of the proposed wireless communication facility.

9.4.7.2 Co-location of wireless communication facilities is encouraged. To the extent possible, wireless communication facilities shall be located in or on existing buildings or structures, including, but not limited to, buildings, communication facilities, utility transmission towers or poles, water towers, and related facilities, provided that such installation preserves the character and integrity of these buildings or structures. The Applicant

shall have the burden of demonstrating to the satisfaction of the Planning Board that a good faith effort has been made to co-locate on an existing building or structure, or on an existing Major or Minor wireless communication facility, that there are no feasible existing buildings or structures upon which to locate, and that no reasonable combination of locations, techniques or technologies will obviate the need for the proposed wireless communication facility.

9.4.7.3 Major wireless communication facilities shall be designed and constructed to accommodate the maximum number of presently interested users that is technologically practical, except where the Planning Board determines that a reduction in the size or height of a facility would be preferable despite a negative effect on co-location opportunity. In addition, if the number of proposed users is less than four, the applicant shall provide a plan showing how the proposed tower can be expanded to accommodate up to four users. In the event that the Planning Board finds that co-location is preferable, the applicant must agree to allow co-location pursuant to commercially reasonable terms to additional users.

9.4.7.4 All new antenna support structures shall be buildings or monopoles. Where appropriate to the surrounding area, at the sole discretion of the Planning Board, monopoles shall be disguised as flag poles or trees.

9.4.7.5 The highest point of a Major wireless communication facility, including its antenna support structure and any component thereof or attachment thereto, shall not exceed one hundred (100) feet above ground level, except that this height limit may be increased, at the sole discretion of the Planning Board, subject to a finding that such increased height will have no significant adverse impact on the town and surrounding residential properties.

9.4.7.6 The maximum diameter or width of any Major wireless communication facility antenna support system shall be no more than three (3) feet, except that this diameter or width may be increased, at the sole discretion of the Planning Board, subject to a finding that such increased diameter or width will have no significant adverse impact on the town and surrounding residential properties.

9.4.7.7 All Major wireless communication facilities shall be setback from all property lines abutting any public way, including any sidewalk, a distance equal to one hundred percent (100%) of the height of the highest point of the wireless communication facility, except that this setback requirement may be reduced, at the sole discretion of the Planning Board, to allow the integration of a wireless communication facility into an existing or proposed building or structure.

9.4.7.8 No Major wireless communication facility shall be constructed within a distance equal to one hundred percent (100%) of the height of the highest point of the wireless communication facility from any existing residential dwelling or any proposed dwelling for which a building permit or subdivision approval has been issued. However, this regulation shall not prohibit the later development of any residential dwelling within said distance from an existing wireless communication facility.

9.4.7.9 All equipment enclosures and other improvements included within a wireless communication facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair.

9.4.7.10 Unless waived by the Planning Board, fencing shall be provided to control access to the base of a Major wireless communication facility. The fencing shall be compatible with the scenic character of the Town, as determined by the Planning Board, and shall not consist of chain link, barbed wire or razor wire.

9.4.7.11 All exterior wireless communication facilities shall be painted, colored, molded, installed or otherwise screened to minimize their visibility to abutters, adjacent streets, views from scenic roads, and residential neighborhoods. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Existing on-site vegetation shall be preserved to the maximum extent feasible.

9.4.7.12 All antennas on a Major wireless communication facility shall be single unit cross-polar antennas. Antennas shall be designed and mounted in such a manner as to present the smallest possible silhouette, profile, or cross-section.

9.4.7.13 Wireless communication facilities shall not be lighted unless required by the Federal Aviation Administration (FAA), or unless after consultation with the Police and Fire Chiefs, the Planning Board requires such lighting for public safety reasons, or unless the Planning Board requires the lighting of a monopole disguised as a flag pole.

9.4.7.14 Wireless communication facilities shall not interfere with nor have any negative effect on the Town's emergency radio communications.

9.4.7.15 Signs posted for advertisement or any other reasons shall not be allowed on or in the vicinity of a Major wireless communication facility, with the exception of one (1) sign not exceeding four (4) square feet in area at the facility which shall display the name and telephone number of the person

and company responsible for the maintenance of the facility. The signage shall also display a 'No Trespassing' warning.

9.4.8 **Decision.** A WCOD Special Permit or WCOD EIDR Approval shall only be granted upon the determination of the Planning Board that the application meets the objectives cited herein. The Planning Board may impose reasonable conditions at the expense of the Applicant, including performance guarantees, to promote these objectives. Prior to the issuance of any WCOD Special Permit or WCOD EIDR Approval, the Planning Board shall make positive findings that:

9.4.8.1 The Applicant has demonstrated to the satisfaction of the Planning Board that there exists a significant gap in coverage and that said gap would be sufficiently reduced or eliminated by the proposed wireless communication facility.

9.4.8.2 The Applicant has demonstrated to the satisfaction of the Planning Board that the wireless communication facility must be located at the proposed site due to technical, topographical or other unique circumstances, in order to satisfy a demonstrated gap in coverage.

9.4.8.3 The Applicant has demonstrated to the satisfaction of the Planning Board that the visual and aesthetic impacts of the wireless communication facility on nearby properties will be minimal, and that no reasonable combination of locations, techniques or technologies will mitigate the height or visual impact of the proposed wireless communication facility.

9.4.8.4 The Applicant has demonstrated, in any case where a major wireless communication facility is permitted within the WCOD, that the location of the proposed facility would provide adequate screening and buffering such that the proposed facility would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw.

9.4.8.5 The Applicant has demonstrated to the satisfaction of the Planning Board that the wireless communication facility will have no significant adverse impact on the town and surrounding residential properties.

9.4.9 **Discontinuance of Use.** A wireless communication facility, and all accessory equipment, shall be removed within six (6) months of abandonment or discontinuation of use. As a condition of any special permit for the placement, construction or modification of a Major wireless communication facility, the Applicant shall provide a bond, in a form acceptable to the Town, or shall place into escrow a sum of money sufficient to cover the costs of removing the facility from the subject property and said funds shall be held by an independent escrow agent to be appointed by the Applicant and the Planning Board. The amount of the surety shall be certified by a Registered Professional Engineer or Registered Professional Architect. The Applicant shall authorize and, as necessary, shall

provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued.

9.4.10 **Pre-existing Non-conforming Facilities.** Any wireless telecommunication facility legally in existence on the date of enactment of this section which does not comply in all respects with these provisions shall be deemed a pre-existing non-conforming use. Such wireless communication facilities may be renewed by vote of the Planning Board at a public meeting. Non-conforming Minor wireless communication facilities may be reconstructed, expanded and/or altered pursuant to the issuance of a WCOD EIDR Approval from the Planning Board in compliance with the applicable provisions of this section. Non-conforming Major wireless communication facilities may be reconstructed, expanded and/or altered pursuant to the issuance of a WCOD Special Permit from the Planning Board in compliance with the applicable provisions of this section. A new Minor wireless communication facility associated with a non-conforming Major wireless communication facility may be granted WCOD-EIDR Approval in compliance with the applicable provisions of this section.

9.4.11 **Time Limitation.** A special permit issued for a Major wireless communication facility over fifty (50) feet in height shall be valid for a period of five (5) years. At the end of this time period, the Major wireless communication facility shall be removed at the Applicant's expense unless the Applicant receives approval from the Planning Board to renew the WCOD Special Permit for an additional five (5) years.

9.5 FLEXIBLE MULTIPLE USE OVERLAY DISTRICT (FMUOD)

9.5.1 **Purpose.** The purpose of the Flexible Multiple Use Overlay District (FMUOD) is as follows:

9.5.1.1 to provide a desirable mix of land uses, including office, retail, service and residential uses, that will serve Town and regional interests in housing, employment, conservation and net tax revenue;

9.5.1.2 to promote creative, efficient and appropriate solutions to the development of complex sites and encourage redevelopment of underutilized properties by proving greater flexibility of design and promoting more efficient use of land while remaining sensitive to surrounding properties and natural resources;

9.5.1.3 to encourage the development of comprehensive projects of appropriate scale in transit-oriented locations and areas that provide proximate access to major transportation routes;

9.5.1.4 to promote walking, bicycling, and public transportation, by encouraging complementary uses and facilities that support such objectives;

9.5.1.5 to encourage a comprehensive approach to site design, by considering buildings, open space, landscaping and site amenities, circulation patterns and parking, in an integrated manner, so as to create an aesthetically pleasing environment, without causing substantial detriment to abutting neighborhoods; and

9.5.1.6 to eliminate duplication of effort and foster coordination between applicable town boards and committees, which may be responsible for review of a proposed development project.

9.5.2 **Location.** Five distinct Flexible Multiple Use Overlay Districts - FMUOD 1, FMUOD 2, FMUOD 3, FMUOD 4 and FMUOD 5 - are herein established as overlay districts as shown on the Official Zoning Map and as described herein:

9.5.2.1 **FMUOD 1: University Avenue Business District**. FMUOD 1 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 1, approximately bounded by Route 128/95, the Neponset River, Canton Street and Town of Westwood Conservation Land.

9.5.2.2 **FMUOD 2: Southwest Park.** FMUOD 2 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 2, approximately bounded by Providence Highway, Route 128/95 and the MBTA Commuter Rail Tracks.

9.5.2.3 **FMUOD 3: Glacier/Everett Business District.** FMUOD 3 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 3, in the vicinity of Glacier Avenue and Everett Street, west of Providence Highway.

9.5.2.4 **FMUOD 4: Perwal/Walper Business District.** FMUOD 4 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 4, in the vicinity of Perwal and Walper Streets, east of Providence Highway.

9.5.2.5 **FMUOD 5: Allied Drive Business District.** FMUOD 5 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 5, including properties abutting the Route 128 Circumferential Highway in the vicinity of Allied Drive and East Street within Westwood.

9.5.2.6 **FMUOD 6: Washington Street Business District.** FMUOD 6 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 6, including properties along Washington Street within the Local Business B District, between Fairview Street and Everett Street.

9.5.2.7 **FMUOD 7: High Street Business District.** FMUOD 7 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 7, including properties along High Street within the Local Business A District, between Windsor Road and High Rock Street.

9.5.3 **Special Permit Granting Authority.** The Planning Board shall be the Special Permit Granting Authority for all FMUOD Special Permits.

9.5.4 **Regulations.** The Planning Board shall adopt rules and regulations for the administration of this Section (henceforth referred to as the "Rules and Regulations"). Such Rules and Regulations shall include, but not be limited to, the following: application and submittal requirements, fees, review procedures, reimbursement for consultants, performance guarantees, and procedures for the consideration of permit extensions**.**

9.5.5 **Special Permit Required.** Development under this Section requires a FMUOD Special Permit issued by the Planning Board in compliance with the provisions of this Section. Any special permits which may otherwise be required pursuant to this Bylaw shall be consolidated into the FMUOD Special Permit. In such case, a consolidated Special Permit Application shall be acted upon by the Planning Board in accordance with the requirements of this Section, regardless of which board is designated as the Special Permit Granting Authority in the applicable sections of this Bylaw. Any Environmental Impact and Design Review (EIDR) approval otherwise required pursuant to Section 7.3 of this Bylaw shall be consolidated into a mandatory site plan approval component of the FMUOD Special Permit, and no separate EIDR Approval shall be required.

9.5.6 **Phased Developments.** Development under this Section may be approved in one or more phases authorized under a single FMUOD Special Permit. The FMUOD Special Permit for a project approved for development in two or more phases shall include an approximate development timeline and anticipated construction schedule in conformance with the Rules and Regulations. An FMUOD Special Permit for a phased development shall be granted by the Planning Board based on the Planning Board's approval of final plans for one or more early phases of the development, along with the Planning Board's approval of preliminary plans for future phases of the development. In such instance, the FMUOD Special Permit shall be amended by Planning Board approval of final plans for each subsequent phase of development as such plans become available. Once final plans for any phase of development are approved under a FMUOD Special Permit or any amendment to that FMUOD Special Permit, such plans shall be deemed to be in compliance with the provisions of this Bylaw, and the Planning Board shall not require amendment of said approved final plans. Upon the issuance of a FMUOD special permit approval under this Bylaw for any individual phase, such phase shall be deemed to be in compliance with the provisions of this Bylaw, notwithstanding the status of any other phase and/or any noncompliance of such other phase with the phasing plan, or phasing requirements set forth herein or otherwise.

9.5.7 **Applicability.** Except as otherwise provided herein, the provisions of this Section shall apply to any parcel or set of parcels within FMUOD 1, FMUOD 2, FMUOD 3, FMUOD 4, FMUOD 5, FMUOD6 or FMUOD7, whether held in common or separate ownership.

9.5.8 **Permitted Uses.** FMUOD Special Permits shall be granted only for uses specified below. Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in any FMUOD may be used for any purpose permitted as of right or by special permit in the underlying district pursuant to Section 4.0, Use Regulations and other applicable sections of this Bylaw. Multiple uses may be contained within a single building or structure pursuant to an FMUOD Special Permit.

9.5.8.1 **Uses Permitted by FMUOD Special Permit in any FMUOD:**

9.5.8.1.1 Bank or financial institution;
9.5.8.1.2 Business service establishment;
9.5.8.1.3 Coffee shop;
9.5.8.1.4 Commercial recreation, indoor;
9.5.8.1.5 Cultural facility, art gallery or museum;
9.5.8.1.6 Educational facility, including public, non-profit, or for profit;
9.5.8.1.7 Ice cream shop;
9.5.8.1.8 Municipal use;
9.5.8.1.9 Office of a doctor or dentist;
9.5.8.1.10 Personal services establishment;
9.5.8.1.11 Printing/copy/publishing establishment;
9.5.8.1.12 Professional service establishment;
9.5.8.1.13 Restaurant with or without entertainment, less than 10,000 sq. ft.;
9.5.8.1.14 Retail sales and services establishment, less than 10,000 sq. ft.;
9.5.8.1.15 Shuttle service system.

9.5.8.2 **Additional Uses Permitted by FMUOD Special Permit in FMUOD1:**

9.5.8.2.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;
9.5.8.2.2 Hotel;
9.5.8.2.3 Kennel, commercial;
9.5.8.2.4 Multi-family dwelling;
9.5.8.2.5 Pay-to-Park Outdoor Parking Facility;
9.5.8.2.6 Research and development facility;
9.5.8.2.7 Restaurant with or without entertainment, 10,000 sq. ft. or more;
9.5.8.2.8 Retail sales and services establishment, 10,000 sq. ft. or more.

9.5.8.3 **Additional Uses Permitted by FMUOD Special Permit in FMUOD2:**

9.5.8.3.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;

9.5.8.3.2 Hotel.

9.5.8.3.3 Research and development facility;

9.5.8.4 **Uses Permitted by FMUOD Special Permit in FMUOD3:**

9.5.8.4.1 Age-restricted dwelling for persons 55 years and older;

9.5.8.4.2 Assisted living residence;

9.5.8.4.3 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;

9.5.8.4.4 Multi-family dwelling.

9.5.8.4.5 Research and development facility;

9.5.8.5 **Additional Uses Permitted by FMUOD Special Permit in FMUOD4:**

9.5.8.5.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;

9.5.8.5.2 Research and development facility;

9.5.8.6 **Additional Uses Permitted by FMUOD Special Permit in FMUOD5:**

9.5.8.6.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;

9.5.8.6.2 Research and development facility;

9.5.8.7 **Additional Uses Permitted by FMUOD Special Permit in FMUOD6:**

9.5.8.7.1 Multi-family dwelling.

9.5.8.8 **Additional Uses Permitted by FMUOD Special Permit in FMUOD7:**

9.5.8.8.1 Multi-family dwelling.

9.5.8.9 **Accessory Uses Permitted by FMUOD Special Permit in all FMUOD districts:** Any use accessory to a use permitted by FMUOD Special Permit may be permitted pursuant to that same permit, irrespective of whether such use is located on the same lot as the principal use, provided that the principal use to which such use is accessory shall be clearly identified, and further provided that such accessory use shall be specifically reviewed and approved by the Planning Board in the FMUOD Special Permit.

9.5.9 **Alternative Dimensions.** The alternative dimensions set forth in the table below may be used for a project developed under a FMUOD Special Permit rather than the requirements provided elsewhere in this Bylaw. There shall be no minimum lot frontage, lot width, or setback requirements, and no maximum impervious surface or lot coverage requirements for a project developed under a FMUOD Special Permit. Rather, specific project dimensions shall be determined by the Planning Board. In all cases, there shall be sufficient separation between any two structures to allow emergency vehicle access.

		FMUOD 1	**FMUOD 2**	**FMUOD 3**	**FMUOD 4**	**FMUOD 5**	**FMUOD 6**	**FMUOD 7**
9.5.9.1	Minimum Project Area[1]	10 acres	5 acres	10 acres	5 acres	5 acres	1 acre	1 acre
9.5.9.2	Minimum Lot Area	15,000 sq. f.t.	15,000 sq. f.t.	15,000 sq. f.t.	15,000 sq. f.t.	15,000 sq. f.t.	4,000 sq. f.t.	4,000 sq. f.t.
9.5.9.3	Maximum Building Height	70 feet[2]	80 feet	45 feet	45 feet	45 feet	36 feet	36 feet
9.5.9.4	Maximum Floor Area Ratio, not including area of parking structure	1.0[3]	1.0	1.0	1.0	1.0	1.0	1.0
9.5.9.5	Minimum Residential District Buffer required under Section 6.3.2 (feet)	100	20	50	50	50	20 feet	20 feet
9.5.9.6	Minimum Public Amenity Areas or other public amenities required under Section 9.5.14.2.4.3	10%	other public amenity	10%	other public amenity	other public amenity	other public amenity	other public amenity

[1] Minimum project area shall include contiguous parcels and parcels separated by a roadway or railroad right-of-way that are effectively contiguous.

[2] Where a lot in FMUOD 1 is within two thousand five hundred (2,500) feet of the MBTA Train Station parcel (shown as Lot 1 on Assessor's Plat 33), and east of University Avenue, the Planning Board may

allow an increased maximum building height of no more than 120 feet. In no case shall the height of any building exceed one hundred seventy-eight and one-half (178.5) feet above sea level.

[3] Where a lot in FMUOD 1 is within two thousand five hundred (2,500) feet of the MBTA Train Station parcel (shown as Lot 1 on Assessor's Plat 33), and east of University Avenue, the Planning Board may allow an increased maximum floor area ratio of no more than 1.2.

9.5.10 **Alternative Parking Arrangements.** The alternative parking arrangements set forth in Sections 9.5.10.1 through 9.5.10.2 may be used for a project in the FMUOD rather than the requirements applicable to the underlying district as provided elsewhere in this Bylaw.

9.5.10.1 **Parking Space Requirements.** Developments proposed under this Section may provide fewer parking spaces than otherwise required under Section 6.1.2, Table of Parking Requirements, where in the determination of the Planning Board, proposed parking spaces are found to be sufficient to meet the needs of the development. In making such determination, the Planning Board may consider complementary uses and activities having different peak demands, transportation demand management (TDM) measures, and such other means as may be applicable.

9.5.10.2 **Joint Off-street Parking.** Joint off-street parking arrangements may be permitted when determined by the Planning Board to be appropriate.

9.5.11 **Alternative Sign Requirements.** The alternative sign requirements set forth in Sections 9.5.11.1 through 9.6.11.10 may be used for a project in the FMUOD rather than the requirements applicable to the underlying district as provided elsewhere in this Bylaw.

9.5.11.1 **Definitions.** For the purposes of these alternate sign requirements, the following terms shall be defined as indicated below:

9.5.11.1.1 **Awning Sign.** A sign consisting of letters or graphics painted on, incorporated into, or affixed to any fixed or retractable device, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or similar area or space.

9.5.11.1.2 **Development Identification Sign.** A sign or group of signs clustered together as a single compositional unit which identifies a development, and may also identify individual business establishments within that development.

9.5.11.1.3 **Directional Sign.** A sign providing pedestrian and/or vehicular traffic instruction, and/or restrictions on the use of parking or travel areas. "No Parking", "One Way", "No

Outlet", and "Do Not Enter" are examples of directional signs.

9.5.11.1.4 **Directory Sign** A listing and/or graphic representation of individual business establishments and other uses within a development or portion of a development.

9.5.11.1.5 **Projecting Sign.** A sign consisting of letters or graphics which is attached to or suspended from a building or structure such that any part of said sign extends more than six (6) inches from the wall surface of that building or structure.

9.5.11.1.6 **Temporary Construction Sign.** A sign at a site currently under construction which identifies the name of the development, and may include the names and addresses of the contractor, architect, landscape architect, and project engineer, and other pertinent information.

9.5.11.1.7 **Wall Sign.** A sign consisting of letters or graphics painted on, incorporated into, or affixed parallel to the wall of a building or structure and which extends not more than six (6) inches from the wall surface of that building or structure.

9.5.11.1.8 **Way Finding Sign.** A sign providing instructions for circulation throughout a development, including direction to individual business establishments and parking areas related to said business establishments. "Retail Center Parking", "Shuttle Bus Stop Ahead", "Exit to Providence Highway", "Additional Parking in Rear" are examples of way finding signs.

9.5.11.1.9 **Window Sign.** A sign consisting of letters or graphics painted on, incorporated into, or affixed to either side of the glass surface of a window or door, or any interior sign designed to be visible from the exterior of a building or structure.

9.5.11.2 **Development Identification Sign.** Where appropriate, a project developed under a FMUOD Special Permit shall be allowed a development identification sign at any primary entrance to the project, as determined by the Planning Board. Such development identification sign may include the name and/or logo of the development project, as well as the names and/or logos of any anchor establishments within the development, as determined by the Planning Board. Development

identification signs may have two (2) faces, each of which shall not exceed one hundred and sixty (160) square feet in area. Development identification signs shall not exceed twenty (20) feet in height. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Development identification signs shall include appropriate landscaping as determined by the Planning Board.

9.5.11.3 **Individual Business Identification Signs.** Individual business identification signs shall be permitted as follows:

9.5.11.3.1 **Wall or Awning Signs.** Any combination of wall signs and awning signs shall be permitted such that the aggregate of all such signs associated with an individual business establishment shall not exceed two (2) square feet of signage for each one (1) linear feet of facade associated with said establishment, up to a maximum of two hundred (200) square feet of wall and/or awning signage per business establishment. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. In no case shall any individual letter exceed five (5) feet in height, nor shall any logo or graphic representation exceed ten (10) feet in height. Awning signs shall have at least 8 feet clearance above the pedestrian grade and shall be setback at least 4 feet from the adjacent curb. No awning sign shall extend over any public way, including a sidewalk, without further approval by the Board of Selectmen. Wall signs and/or awning signs for establishments having no direct association with an exterior facade may be permitted at the sole discretion of the Planning Board.

9.5.11.3.2 **Projecting Signs.** One projecting sign may be permitted for any individual business establishment. A projecting sign shall have two (2) legible faces, each of which shall not exceed eight (8) square feet in area. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Projecting signs must have at least 8 feet of clearance above the pedestrian grade, and shall not project more than 4 feet from a building facade. No such projecting sign shall extend over any public way, including a sidewalk, without further approval by the Board of Selectmen. Projecting signs for establishments having no direct association with an exterior facade may be permitted at the sole discretion of the Planning Board.

9.5.11.3.3 **Window Signs.** Window signs shall be permitted such that the aggregate of all such signs associated with an individual business establishment shall not exceed a total of one (1) square foot of signage for each one (1) linear foot of facade associated with said establishment, up to a maximum of fifty (50) square feet of window signage per business establishment. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Window signs for establishments having no direct association with an exterior facade may be permitted at the sole discretion of the Planning Board.

9.5.11.4 **Directional Signs.** Directional signs shall be allowed throughout a development. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Directional signs shall not exceed two (2) square feet in area and shall have a maximum height of eight (8) feet above ground. Directional signs may be post-mounted, ground-mounted, or mounted on a building or structure, and shall provide adequate clearance for vehicular and/or pedestrian traffic.

9.5.11.5 **Way Finding Signs.** Where determined by the Planning Board to be appropriate in light of the size and scale of a project, way finding signs shall be allowed throughout a development, and may be allowed at off-premise locations at the sole discretion of the Planning Board. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Way finding signs shall be post-mounted, ground-mounted, or mounted on a building or structure, and shall not exceed thirty-two (32) square feet in area and shall have a maximum height of eight (8) feet above ground. All way finding signs located throughout a development shall be consistent in material, color and lettering style. Way finding signs shall not contain individual business identification logos. Way finding signs may include electronically changed lettering as appropriate to provide directions and/or indicate availability of public parking. Such changeable signs must be static displays that do not flash, or exhibit changes in lighting levels, or offer multiple messages on a cyclical basis.

9.5.11.6 **Directory Sign** One or more directory signs may be permitted at the sole discretion of the Planning Board. Directory signs shall not exceed thirty-five (35) square feet in area and shall have a maximum height of seven (7) feet above ground.

9.5.11.7 **Temporary Construction Signs.** Temporary constructions signs shall be permitted at any primary entrance to the project, and at such other appropriate locations as determined by the Planning Board. Temporary construction signs shall not exceed twenty-four (24) square feet in area

and shall have a maximum height of six (6) feet above ground. Temporary construction signs shall be removed within thirty (30) days of the completion of construction.

9.5.11.11 **Prohibited Signs.** Billboards, roof signs, internally illuminated signs, flashing signs, variable lit signs, variable message signs (except as permitted in Section 9.5.11.5), flags, balloons, streamers, pennants, banners, strings of lights, ribbons, spinners and other similar devices, shall be prohibited in any project authorized under a FMUOD Special Permit. No sign which indicates the time, date and temperature shall be considered a flashing sign provided such signs meet all other provisions of this Section.

9.5.11.12 **Sign Materials.** Signs shall be manufactured using industry standard materials that are consistent with a high quality project. Structurally necessary brackets, posts or other supports may be visible if compatible with the appearance of the sign they support. Conduit, tubing, raceways, conductors, transformers and similar equipment shall be concealed from view, to the greatest practical extent.

9.5.11.13 **Sign Illumination.** Indirect illumination of a sign by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign, shall be permitted. In all cases illumination shall only be permitted by steady white light. Notwithstanding the above, awning signs shall not be internally illuminated.

9.5.12 **Waivers.** The Planning Board may grant waivers from some or all of the requirements set forth in Sections 9.5.9 through 9.5.11, and/or some or all of the dimensional, parking and sign requirements contained elsewhere in this bylaw if, in its determination, such waivers will result in a substantially improved project, and if, in its determination, such project will otherwise meet the performance and design standards set forth in this Section, and if, in its determination, such waiver will pose no substantial detriment to any adjacent property or proximate neighborhood, and will not nullify or substantially derogate from the intent or purpose of this Section.

9.5.13 **Percentage of Residential Units.** Pre-existing and new housing units, where permitted, shall occupy no more than thirty-three (33%) of the total gross floor area of any project within FMUOD 1, and no more than fifty percent (50%) of the total gross floor area of any project within FMUOD 3, FMUOD 6 or FMUOD 7, except that age-restricted dwelling units for persons 55-years or older permitted within FMUOD 3 may occupy up to 100% of the total gross floor area of a project. The maximum allowable number and type of residential units shall be determined by the Board, in its sole discretion, following the Board's acceptance of a fiscal impact report demonstrating that said residential units will have no significant negative fiscal impact on the town. The Planning Board shall have the authority to approve, in its sole discretion, phased construction of the residential

components of a project, independent of the phased construction of the non-residential components of the same project, as long as the total gross floor area of the residential components of all phases does not exceed the approved percentage of total gross floor area of the project authorized under the FMUOD Special Permit, and as long as no portion of the total land area approved for non-residential components is developed for residential use. Residential units shall be located on upper stories unless the Planning Board determines that a combination of first floor and upper floor residential units are acceptable in a particular development.

9.5.14 **Affordability Requirements.** Where any project authorized under a FMUOD Special Permit will result in the development of at least eight (8) new residential units, the minimum number of dwelling units specified in the table below shall be restricted to meet the definition of Affordable Housing in Section 2.0 of this Bylaw and in the Rules and Regulations. All such affordable dwelling units shall be contained within the FMUOD Project unless the Planning Board determines a proposed alternative to be at least equivalent in serving the Town's housing needs after consultation with the Westwood Housing Partnership and Westwood Housing Authority. The affordable dwelling units authorized under the provisions of this Bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or affordable units developed under additional programs adopted by the Commonwealth of Massachusetts or its agencies. All said dwelling units shall count toward Westwood's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended and all affordable dwelling units shall remain affordable in perpetuity.

Total Number of Dwelling Units	**Minimum Number of Affordable Dwelling Units**
1 to 7 units	0
8 to 9 units	1
10 to 15 units	2
16 to 22 units	3
23 to 26 units	4
27 or more units	15% of the total number of dwelling units, rounded up to the next whole number

9.5.15 **Performance and Design Standards.** No FMUOD Special Permit shall be granted unless the Planning Board finds that the project meets the following performance and design standards:

9.5.15.1 **Performance Standards.**

9.5.15.1.1 **Environmental Impact Standards.** All FMUOD projects shall conform to all applicable Environmental Impact Standards, including but not limited to the following areas of potential impact:

9.5.15.1.1.1 **Air Quality.** Any use or activity which requires an air quality permit from the Massachusetts Department of Environmental Protection (MA- DEP) or successor agencies, under 310 CMR 6.00 to 8.00, as amended from time to time, shall require the submission of documentation that such air quality permit has been applied for or obtained.

9.5.15.1.1.2 **Noise.**

a. Any use or activity on a property shall not produce sound pressure levels that exceed an existing background sound pressure level in excess of:

i. 10dBA at any perimeter boundary of the development tract that abuts a residential district or sensitive receptors such as nursing and rehabilitation homes, hospitals, day care centers, schools or other facilities so deemed by the Planning Board.

ii. 15dBa at any outer perimeter boundary of the development tract that abuts any predominantly non-residential district.

iii. 15dBa anywhere within the development tract.

Background or existing sound pressure level is defined as the level on the A-weighted sound pressure scale that is exceeded 90% of the time in the quietest 60 minute time interval that occurs during any hours of operation.

b. Impulsive or intermittent sounds shall not exceed the sound pressure level limits in 9.6.14.1.1.2, a. i., ii. & iii. above, for a duration not to exceed a cumulative total of one minute within any single hour.

c. No user or activity shall produce a sound pressure level that is in excess of:

i. 50dBA nighttime and 60dBA daytime at any perimeter boundary of the development tract that abuts a residential district or sensitive receptors such as nursing and rehabilitation homes, hospitals, day care centers, schools or other facilities so deemed by the Planning Board.

ii. 60dBA nighttime and 65dBA daytime at any perimeter boundary of the development tract that abuts any predominantly non-residential district.

iii. 65dBa anywhere within the development tract.

d. **"**Pure tone" conditions that are typically produced by facilities such as heating, ventilation and air conditioning systems, outdoor transformers or energy generation systems shall be designed so as to generally comply with widely-applied standards for pure tone levels from the American Noise Standards Institute/American Standards Association**.** ANSI/ASA S3.21-2004 (R2009) as amended from time to time.

9.5.15.1.1.3 **Vibration.** Any use or activity shall not produce vibration, measured at any receptor internal or external to the permitted site, that exceeds the combined-axis, one-third octave band vibration accelerations of the

American National Standards Institute, Section 3.29 or currently applicable standards regulating human vibration exposure, or associated sound levels in the 31.5 Hz octave band or lower, in which a sound pressure level of 65 dB is exceeded. Exceptions shall include public gatherings and special events, emergency and public safety vehicle operations, use of outdoor maintenance equipment, temporary construction of buildings or infrastructure, or similar activity conducted for public benefit.

9.5.15.1.1.4 **Electrical Disturbances.** Any use or activity shall not produce electromagnetic interference on a repeat or prolonged basis, in any electrical or electronic device used by receptors internal or external to the permitted site.

9.5.15.1.1.5 **Cultural, Historical and Archeological Resources.** Where there is evidence on a development tract of a resource that is on or eligible for inclusion on the Massachusetts Register of Historic Places, or where the tract overlies a designated Historic District under state or federal auspices, the application shall demonstrate that the design makes every reasonable effort to avoid or minimize damage or impairment to the cultural, historic or archaeological resources. Any unavoidable damage or impairment shall be mitigated to the greatest extent practicable.

9.5.15.1.1.6 **Natural Resources and Habitat.** Where there is evidence on a development tract of sensitive natural resources, whether in the form of vegetation communities, wildlife habitat or hydrological systems, especially as identified in the Massachusetts Natural Heritage Program, the application shall demonstrate that the design makes every reasonable effort to avoid or minimize damage or impairment to those resources.

Any unavoidable damage or impairment shall be mitigated to the greatest extent practicable.

9.5.15.1.1.7 **Construction Solid Waste Management.** An application shall include documentation of satisfactory arrangements for the disposal of tree stumps and debris resulting from construction. An application shall also include documentation of satisfactory permanent arrangements for on-site storage of refuse pending its removal. Such on-site storage shall be screened from public view, secure from birds or other animals, and located so as to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

9.5.15.1.1.8 **Visual Mitigation and Screening of Infrastructural Elements.** Exposed storage areas, exposed machinery or electric installations, common service areas, truck loading areas, utility structures, trash/recycling areas and other elements of the infrastructure shall be subject to reasonable visual mitigation requirements, including but not limited to, modified site location, screen plantings or buffer strips, combinations of visually impermeable fencing and plantings, or other screening methods determined by the Planning Board to be necessary to assure an attractive visual environment.

9.5.15.1.2 **Water Quality.** If a site authorized for development pursuant to a FMUOD Special Permit is located within a Water Resources Protection Overlay District established under Section 9.3 of this Bylaw, and any use or activity subject to said special permit requires a special permit under Section 9.3.5 therein, the Planning Board shall be the Special Permit Granting Authority for the Water Resources Protection Special Permit, and that required special permit shall be consolidated into the FMUOD Special Permit.

9.5.15.1.3 **Compatibility of Uses and Activities.** Any development authorized under a FMUOD Special Permit must contain a

compatible mix of uses sufficiently advantageous to the Town. Developers are strongly encouraged to include a beneficial mix of office and non-office uses. Compatibility between uses shall take into account peak hours of use and parking for individual components.

9.5.15.2 **Design Standards.**

9.5.15.2.1 **Building Design**.

9.5.15.2.1.1 **Context.** Structures shall relate harmoniously to the existing landscape and to the scale and architecture of existing buildings that have a functional and/or visual relationship to the proposed structures. The Planning Board may require a modification in massing or layout so as to reduce the effect of shadows on an abutting property, public open space or street, or to otherwise lessen any negative visual impacts of a proposed structure.

9.5.15.2.1.2 **Architectural Design.** Structures shall be designed to create a visually pleasing, unifying and compatible image for the development as a whole. Any combination of architectural design elements may be employed to meet this standard, including building color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and elements such as door and window size and location, and door and window detailing. Where the nature of the following design features is considered by the Planning Board to be significant to the preservation or enhancement of the desirable visual quality and property values of a particular area, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs and design elements such as door and window size and location and door and window detailing, including materials

for sills, lintels, frames and thresholds and any other major design elements.

9.5.15.2.1.3 **Visual Relief.** Structures shall include one or more features which create visual relief, such as varied roof lines, articulated building facades, including a higher level of treatment on one or more primary facades as designated by the Planning Board; elements of transparency or windows within a facade to provide architectural contrast and interior views; breaking up of continuous building surface by providing space between structures and/or jogs in the building line or plane; signs, vertical free-standing elements or other elements. Complementary use of public pedestrian spaces may also be considered as a contributory element.

9.5.15.2.1.4 **Energy Efficiency**. Insofar as practicable, projects shall incorporate energy-efficient technology in building materials, lighting, heating, ventilating and air conditioning systems, as well as use of renewable energy resources, and shall adhere to the principles of energy-conscious design with regard to building orientation, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of a building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.

9.5.15.2.2 **Street Design.** Streets, interior drives and related infrastructure within the proposed development shall comply with the applicable standards contained in the Planning Board's Rules and Regulations Governing the Subdivision of Land, and shall be designed with sufficient capacity to accommodate anticipated trip generation, to provide for adequate access by public safety vehicles and maintenance equipment, and to safely maintain pedestrian and bicycle circulation. The Planning Board may waive any such provisions to permit an alternate design standard, if in its determination, doing so enhances the project, is consistent with the purposes of this Section, and does not

negatively impact access, safety, or environmental protection.

9.5.15.2.3 **Circulation, Traffic Impact & Public Street Access**. Development authorized under a FMUOD Special Permit shall provide for a comprehensive, interconnected, safe and efficient system of circulation that adequately incorporates all feasible transportation modes, vehicular and non-vehicular. This system shall include the layout of roadways, interior drives and parking facilities, and shall include separated pedestrian and bicycle circulation, wherever feasible. Review of site circulation shall include: entrances and approaches, ramps, walkways, interior drives, and parking access. Traffic planning shall consider the surrounding system of public streets, the existing and future vehicular trip volume, the number and location of proposed access points to public streets, and existing and proposed traffic controls and management measures. The impact of volume increases on adjacent residential districts and business areas shall be mitigated to the satisfaction of the Planning Board. Each facility, to the extent feasible, shall accommodate alternative means of transportation, including bicycle routes and pedestrian ways separated by grade or physical division from vehicular circulation; internal shuttle bus routes where warranted; accommodation of vehicles for regional transit connections; and convenient and safe connections to sidewalks and streets in adjacent business areas and neighborhoods, in order to encourage non-vehicular travel. Minor improvements designed to facilitate alternative transportation, such as shuttle bus turn-outs at individual buildings, bicycle racks, and directional signage shall be provided to the satisfaction of the Planning Board.

9.5.15.2.4 **Open Space and Common Landscaped Areas.**

9.5.15.2.4.1 **Attractive Utilization of Existing Open Space.** Existing natural landscapes, including trees and vegetation, shall be preserved in their natural state ~~to~~ in so far as practicable. Such open space may be attractively utilized to meet minimum open space requirements, buffering and screening needs, or landscaping requirements. Existing surface waters shall be similarly used as a site amenity, subject to protection under the

MA Wetlands Protection Act. All open space which cannot be preserved in its natural state shall be replanted as far as practicable with new plantings that establish similar effects on the landscape.

9.5.15.2.4.2 **Site Disturbance**. Soil removal shall be minimized and major grade changes avoided, in so far as practicable. Grade changes and elevations shall be consistent with adjacent developed areas in so far as practicable.

9.5.15.2.4.3 **Public Amenity Areas.** Development authorized under a FMUOD Special Permit shall include one or more areas, exclusive of wetlands, to which the public has at least visual access, and preferably physical access, including landscaped areas and features such as pedestrian walks, landscaped pedestrian spaces and plazas, and incidental support structures, but excluding vehicular travelways, driveways and parking surfaces. Public amenity areas shall be designed to maximize visibility for persons passing the site or viewing it from nearby properties. The Planning Board may accept other public amenities which, in its determination, are appropriate for the development in substitution of such public amenity area.

9.5.15.2.5 **Stormwater Management.**

9.5.15.2.5.1 **General.** Stormwater management systems serving the proposed development shall be designed in conformance with the Massachusetts Department of Environmental Protection Stormwater Standards, as amended form time to time, to efficiently collect runoff from all impervious surfaces, roofs and canopies in a manner that avoids adverse drainage impact on any neighboring property.

Where possible, the review of stormwater plans and associated materials by the

Planning Board shall be coordinated with any Conservation Commission review of the same.

9.5.15.2.5.2 **Erosion and Sedimentation Controls.** A plan for controls that are appropriate and specific to the site and the project, and which includes both pre-construction and post-development measures, shall be employed to mitigate erosion and sedimentation impacts.

9.5.15.2.5.3 **Alternative Design**. Where space, topography, soils and the character of the proposed development make it practical, low impact designs (LID) that capture and recharge runoff to the groundwater may be used as an alternative to closed systems. Examples of LID practices include, but are not limited to vegetated swales, filtration strips, rain gardens or other bio-retention cells, disconnection of impervious surface areas, reduction of impervious surface, retention of existing open space, vegetated rooftops, and other methods.

9.5.15.2.6 **Off-Street Parking.**

9.5.15.2.6.1 **Parking Types and Design.** Any combination of surface, under-building and structured parking may be included in development authorized under a FMUOD Special Permit, provided that the parking plan is found by the Planning Board to be adequate to meet the purposes of this section. Parking may be provided at ground level, but with preference given to sub-grade or structured parking. In all cases, parking areas shall be designed to minimize paved surface area. In developments or portions of developments where structures are at or close to the street line in an urban or village layout, parking shall generally be located to the sides, rear, or below said structures.

9.5.15.2.6.2 **Surface Lots.** Surface parking lots shall generally be provided in multiple, distinctly separated lots, screened and landscaped in accordance with Section 6.1.17. Separation of parking lots may occur by means of intervening open space, landscaped areas, buildings or other structures, streets or physical elements clearly delineating a division between two or more parking lots. The number of entrances and exits shall be the minimum necessary to ensure traffic safety.

9.5.15.2.6.3 **Parking Structures.** Parking structures may be free-standing or may be integrated into the structural design of a building containing a principal use authorized by the FMUOD Special Permit. Parking structures and decks shall contain architectural facing or other articulation or visual relief on all primary or highly visible facades, as determined by the Planning Board.

9.5.15.2.6.4 **Pedestrian Facilities.** Sidewalks or multi-purpose pedestrian ways and facilities shall connect each parking lot or facility to buildings, public spaces or other destination points within the development.

9.5.15.2.6.5 **Loading Areas.** Adequate loading areas shall be provided for all businesses and other applicable uses containing more than ten thousand (10,000) square feet of net floor area. When exclusive loading areas are provided, such areas shall be designed so as to have unobstructed access and shall be configured so that no trucks or other vehicles are parked on a public street or way while loading or unloading, or while waiting to load or unload.

9.5.15.2.7 **Exterior Lighting.**

9.5.15.2.7.1 **General.** Exterior lighting specifications and requirements shall be incompliance with Section 6.4.

9.5.15.2.7.2 **Design Standards.** Lighting shall be designed so as to avoid light trespass and glare on adjacent neighborhoods, business areas and streets. Where appropriate, exterior lighting fixtures shall be of the full-cutoff type, and hoods and shields shall be incorporated as needed to prevent light trespass and glare. Lighting in minimally used areas shall be reduced after business hours, particularly where access is limited by gated entry.

9.5.15.2.8 **Public Utilities, Water and Sewer Systems.** All developments authorized under a FMUOD Special Permit, and all principal buildings within them, shall be connected to public water supply. Sewage collection shall be by the public sewage collection system or by an approved local area or on-site treatment facility. Access easements to any utility connections shall be granted to the Town to assure maintenance and emergency repair.

9.5.15.2.9 **Communications Facilities.** All towers, antennas and poles permitted under a consolidated FMUOD Special Permit with consolidated WCOD Special Permit shall be sited, designed and sized to have minimal visual impact on nearby properties.

9.5.16 **Procedures.** The following procedures shall apply in the submission, review and consideration of any application for a FMUOD Special Permit.

9.5.16.1 **Pre-application Conference.** Applicants may elect to submit, prior to filing a special permit application, a preliminary application and sketch plan as the basis for preliminary discussion with the Planning Board, following which the Board shall provide non-binding guidance in regard to the development proposal. The Board may consult with other regulatory departments and committees in the formulation of its response. The sketch plan shall meet the submission requirements specified in the Rules and Regulations.

9.5.16.2 **Application and Submittal Requirements.** An application for a FMUOD Special Permit shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations. The application shall include all items and materials required pursuant to said rules and regulations, except to the extent waived by the Planning Board.

9.5.16.3 **Planning Board Review.** The Planning Board's review and consideration of an application for FMUOD Special Permit shall be in conformance with the Rules and Regulations.

9.5.16.4 **Public Hearing Required.** The Planning Board shall hold a public hearing within sixty (60) days of the filing date of said application and shall render a decision within one hundred and eighty (180) days from the date of the opening of the public hearing. Failure to take final action within the one hundred and eighty (180)-day period shall be deemed to be a constructive approval of the special permit, unless the applicant and the Planning Board execute a written extension agreement**.**

9.5.16.5 **Reimbursement for Consultants.** If the Planning Board determines the need to hire one or more consultants, engineers or attorneys in connection with the review and evaluation of the an application for a FMUOD Special Permit, it may do so, and all reasonable costs associated with the hiring of said consultant or consultants shall be reimbursed by the applicant, in accordance with Massachusetts General Law Chapter 53G, and in the manner specified in the Rules and Regulations. Each application pursuant to this Section shall contain an agreement by the applicant to that effect.

9.5.16.6 **Special Permit Decision.** A FMUOD Special Permit shall be granted by the Planning Board only upon its written determination that the beneficial effects of the project will outweigh any adverse impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the project in relation to that site, and that the uses allowed are in harmony with the general purpose and intent of this Section.

9.5.16.7 **Conditions.** A FMUOD Special Permit may be granted with such reasonable conditions, safeguards or limitations on design, time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of this Section.

9.5.16.8 **Performance Guarantee.** The Planning Board may require that the applicant provide a performance guarantee, in the form and amount required pursuant to the Rules and Regulations.

9.5.16.9 **Impact Mitigations.** Since approval of a FMUOD Special Permit authorizes substantial increases in permissible densities of population and employment, a condition of the FMUOD Special Permit shall be that the project shall mitigate some or all of the impacts of those density increases on water and sewer utilities, off-site traffic circulation, facilities, and schools through grants and incentives obtained from other agencies, or from contributions at the expense of the applicant.

9.5.16.10 **Non-Regulatory Agreements.** Development under a FMUOD Special Permit, in addition to compliance with provisions of this Section and other regulatory provisions, may involve memoranda of understanding or non-regulatory agreements reached between the Applicants and the Town, and possibly other entities. Said non-regulatory agreements shall be incorporated by reference and made part of a FMUOD Special Permit.

9.5.16.11 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for FMUOD Special Permits. Such fees shall be more particularly described in the Rules and Regulations.

9.5.16.12 **Special Permit Modification.** Once a FMUOD Special Permit has been granted by the Planning Board, any subsequent change which the Building Commissioner determines will substantially affect or alter the visual appearance of the project, or of any building facade or roof within the project, or will substantially affect or alter traffic flow, or will constitute a significant modification to the site plan, will be considered a major modification, and will require the submission of an application for amendment of the FMUOD Special Permit. Said application for amendment shall be considered in accordance with the same standards and procedures set forth in this Section for the approval of the original application. Any modification, which the Building Commissioner determines not to rise to the level of a major modification, shall be considered a minor modification, and may be authorized by a majority vote of the Planning Board. However, if the Planning Board in its review determines such modification to constitute a major modification, it shall require the submission of an application for amendment of the FMUOD Special Permit.

9.5.16.13 **Appeals.** Appeals to a court of competent jurisdiction may be taken by a person aggrieved by reason of their inability to obtain a permit under this Section. Such appeals shall be filed in court within twenty (20) days after the decision has been filed with the Town Clerk. Notice of such action with a copy of the complaint shall be filed with the Town Clerk within said twenty (20) days.

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9.5.16.14 **Lapse.** A FMUOD Special Permit shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant of the FMUOD Special Permit. The Planning Board may extend such approval, for good cause, upon the written request of the applicant pursuant to procedures established under the Rules and Regulations.

9.5.17 **Superseding Provisions.** In the event of any conflict between the provisions of this Section and other sections of the Zoning Bylaw, the provisions of this Section shall govern and control. Following the completion of construction of a project developed

pursuant to a FMUOD Special Permit granted under this Section, all requirements applicable to underlying zoning shall be superseded by the terms and conditions of the FMUOD Special Permit.

9.6 UPPER STORY RESIDENTIAL OVERLAY DISTRICT (USROD)

9.6.1 **Purpose.** The purpose of the Upper Story Residential Overlay District (USROD) is as follows:

9.6.1.1 to permit the most beneficial redevelopment and reuse of municipal buildings which are no longer required for municipal use;

9.6.1.2 to promote appropriate solutions to the redevelopment of existing buildings in the High Street area.

9.6.2 **Location.** The USROD is herein established as an overlay district. The USROD shall include all properties fronting on High Street, between Barlow Lane and Gay Street, which were improved with one or more buildings and were either municipally-owned as of January 1, 2011 or are municipally-owned at the time of application.

9.6.3 **Special Permit Granting Authority.** The Planning Board shall be the Special Permit Granting Authority for all USROD Special Permits.

9.6.4 **Special Permit Required.** Development under this Section requires a USROD Special Permit issued by the Planning Board in compliance with the provisions of this Section. Any special permits which may otherwise be required pursuant to this Bylaw shall be consolidated into the USROD Special Permit. Any Environmental Impact and Design Review (EIDR) approval otherwise required pursuant to Section 7.3 of this Bylaw shall be consolidated into a mandatory site plan approval component of the USROD Special Permit, and no separate EIDR Approval shall be required.

9.6.5 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the USROD may be used for any purpose permitted as of right or by special permit in the underlying district. In addition, one or more upper story dwelling units may be permitted to the extent authorized under a USROD Special Permit.

9.6.6 **Regulations.** Unless the Planning Board adopts specific rules and regulations for the administration of this Section, the Planning Board's General Special Permit Granting Authority Rules and Regulations shall apply (henceforth referred to as the "Rules and Regulations").

9.6.7 **Environmental Impact and Design Standards.** The standards set forth in Section 7.3.7 for EIDR shall be utilized by the Planning Board to review and evaluate all applications pursuant to this Section. Alterations and/or additions to existing buildings shall be

consistent with the historic architectural character of those existing buildings, and, where possible, shall be harmoniously related to nearby pre-existing structures.

9.6.8 **Parking Standards.** Developments proposed under this Section may provide fewer parking spaces than otherwise required under Section 6.1.2, Table of Parking Requirements, where in the determination of the Planning Board, proposed parking spaces are found to be sufficient to meet the needs of the development. Parking shall be primarily located such that parking spaces are not between the building and High Street.

9.6.9 **Procedures.** The following procedures shall apply in the submission, review and consideration of any application for a USROD Special Permit.

9.6.9.1 **Application and Submittal Requirements.** An application for a USROD Special Permit shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations. The application shall include all items and materials required pursuant to said rules and regulations, except to the extent waived by the Planning Board.

9.6.9.2 **Planning Board Review.** The Planning Board's review and consideration of an application for USROD Special Permit shall be in conformance with the Rules and Regulations.

9.6.9.4 **Reimbursement for Consultants.** If the Planning Board determines the need to hire one or more consultants, engineers or attorneys in connection with the review and evaluation of the an application for a USROD Special Permit, it may do so, and all reasonable costs associated with the hiring of said consultant or consultants shall be reimbursed by the applicant, in accordance with Massachusetts General Law Chapter 53G, and in the manner specified in the Rules and Regulations. Each application pursuant to this Section shall contain an agreement by the applicant to that effect.

9.6.9.5 **Special Permit Decision.** A USROD Special Permit shall be granted by the Planning Board only upon its written determination that the beneficial effects of the project will outweigh any adverse impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the project in relation to that site, and that the uses allowed are in harmony with the general purpose and intent of this Section.

9.6.9.6 **Conditions.** A USROD Special Permit may be granted with such reasonable conditions, safeguards or limitations on design, time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of this Section.

9.6.9.7 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for USROD Special Permits. Such fees shall be more particularly described in the Rules and Regulations.

9.7 UNIVERSITY AVENUE MIXED USE DISTRICT (UAMUD)

9.7.1 **Purpose**. The University Avenue Mixed Use District (UAMUD) is an overlay district established to encourage the development of mixed use projects in an area that provides proximate access to major highways and public transportation. The UAMUD provisions are intended to promote creative, efficient, and appropriate solutions for the development of complex sites, and facilitate the development of a mix of complementary land uses, including both residential and nonresidential development, that will address Town and regional interests in additional employment, housing, and tax revenue.

9.7.2 **Location**. The UAMUD boundary is as shown on a map of land entitled "University Avenue Mixed Use District," filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.

9.7.3 **Master Development Plan**. The project developed pursuant to this Section 9.7 must have a Master Development Plan adopted by a two-thirds vote of a town meeting in accordance with the procedures for adoption or change of zoning ordinances or by-laws set forth in M.G.L. Chapter 40A, section 5. As used in this Section 9.7, the term "UAMUD project" refers to the project that is depicted on this Master Development Plan, entitled "University Avenue Mixed Use District Master Development Plan," prepared by Tetra Tech, dated November 30, 2012, revised December 11, 2012, further revised March 22, 2013, the term "UAMUD project area" refers to the geographic area for the project delineated on the Master Development Plan, and the term "proponent" refers to the proponent or developer of the proposed UAMUD project or any phase or portion thereof.

9.7.3.1 **General Plan Requirements.** The package of Master Development Plan materials submitted for approval at Town Meeting shall include the following information, which shall be on file with the Town Clerk and available for review:

(a) The area of land proposed to be developed under this Section 9.7.

(b) A plan of existing conditions showing the topography and features, including wetlands and water bodies, if any, of the land to be developed, as well as the boundaries of the Water Resource Protection Overlay District (WRPOD) in relation to the land to be developed.

(c) Plans showing the location and width of the existing and proposed roads and ways that will serve the land to be developed, together with a description of the means by which the proposed roads and ways are to be laid out, including whether such roads and ways are to be created

through the Subdivision Control Law and/or as public ways to be laid out through town meeting approval.

(d) Bicycle and pedestrian pathways, including the expected circulation routes.

(e) A mix of complementary land uses, including both residential and nonresidential development.

(f) A summary plan showing the location of permissible building areas, with the following indicated for each: designated Use Type(s), as defined in Section 9.7.3.4; maximum building height for buildings in each development area (i.e., each area restricted to certain Use Types as identified on the plan); maximum floor area ratio (FAR) for the overall development; a schedule showing the overall number of parking spaces to be provided for the development, subject to adjustment based upon use changes and tenancy requirements; and aggregate maximum developable gross floor area and unit count, as applicable, for each use category for the entire UAMUD project.

(g) The location, size, and designated use of dedicated open space, recreational, and buffer areas, including the general nature of the proposed buffer.

(h) Illustrated descriptions of amenities and design features, such as streetscape improvements, landscaping, and signage, to be included as part of the proposed development.

(i) Illustrations of the general architecture of the proposed structures. For structures located within 300 feet of residentially-zoned areas, the illustrations must show the height of the proposed structures in relation to surrounding buildings and topography.

(j) Accompanying technical reports and studies, consisting of a (i) stormwater and drainage report, (ii) fiscal impact study (including the impact on tax revenue of the proposed mix of commercial and residential uses), (iii) traffic study, (iv) noise study, and (v) utilities report.

(k) A summary of the proposed mitigation and traffic improvements, including concept plans for proposed offsite mitigation, exactions, financial contributions, easements, land grants, alternative affordable housing arrangements, if applicable, and other items to be addressed through the Development Agreement required to be entered into with the Town.

9.7.3.2 **Core Development Area Requirements.** The Master Development Plan shall delineate a Core Development Area (CDA), which shall include

Open Space Uses in addition to Retail/Service Uses and other Use Types, as defined in Section 9.7.3.4 below. With respect to the CDA, the Master Development Plan submittals shall show the following additional details:

(a) The location of the CDA, together with the location of buildings within that area.

(b) A narrative describing all significant details of the CDA.

(c) The layout of parking, loading, and landscaped areas, and pedestrian and bicycle paths.

(d) Roadway, drainage and utility infrastructure servicing the CDA.

(e) Architectural elevations or perspectives of all buildings and parking structures.

(f) With respect to any proposed residential development, (i) the location of residential building(s), (ii) the total number of units allocated by bedroom type in each residential building, (iii) the number of Affordable Housing units in each residential building, and (iv) the number of dwelling units designed for inclusion on the Massachusetts Department of Community Development (DHCD) Subsidized Housing Inventory.

(g) The FAR of the CDA.

(h) A description of the anticipated use(s) of each building within the CDA, including identification of any anticipated uses that would require a special permit, which shall be provided for informational purposes only.

(i) Documentation, including, without limitation, plans, letters, and/or memoranda, that any proposed work within the WRPOD complies with the requirements of Section 9.7.5.

(j) An initial estimated development timeline for the CDA, which shall be provided for informational purposes only.

(k) A list of the sustainable development measures to be included in the project.

(l) The titles and dates of all submittals intended to satisfy the requirements of this Section 9.7.3.2.

9.7.3.3 **Additional Details for Non-CDA Areas.** To the extent available, the Master Development Plan shall include the type of details required for the

CDA pursuant Section 9.7.3.2 for the non-CDA portions of the Master Development Plan.

9.7.3.4 **Use Types.** For the purposes of this Section 9.7, the UAMUD Use Types set forth below shall be established and identified on the Master Development Plan where applicable. Multiple Use Types may be contained within a single building or structure or on a single lot.

9.7.3.4.1 **Retail/Service Use Type.** Includes uses that involve the sale of goods and/or provision of services to the public, which uses are typically found in a shopping center or mixed-used development with a retail component.

9.7.3.4.2 **Restaurant/Entertainment Use Type.** Includes uses that involve preparation, service, and sale of meals for consumption by the public and/or that otherwise provide recreational or entertainment opportunities to the public.

9.7.3.4.3 **Office/R&D Use Type.** Includes uses that involve the provision of office space to individuals and businesses, including businesses that are involved in research and development, which uses are typically found in an office building or mixed-used development with an office component.

9.7.3.4.4 **Hotel/Commercial Lodging Use Type.** Includes commercially-oriented lodging and senior living uses, such as conventional and extended-stay hotels, assisted living, memory care and nursing or convalescent facilities (including hospice care).

9.7.3.4.5 **Residential Use Type.** Includes multi-family dwellings.

9.7.3.4.6 **Municipal Use Type.** Includes all facilities that are owned or operated by or for benefit of the Town of Westwood or other governmental authority.

9.7.3.4.7 **Open Space Use Type.** Includes all green, landscaped, and open space areas, wellhead protection areas, and stormwater management areas designed to serve stormwater control, recreational, buffering and/or open space purposes. Such areas may include, without limitation, underground utilities, stormwater control infrastructure, and sidewalks and paths to be used for pedestrian and/or bicycle circulation and/or active or passive recreation.

9.7.4 **Permitted Uses**. The land and buildings shown on an approved Master Development Plan may be used for any use permitted as of right or by special permit as set forth below, provided that the use is located in an area where the applicable Use Type is designated on the Master Development Plan (subject to the exceptions identified below as being allowed anywhere on the Master Development Plan). Multiple uses may be contained within a single building or structure or on a single lot, provided that each such use is either permitted by right or has been granted a special permit where required by this Section 9.7.4.

9.7.4.1 **Principal Uses Permitted By Right**

9.7.4.1.1 **Retail/Service Use Type**. See Section 9.7.3.4.1

a. Bank or Financial Institution, including Drive-Through Service
b. Business Services Establishment
c. General Services Establishment
d. Personal Services Establishment
e. Professional Services Establishment
f. Printing/copy/publishing establishment
g. Retail sales and services establishment, including pharmacy with Drive-Through Service

9.7.4.1.2 **Restaurant/Entertainment Use Type**. See Section 9.7.3.4.2

a. Coffee Shop, which may include Drive-Through Service, provided that any Coffee Shop located in Development Area A, as shown on the Master Development Plan, shall be accessory to, and located within the same building as, an Office/R&D Use.
b. Fast Order Restaurant, provided that any Fast Order Restaurant located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.
c. Fitness or Health Club, provided that any Fitness or Health Club with an outdoor recreation component shall be located solely within Development Area C.
d. Ice Cream Parlor, provided that any Ice Cream Parlor located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.
e. Restaurant with or without entertainment, less than 10,000 square feet, provided that any Restaurant less than 10,000 square feet located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.

9.7.4.1.3 **Office/R&D Use Type**. See Section 9.7.3.4.3

a. Business Services Establishment
b. Data Storage Facility
c. Educational Use, Non-Exempt
d. General Office
e. Medical Center or Clinic
f. Office of Health Care Professional
g. Professional Services Establishment
h. Research and Development

9.7.4.1.4 **Hotel/Commercial Lodging Use Type**. See Section 9.7.3.4.4

a. Assisted Living Residence
b. Memory Care Facility
c. Motel or Hotel
d. Nursing or Convalescent Home (including hospice care)

9.7.4.1.5 **Residential Use Type**. See Section 9.7.3.4.5

a. Multi-Family Dwelling in accordance with Section 9.7.4.5, Residential Use Requirements, provided that no more than 350 units total are permitted without a special permit.

9.7.4.1.6 **Municipal Use Type**. See Section 9.7.3.4.6

a. Municipal Facilities

9.7.4.1.7 **Uses Allowed Anywhere on the Master Development Plan**

a. Commercial Parking Garage
b. Child Care Facility
c. Cultural Facility
d. Educational Use, Exempt
e. Essential Services
f. Shuttle Service

9.7.4.2 **Uses Permitted By Special Permit**

9.7.4.2.1 **Retail/Service Use Type**. See Section 9.7.3.4.1

a. Drive-Through Service, unless identified in Section 9.7.4.1, provided that the later addition of Drive-Through Service to a Bank or Financial Institution, a pharmacy, or a Coffee Shop shall require Project Development Review pursuant to Section 9.7.12.2.2 of this Bylaw if the building containing such use was not originally built so as to provide Drive-Through Service.

9.7.4.2.2 **Residential Use Type**. See Section 9.7.3.4.5

a. Multi-family Dwelling in accordance with Section 9.7.4.5, Residential Use Requirements.

9.7.4.2.3 **<u>Restaurant/Entertainment Use Type</u>**. See Section 9.7.3.4.2

a. Restaurant with or without entertainment, 10,000 square feet or more
b. Commercial Recreation, Indoor, except for Fitness or Health Club, which is allowed by right pursuant to Section 9.7.4.1.2.c. Such uses include, but are not limited to, movie theater, music venue, bowling alley, and other entertainment uses that are not accessory to a use permitted by right.
c. Commercial Recreation, Outdoor

Notwithstanding any other provision of this Zoning Bylaw, the Planning Board shall be the special permit granting authority for all uses set forth above.

9.7.4.3 **Prohibited Uses**

Any use(s) not expressly allowed pursuant to Sections 9.7.4.1 or 9.7.4.2 shall be prohibited unless the Building Commissioner, in consultation with the Town Planner, determines that a proposed use is substantially similar in both its characteristics and its impact on abutting properties to either a use listed as permitted by right or a use listed as permitted by special permit, and provided further that if the use is substantially similar to a use listed as permitted by special permit, a special permit shall be required, and the Planning Board shall be the special permit granting authority. Prohibited uses include, but are not limited to, the following uses.

9.7.4.3.1 Earth removal or mining operations, except for site work and excavation activity in connection with the construction of buildings and structures, including building pads, roadway construction, or the installation of utilities or other development infrastructure
9.7.4.3.2 Junkyard or Automobile Graveyard
9.7.4.3.3 Landfills and open dumps, as defined in 310 CMR 19.006
9.7.4.3.4 Landfilling of sludge and septage
9.7.4.3.5 Light Manufacturing
9.7.4.3.6 Manufacturing
9.7.4.3.7 Motor Vehicle General Repairs and Body Repair
9.7.4.3.8 Motor Vehicle Light Service
9.7.4.3.9 Motor vehicle sales and rentals; motor vehicle general and body repairs; motor vehicle light service
9.7.4.3.10 Self-Storage or Mini-Storage Facilities

9.7.4.3.11 Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice which has been removed from roadways located outside of the UAMUD project area

9.7.4.3.12 Warehouse, wholesale, or distribution facility with or without outdoor storage, provided that warehouse-type retail sales and home improvement stores are a permitted Retail/Service Use Type. An existing warehouse, Light Manufacturing, wholesale, or distribution facility within the UAMUD project area that is in existence as of the date of adoption of this Section 9.7 is an allowed use, provided that any expansion of the building containing this use requires a special permit issued by the Planning Board pursuant to Section 10.3, Special Permits.

9.7.4.4 **Accessory Uses**. Any use that is incidental to, or customarily used in connection with, any principal use permitted within the UAMUD project shall be permitted as an accessory use, provided that such use would not be prohibited within the UAMUD project as a principal use. Without limiting the foregoing, the following accessory uses shall be permitted:

9.7.4.4.1 **Accessory Uses Permitted By Right**

a. Outdoor display, storage, sales, and seating, provided that the requirements of Section 9.7.7.3 are met
b. Automated Teller Machines (ATMs)
c. Sales, service, and installation of mobile automotive audio provided in connection with a principal retail use
d. Medical Center or Clinic in connection with a principal retail use
e. Pet grooming, veterinary services, and boarding provided in connection with a principal retail use
f. Retail Take-Out Counter
g. Uses within an office building that support office uses, including, without limitation, health and fitness centers, restaurants/cafeterias, dry cleaner drop-off service, and small-scale retail stores

9.7.4.4.2 **Accessory Uses Permitted By Special Permit**

a. Within the area off Harvard Street shown as Development Area C on the Master Development Plan, and upon the issuance of a special permit by the Planning Board pursuant to Section 10.3, Special Permits, sales and installation of automotive tires, batteries, and similar accessories provided in connection with a principal retail use, provided that no general repair of automobiles, including body work and

oil/lubrication services, shall be permitted; provided further that, if such accessory automotive use is located within the WRPOD, then the applicable special permit shall be issued pursuant to Section 9.3, with the Planning Board designated as the special permit granting authority.

b. Storage of calcium chloride, chemically treated abrasives or other chemicals, but not sodium chloride, solely to be used for the removal of snow or ice on the roadways, walkways, or parking lots within the UAMUD project area, provided that these chemicals are stored in a structure with an impermeable cover and impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

c. With the exception of (i) outdoor commercial recreation and (ii) entertainment accessory to restaurant of less than 10,000 square feet, any accessory use that would require a special permit if conducted as a primary use shall also require a special permit if conducted as an accessory use.

Notwithstanding any other provision of this Zoning Bylaw, the Planning Board shall be the special permit granting authority for all accessory uses set forth above.

9.7.4.4.3 **Accessory Use Not Located on the Same Lot as Principal Use.** An accessory use may be located on a different lot from its associated principle use provided that the accessory use remains reasonably proximate to the principal use. The location of an accessory use on a different lot than the principal use shall require the Planning Board's determination, at an administrative meeting, that such accessory use is generally compatible with the surrounding development area.

9.7.4.5 **Residential Use Requirements**. All residential components of a UAMUD project shall comply with the below provisions. Except as provided in Section 9.7.4.5.3.b below, for purposes of this Section 9.7.4.5, an Assisted Living Residence, Memory Care Facility, and Nursing or Convalescent Home shall not be considered a residential component, with the exception of any such facilities that are independent dwelling units because they have independent kitchens and bathrooms or any such facilities that contain multiple independent dwelling units within one structure.

9.7.4.5.1 **Dwelling Units.** The aggregate of all residential components shall not exceed a maximum of 650 dwelling units. A maximum of 350 dwelling units shall be allowed by right. Any dwelling units above the 350 dwelling units allowed by right shall require a special permit from the Planning Board pursuant to Section 9.7.4.5.4.

9.7.4.5.2 **Design**. All residential components shall be appropriately integrated with the overall development through the use of sidewalks, crosswalks, and other pedestrian connections, and shall be of a scale and character that both enhances and complements the overall development and ensures the advancement of smart growth initiatives so as to enable safe, attractive, and comfortable access and travel for all users, including pedestrians, bicyclists, motorists and public transport users of all ages and abilities.

9.7.4.5.3 **Affordable Housing**. All of the following requirements for affordable housing must be satisfied:

a. Of the three hundred and fifty (350) residential units allowed by right in the CDA, a minimum of two hundred and twenty-one (221) units plus ten percent (10%) of all units in excess of two hundred and twenty-one (221), rounded up to the next whole number, must, in the determination of the Planning Board, be designed for inclusion on the DHCD Subsidized Housing Inventory and remain affordable in perpetuity.

b. A minimum of ten percent (10%) of total dwelling units in excess of the 350 dwelling units allowed by right, if any, rounded up to the next whole number, must be Affordable Housing units and remain affordable in perpetuity. In addition, if the units within any Assisted Living Residence, Memory Care Facility, or Nursing or Convalescent Home are included in the Town's total number of housing units on the DHCD Subsidized Housing Inventory, then ten percent (10%) of these units shall be Affordable Housing units, unless the proponent satisfies the alternative requirements provided in Section 9.7.4.5.3.c below.

c. In the alternative to Section 9.7.4.5.3.b above, for each Affordable Housing unit required but not included within the UAMUD project, the Planning Board, in its discretion, may allow the proponent: (i) to provide an Affordable Housing unit at an off-site location; or (ii) to

make a payment to the Town's Affordable Housing Trust Fund in an amount that the Planning Board determines adequate to offset the lack of the Affordable Housing unit within the UAMUD project area.

d. All Affordable Housing units provided under this Section 9.7.4.5.3 must be permanently encumbered so as to be maintained as Affordable Housing units in perpetuity.

9.7.4.5.4 **The Special Permit Requirement**. Development of dwelling units above the initial 350 dwelling units requires a special permit to be issued by the Planning Board pursuant to this Section 9.7.4.5.4. No special permit for such additional residential development shall be issued until at least 60% of the initial 350 dwelling units have been occupied.

a. **Application and Administrative Requirements**. The requirements of Sections 10.3.2 and 10.3.4 through 10.3.9 of this Bylaw shall apply to any special permit required under this section provided that the Planning Board shall have the discretion to waive applicable filing requirements based upon information already provided to the Planning Board in connection with prior UAMUD project reviews.

b. **Decision**. A special permit shall be granted by the Planning Board only upon its written determination that the adverse effects of the proposed residential component will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In making this determination, the Planning Board may make such findings as are deemed relevant by the board for consideration of the potential adverse effects and beneficial impacts associated with a particular project. However, no special permit shall be granted unless the board finds, at a minimum, that:

1. The residential use is physically and functionally integrated with surrounding uses and provides appropriate access to public transportation infrastructure.

2. The residential use is one component of a larger, coherent plan for a project component in which it shares public spaces, amenities, and pedestrian circulation.

3. The residential use is part of, supports, or complements a predominantly nonresidential project component.

4. The dwelling units diversify the housing choices within the UAMUD project area and the community.

5. With the inclusion of the residential component, the overall UAMUD project still results in net fiscal benefits to the Town, and the proponent has adequately mitigated any adverse fiscal impacts of the proposed residential use.

6. The residential use adequately accommodates and addresses traffic flow and safety, is adequately serviced by utilities and other public services, and does not pose unacceptable and unmitigated impacts on the environment.

7. The residential use meets the affordable housing requirements of Section 9.7.4.5.3.

9.7.4.6 **Determination of Permitted Uses.** All individual uses shall be subject to the requirements of Sections 9.7.4, including special permit requirements where applicable. In the event of an uncertainty as to whether an individual use is included within a Use Type set forth in Section 9.7.3.4, which Use Type is specified as a Permitted Use Type for the relevant section of the Master Development Plan, the Building Commissioner, after consultation with the Town Planner, shall make a determination as to whether such use is appropriately included.

9.7.5 **Water Resources Protection Overlay District (WRPOD) Requirements**

9.7.5.1 **Special Permit Granting Authority.** Except as provided in Section 9.7.5.2 below, any use allowed pursuant to Section 9.7.4 shall, if located within the WRPOD, satisfy the requirements of Section 9.3 of this Bylaw. Where a WRPOD special permit is required under the provisions of this section, the Planning Board shall be the special permit granting authority, and the requirements of Sections 9.3.8 through 9.3.12 shall apply to such special permits, except that all references to the Board of Appeals in those sections shall, for purposes of this provision, be deemed references to the Planning Board.

9.7.5.2 **WRPOD Standards and Requirements**. To the extent the requirements of Section 9.3, Water Resource Protection Overlay District (WRPOD), are inconsistent with the requirements of this Section 9.7.5.2, the requirements of this section shall govern a UAMUD project.

9.7.5.2.1 **Storage.** The following storage uses shall not require a special permit pursuant to Section 9.3.5 or be subject to the requirements of Section 9.3.7.5, unless expressly stated

otherwise, provided that they satisfy the general requirements of Section 9.7.5.2.10.

a. Hazardous Materials. The storage of Hazardous Materials in greater than household quantities solely for sale at the same retail store where these materials are stored. For purposes of this provision, Hazardous Materials shall include liquid petroleum products packaged for consumer use.

b. Liquid Petroleum Products. The storage of liquid petroleum products solely for use in an emergency or back-up generator. In addition, liquid petroleum products in the fuel tanks of vehicles parked in parking structures or on lots within the UAMUD project area shall not be considered the storage of liquid petroleum products pursuant to Section 9.3.5.2 or the storage of hazardous materials pursuant to Section 9.3.7.5.

c. Commercial Fertilizers. Storage of commercial fertilizers and soil conditioners solely for sale at the same retail store where these materials are stored.

d. Snow or Ice Removal Chemicals. Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice solely for sale at the same retail store where these materials are stored.

9.7.5.2.2 **Construction-Related Excavation**. The removal of soil, loam, sand, gravel or any other mineral substances for excavation for construction-related activities in conformance with approved plans, including the construction of roadways, utilities, and other infrastructure, shall be permitted by right and shall not be restricted in any way by Section 9.3.6.6.

9.7.5.2.3 **Minimum Lot Area.** Minimum lot area for a lot within the WRPOD shall be the minimum lot area required in Section 9.7.7.1.

9.7.5.2.4 **Drainage**. The requirements for the recharge of storm drainage may be met across the aggregate of all land within the UAMUD project area, but do not have to be met on each individual lot. All drainage shall meet the stormwater management standards adopted by the Massachusetts

Department of Environmental Protection (DEP). The WRPOD is a "critical area" under these standards.

9.7.5.2.5 **Vegetation.** No less than twenty percent (20%) of the overall UAMUD project area shall be maintained as a green or vegetated area. Such green or vegetated area may be provided (a) within the UAMUD project area and/or (b) within areas outside such UAMUD project area, but within the UAMUD, that are or will be subject to a recorded easement, restriction or covenant, or other instrument deemed appropriate by the Planning Board.

9.7.5.2.6 **Impervious Areas.** If a UAMUD project includes areas both within and outside of the WRPOD, then all stormwater runoff from buildings shall be directed to recharge systems anywhere within the UAMUD project area, in accordance with applicable DEP regulations, and all other runoff shall be required to comply with the stormwater management standards adopted by DEP.

9.7.5.2.7 **Public Water Supply**. The location and use of new buildings, structures, parking areas, disposal facilities, point source discharges, and other infrastructure within the Zone I area that extends outward in a 400-foot radius from any public water supply well shall be reviewed and approved as part of the approval of the Master Development Plan and, to the extent outside of the CDA, as part of Project Development Review pursuant to Section 9.7.12.2.2 of this Bylaw and shall not require a special permit pursuant to Section 9.3.5; provided that the Planning Board may, in its discretion, require a special permit pursuant to Section 9.3.5 if it determines that any changes to the approved Master Development Plan within the Zone I area may pose material adverse impacts to water quality. A special permit shall not be required for minor adjustments in the location and configuration of the buildings, parking areas and other site features which are considered de minimis by the Building Commissioner.

Within the Zone I area, the following limitations shall apply. To the extent that any other provisions of the Bylaw are inconsistent with the limitations set forth below, the limitations set forth below shall control.

a. No portion of a building containing a home improvement store or any retail use that will store or sell toxic or hazardous materials regulated under

Section 9.3 of the Zoning Bylaw on substantially the same scale as, or in similar quantity to, a home improvement store shall be located within the Zone I area.

b. No fertilizers, herbicides, or insecticides shall be used within the Zone I area, except for organic and/or low-phosphorous alternatives that are appropriate for use in sensitive areas and have been approved in writing by the Town Planner after consultation with the Dedham Westwood Water District.

c. Any commercial dumpsters or commercial compactors located outdoors within the Zone I shall have an impermeable lid or cover integral to the dumpster or compactor itself and shall be located on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

d. Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals is prohibited within the Zone I area.

e. No emergency or back-up generators, nor storage of liquid petroleum products for use in an emergency or back-up generator, shall be located within the Zone I area.

9.7.5.2.8 **Storage and Use of Snow Removal Materials.** Within any portion of the UAMUD project area within the WRPOD, the storage of calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roadways, but not sodium chloride, may be allowed by special permit, consistent with Section 9.7.4.4.2.b, provided that these chemicals are stored in a structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water. In addition, only calcium chloride shall be used in such areas, provided that the Town Planner, after consultation with the Dedham Westwood Water District, may approve in writing the use

of a snow removal agent shown to be less harmful to the environment.

9.7.5.2.9 **Wastewater**. All UAMUD uses located within the WRPOD requiring wastewater disposal shall be connected to a public sewer system or be served by a local area or on-site treatment facility approved by the Planning Board by special permit pursuant to Section 10.3, Special Permits.

9.7.5.2.10 **General Requirements within the WRPOD**

a. Hazardous Materials, commercial fertilizers and soil conditioners, and sodium chloride, calcium chloride, chemically treated abrasives or other chemicals offered for sale at a retail store must be individually packaged in household quantities within covered, leak-proof containers designed for consumer purchase and use. Except as provided in subsection (b) below, such retail containers must be stored above-ground within a fully-enclosed structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

b. Commercial fertilizers and soil conditioners offered for sale may be stored within the garden center or similar section of a home improvement store or similar retail operation, provided that they are sited in a structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

c. Liquid petroleum products used for emergency or back-up generators must comply with Section 9.3.7.5, Storage of Hazardous Materials.

d. Any home improvement store, and any retail use that will store or sell toxic or hazardous materials regulated under Section 9.3 on substantially the same scale as, or in similar quantity to, a home improvement store, shall file with the Building Commissioner a Spill Prevention and Contingency Plan to prevent, contain, and control the spill of oil

and/or hazardous materials. Any such store shall also (a) maintain an emergency services agreement with a licensed hazardous materials clean-up contractor to respond to a release at a store location, including any loading dock or outdoor loading area associated with the store location, and (b) ensure that its employees receive such hazardous material training as is required by law.

e. All loading docks shall be fully sealed so that loading and unloading activities occur within the applicable building. Loading dock areas shall benefit from a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water, to include catch basins with oil/gas/sand interceptors providing at least 200 gallons of storage. Shut-off valves on proposed drain lines must be accessible above ground, clearly labeled, properly maintained, and located so as to prevent accidental damage. Spill response requirements must be posted within the loading dock. Employees using the loading dock shall receive training in the use of shut-off valves and the containment of spills.

9.7.5.2.11 **Building Commissioner Review**. Prior to issuance of a Certificate of Occupancy for any use subject to this Section 9.7.5, the Building Commissioner shall review and confirm compliance with the foregoing standards and requirements. Nothing in this provision shall preclude the Planning Board from reviewing compliance with these standards and requirements as part of its Project Development Review.

9.7.6 **Protection of Existing Uses**. Except for existing warehouse uses as provided in Section 9.7.4.3.12, the requirements of this Section 9.7 shall not apply to any existing building(s) within the Master Development Plan project area unless such building(s) are redeveloped, expanded, or changed in use as part of the UAMUD project, and such existing buildings and the existing use(s) thereof shall be treated as nonconforming uses and structures in accordance with Section 4.5, Nonconforming Uses and Structures.

9.7.7 **Dimensional Standards and Requirements**. The alternative dimensional and other requirements set forth in this Section 9.7.7 shall be used for a UAMUD project rather than the requirements provided elsewhere in this Bylaw, including, without limitation: Section 5.2, Table of Dimensional Requirements; Section 5.3, Notes for Table of Dimensional Requirements; Section 5.4, Height Regulations; Section 5.5.4, Corner Clearance; Section 5.5.5, Uses within Setbacks; Section 5.5.6, Creation of Ways; Section

6.3.2, Buffer Areas in Nonresidential Districts; Section 6.3.9, Screening Standards; Section 6.5, Floor Area Ratio Limitation; and Section 7.1, Earth Material Movement.

9.7.7.1 **Table of Dimensional Requirements**

Minimum Lot Area	15,000 square feet
Maximum Building Height ^ *	
Development Area A+	70 feet
Development Area B	80 feet
Development Area C	60 feet
Development Area D	60 feet
Core Development Area 1	60 feet
Core Development Area 2	70 feet
Core Development Area 3	60 feet
Core Development Area 4	60 feet
Maximum Floor Area Ratio**	1.0

^ In no event shall the height of a building exceed one hundred seventy-eight and one-half (178½) feet above the North American Vertical Datum of 1988 (NAVD88).

* Unoccupied mechanical features such as chimneys, clock towers, ventilators, skylights, tanks, bulkheads, penthouses, antennae, green energy infrastructure, rooftop screening elements, and functional, decorative, or architectural features carried above the roof line are exempted from the limitations on building height provided they do not collectively cover more than thirty percent (30%) of the roof area of the building, provided that no such features exceed one hundred seventy-eight and one-half (178½) feet above NAVD88. Upon issuance of a special permit by the Planning Board pursuant to Section 10.3, Special Permits, an increase in building height to a maximum of 120 feet shall be permitted in the development area located to the south/east of University Avenue, identified as Development Area B on the

Master Development Plan, provided that no building, including unoccupied mechanical structures, shall exceed one hundred seventy-eight and one-half (178½) feet above NAVD88.

+ Development Areas and Core Development Areas are shown on the Master Development Plan.

** The floor area ratio on individual lots within the UAMUD project area may exceed the limits set forth herein, provided that the aggregate FAR of all lots in the overall UAMUD project otherwise complies with such limit.

9.7.7.2 The buffer and screening requirements set forth in Sections 6.3.2 through 6.3.10 of this Bylaw shall not apply. Instead, wherever the UAMUD project area abuts or is within twenty (20) feet of the boundary line of any Residential District, there shall be a buffer area with a minimum width of one hundred (100) feet. Said buffer area may include streets, access drives, and other means of public access comprising no more than ten percent (10%) of the applicable buffer area, and shall be used to minimize visual impact on any adjacent residential uses through the use of plantings, berms, and/or fencing, or alternatively may be developed as a publicly accessible open space area with walkways and other opportunities for passive recreation.

9.7.7.3 Outdoor seating for retail use, restaurants, and other uses shall not be subject to Section 6.3.1, Enclosure Requirements in Highway Business and Industrial Districts. However, the following standards shall apply to all outdoor seating, sales, and display areas within a UAMUD project:

(a) In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.

(b) Such areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures.

(c) Outdoor sales and display areas shall be maintained in a neat and orderly condition at all times.

All proposed outdoor seating, sales, and display areas within an UAMUD project must be approved in writing in advance by the Building Commissioner and, once implemented, shall be reconfigured upon the order of the Building Commissioner as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

9.7.7.4 More than one (1) building shall be permitted on any lot.

9.7.7.5 The owner of any lot shown on the approved Master Development Plan shall be entitled to lawfully divide such lot, including without limitation by virtue of plans endorsed by the Planning Board pursuant to M.G.L. Chapter 41, section 81P, without modifying the approved Master Development Plan and without the need for other approvals under this Bylaw, provided that any such lot must have minimum frontage of 50 feet at the street line. To the extent consistent with the Subdivision Control Law, M.G.L. Chapter 41, section 81K, et seq., lots within an approved UAMUD project may be separated by a public or private way.

9.7.7.6 Except where otherwise expressly provided in this Section 9.7.7, all dimensional requirements applicable to a UAMUD project shall be calculated across the entire UAMUD project area, irrespective of individual lot lines within the UAMUD development. Consistent with typical site configurations for larger, complex mixed-use developments, individual buildings within the UAMUD development may be located immediately adjacent to individual lot line boundaries. Without limiting the foregoing, there shall be no minimum corner clearance, lot width, setback requirements, minimum non-wetland area, maximum building coverage, maximum impervious surface, or lot coverage requirements for a project developed under this Section 9.7, provided that a minimum setback and corner clearance may be required by the Planning Board to preserve acceptable sightlines for traffic safety.

9.7.8 **Parking and Loading**. The alternative parking requirements set forth in this Section 9.7.8 shall be used for a UAMUD project rather than the requirements applicable to the underlying district as provided under applicable Planning Board regulations and/or elsewhere in this Bylaw, including, without limitation, Sections 6.1.1 through 6.1.26.

9.7.8.1 Expected parking requirements for the UAMUD project shall be as set forth on a schedule included with the Master Development Plan (the "Parking Schedule"), rather than by reference to Section 6.1.2. The number of parking spaces within a UAMUD project or any portion thereof shall be approved by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a Project Development Review (PDR) Approval, as defined in Section 9.7.12.2.2, as applicable, and the actual aggregate number of spaces approved by the Planning Board may vary from the Parking Schedule. The number of spaces contained within the UAMUD project may change from time to time, based upon changes in use and tenant requirements. Such adjustments in spaces may be accomplished without the need for further Planning Board review or approval, unless on-site parking has been deemed inadequate by the Building Commissioner. Such parking shall be deemed inadequate if the on-site parking area is often substantially full and there is frequent parking of vehicles in access drives or on streets within or near the UAMUD project area. In such case the Planning Board shall review the issues at an administrative meeting and determine whether to require PDR Approval for parking modifications.

9.7.8.2 If accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a PDR Approval, as defined in Section 9.7.12.2.2, for other phases or areas shown on the Master Development Plan, shared off-street parking arrangements, which may include structured parking, shall be permitted and may be located on contiguous lots or on separate lots that are within the UAMUD Project area.

9.7.8.3 There shall be no minimum parking setback requirements as required in Section 6.1.18 except at any boundary line at the perimeter of the overall Master Development Plan area. The number of entrances and exits shall be the minimum necessary for safe and efficient traffic circulation.

9.7.8.4 Parking lot landscaping, both internal and perimeter, for a UAMUD project shall be substantially as shown on the approved Master Development Plan and as accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a PDR Approval, as defined in Section 9.7.12.2.2. Where provided, trees shall be spaced, on average, not more than twenty-seven (27) feet on center.

9.7.8.5 Parking may be provided through any combination of at grade, on street, and/or structured parking facilities, both stand-alone and part of other buildings. Parking for cars and bicycles shall be as accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a PDR Approval, as defined in Section 9.7.12.2.2. Bicycle racks for parking shall comply with standards adopted by the Planning Board in the Rules and Regulations promulgated under this Section 9.7.

9.7.8.6 Sidewalks or multipurpose pedestrian ways and facilities shall connect each parking lot or facility to buildings, public spaces, or other destination points within the development.

9.7.8.7 Adequate loading areas shall be provided for all businesses and other applicable uses containing more than ten thousand (10,000) square feet of net floor area. When exclusive loading areas are provided, such areas shall be designed so as to have unobstructed access and shall be configured so that no trucks or other vehicles are parked on a public street while loading or unloading, or while waiting to load or unload.

9.7.9 **Transportation Demand Management (TDM).** A TDM program, satisfactory to the Planning Board, shall be provided, including the following:

(a) The appointment of a TDM Coordinator for the project, or separate TDM Coordinators for individual components of the project;

(b) The submission of a TDM plan for the project, or separate TDM plans for individual components of the project, to include programs and techniques designed to reduce single-occupancy vehicle use, and to facilitate the use of

alternative means of transportation, and which may include membership in the Neponset Valley Transportation Management Association or its successor, or a similar organization approved by the Planning Board.

9.7.10 **Signage**. The alternative sign requirements set forth in this Section 9.7.10 shall be used for a UAMUD project rather than the signage requirements applicable to the underlying district as provided elsewhere in this Bylaw.

9.7.10.1 **Definitions.** For the purposes of these alternate sign requirements, the following terms shall be defined as indicated below:

9.7.10.1.1 **Awning Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations painted on, incorporated into, or affixed to any fixed or retractable device, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or similar area or space.

9.7.10.1.2 **Development Identification Sign.** A sign or group of signs clustered together as a single compositional unit which identifies a development, and may also identify individual business establishments within that development.

9.7.10.1.3 **Directional Sign.** A sign providing pedestrian and/or vehicular traffic instruction, and/or restrictions on the use of parking or travel areas. "No Parking", "One Way", "No Outlet", and "Do Not Enter" are examples of directional signs.

9.7.10.1.4 **Directory Sign.** A listing and/or graphic representation of individual business establishments and other uses within a development or portion of a development.

9.7.10.1.5 **Facade.** The exterior surface of a building wall facing a street, internal drive, or pedestrian and/or vehicular access way, which wall corresponds to the height and width of the interior space owned or leased by the occupant of the building.

9.7.10.1.6 **Projecting Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations which is attached to or suspended from a building or structure such that any part of said sign extends more than eight (8) inches from the wall surface of that building or structure.

9.7.10.1.7 **Special Event.** A charitable, nonprofit or civic event, which event may include an open house, registration or similar event associated with a charitable, nonprofit or civic organization.

9.7.10.1.8 **Temporary Construction Sign.** A sign at a specific development site currently under construction which identifies the name of the development, and may include the names and addresses of the contractor, architect, landscape architect, and project engineer, and other pertinent information. For purposes of this definition, individual developments within the master development plan project site may be considered specific development sites, even if such developments consist of more than one individual business establishment, but the entire master development plan project site shall not be considered a specific development site.

9.7.10.1.9 **Wall Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations painted on, incorporated into, or affixed parallel to the wall of a building or structure and which extends not more than eight (8) inches from the wall surface of that building or structure.

9.7.10.1.10 **Way Finding Sign.** A sign providing instructions for circulation throughout a development, including direction to individual business establishments and parking areas related to said business establishments. "Retail Center Parking", "Shuttle Bus Stop Ahead", "Exit to Providence Highway", "Additional Parking in Rear" are examples of way finding signs.

9.7.10.1.11 **Window Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations painted on, incorporated into, or affixed to either side of the glass surface of a window or door, or designed to be visible from the exterior of a building or structure and located within five (5) feet of the interior side of such glass surface.

9.7.10.1.12 **Window Screening Display.** Graphic or display which is intended to reduce visual access to the interior of an establishment.

9.7.10.2 **Development Identification Sign**. A UAMUD project shall be allowed to install and maintain development identification signs in the vicinity of

each substantial gateway(s) or entrance(s) to the project from neighboring streets, which signs may be installed at on-site and/or off-site locations. Such development identification sign may include the name and/or logo of the development project, as well as the names and/or logos of any occupants within the development. Development identification signs may have two (2) faces, each of which shall not exceed two hundred (200) square feet of copy area, excluding frame and borders. Development identification signs shall not exceed twenty-five (25) feet in height. Development identification signs shall include appropriate materials and landscaping to ensure an attractive entrance(s) to the development.

9.7.10.3 **Wall or Awning Signs**. Any combination of Wall Signs and Awning Signs shall be permitted such that the aggregate of all such Wall Signs and Awning Signs associated with each individual business establishment shall not exceed two (2) square feet of signage for each one (1) linear foot of facade associated with said establishment, measured across the longest facade in the case of establishments with more than one facade. Awning Signs shall have at least 8 feet clearance above the pedestrian grade.

9.7.10.4 **Projecting Signs**. One Projecting Sign may be permitted for any individual business establishment. A projecting sign shall have two (2) legible faces, each of which shall not exceed sixteen (16) square feet in area. Projecting Signs must have at least eight (8) feet of clearance above the pedestrian grade, and shall not project more than six (6) feet from a building facade.

9.7.10.5 **Window Signs**. Window Signs shall be permitted such that the aggregate of all such Window Signs associated with an individual business establishment shall not exceed twenty percent (20%) of the total surface area of all windows associated with such establishment.

9.7.10.6 **Window Screening Displays**. Window Screening Displays shall be permitted for windows and glass doors on the rear and side walls of the buildings shown as Building N, Building O, and Building Q on a plan entitled “Street Address Plan”, dated 8/01/14, prepared for Westwood Marketplace Holdings, LLC, a copy of which is on file with the Planning Board, but only where such Window Screening Displays do not constitute Window Signs as defined in Section 9.7.10.1.11. Window Screening Displays may be permitted for windows and glass doors on other walls of buildings within the Core Development Area, but only where the Planning Board finds that such graphics or displays are necessary and appropriate, and only where such graphics or displays do not constitute Window Signs as defined in Section 9.7.10.1.11. In all cases, Window Screening Displays shall be visually distinguishable in appearance from graphics or displays painted on, incorporated into, or affixed to either side of the glass surface of a window or door and shall not be painted on, incorporated into,

nor affixed to either side of the glass surface of a window or door, nor located within one (1) inch of such glass surface.

9.7.10.7 **Directional Signs**. Directional Signs shall be allowed throughout a development. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Directional Signs shall not exceed four (4) square feet in area and shall have a maximum height of eight (8) feet above ground. Directional Signs may be post-mounted, ground-mounted, or mounted on a building or structure, and shall provide adequate clearance for vehicular and/or pedestrian traffic.

9.7.10.8 **Way Finding Signs**. Way Finding Signs shall be allowed throughout a development, and may be allowed both on site and at off-premises locations. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic and pedestrian safety. Way Finding Signs shall be post-mounted, ground-mounted, or mounted on a building or structure, and shall not exceed thirty-two (32) square feet in area and shall have a maximum height of thirteen (13) feet above ground. All Way Finding Signs located throughout a development shall be consistent in material, color and lettering style. Way Finding Signs shall not contain individual business identification logos. Way Finding Signs may include electronically changed lettering as appropriate to provide directions and/or indicate availability of public parking. Such changeable signs must be static displays that do not flash, or exhibit changes in lighting levels, or offer multiple messages on a cyclical basis.

9.7.10.9 **Directory Sign**. One or more Directory Signs shall be permitted within the UAMUD project area. Directory Signs shall not exceed thirty-five (35) square feet in area and shall have a maximum height of eight (8) feet above ground.

9.7.10.10 **Temporary Construction Signs**. Temporary Construction Signs for both owners and occupants of lots within the approved Master Development Plan shall be permitted. Temporary Construction Signs shall not exceed thirty-two (32) square feet in area and shall have a maximum height of six (6) feet above ground. Temporary Construction Signs shall be removed within thirty (30) days of the completion of construction.

9.7.10.11 **Temporary Construction Fence Screening Graphics.** Where a temporary construction fence is permitted to reduce public visual access to a construction site, screening graphics displayed on non-rigid material affixed to the exterior of such fence, and not exceeding the height of such fence, may be permitted upon the issuance of a temporary sign permit by the Building Commissioner. Such permit shall be valid for a period of six (6) months, and may be renewed at the discretion of the Building Commissioner for up to three (3) additional six (6) month terms. All

screening graphics shall be maintained in good condition and shall be removed upon the final expiration of the temporary sign permit.

9.7.10.12 **Prohibited Signs**. Banners, flags, balloons, streamers, pennants, strings of lights, ribbons, spinners, roof signs, flashing signs, variable lit signs, variable message signs, except as permitted in Section 9.7.10.8, = and other similar devices, shall be prohibited in any UAMUD project. Temporary signs or graphics are prohibited except as provided in Sections 9.7.10.10 and 9.7.10.11, or in connection with customarily celebrated holidays or with Special Events as defined in Section 9.7.10.7. No sign which indicates the time, date and temperature shall be considered a flashing sign provided such sign meets all other provisions of this Section 9.7.10.

9.7.10.13 **Sign Materials**. Signs shall be manufactured using industry standard materials that are consistent with a high quality project. Structurally necessary brackets, posts or other supports may be visible if compatible with the appearance of the sign they support. Conduit, tubing, raceways, conductors, transformers and similar equipment shall be concealed from view.

9.7.10.14 **Sign Illumination**. Indirect illumination of a sign by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign, shall be permitted. In all cases indirect illumination shall only be permitted by steady white light. Notwithstanding the above, Awning Signs shall not be internally illuminated.

9.7.10.15 **Project-Specific Signage Alternative**. In recognition of the interrelated nature of signage systems in complex, mixed-use projects, and the importance of clear, adequate, and effective signage to the safe and efficient operation of such projects, notwithstanding the provisions of Sections 9.7.10.1 through 9.7.10.15 of this Bylaw, the Planning Board may, as part of its Conformance Determination for the CDA or PDR Approval for all other areas and phases of the UAMUD project, approve an alternative signage package or alternative signs for the UAMUD project, provided that the Planning Board finds that the alternative adequately addresses the needs of the development and traffic safety while appropriately balancing any impacts on the surrounding environment.

9.7.11 **Design and Performance Standards**. The following design and performance standards shall apply to UAMUD projects. These standards shall be reflected in the Master Development Plan submittals for the CDA and, to the extent practicable, for the non-CDA areas. The standards and requirements set forth in this Section 9.7.11 shall override any other standards and requirements imposed elsewhere in this Bylaw, except as expressly provided in Section 9.7.

9.7.11.1 **Building Design**

(a) **General**. Structures shall be designed to create a visually pleasing, unifying and compatible image for the development as a whole. Any combination of architectural design elements may be employed to meet this standard, including building color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and elements such as door and window size and location, and door and window detailing.

(b) **Exterior Materials**. Exterior walls for the project shall use a combination of architectural masonry materials, including but not limited to brick, glass, stone, stucco, exterior insulation and finishing system (EIFS), high quality siding and shingles, precast concrete architectural panels, stainless steel, split face block. No standard scored or flat face block will be allowed. Stainless steel shall be used solely as accents at entrances or windows, unless otherwise approved by the Planning Board as part of its Conformance Determination or PDR Approval. Colors shall be medium values of natural building materials such as earth, stone, etc. Extremes of colors shall not be used except as accents at entrances.

(c) **Facade Treatments**. To avoid long unbroken expanses of wall, the architecture shall incorporate, as appropriate, design features providing horizontal and vertical relief including projections, building jogs, elements of transparency or windows, architectural detailing, and changes in surface materials. The design of public entrance ways shall incorporate architectural features and elements to emphasize the entrance locations and interrupt long stretches of building facade. The facades of parking structures shall be designed to a standard of architectural finish consistent with other buildings within the project. All exterior walls shall be designed and finished with materials that maintain a consistent architectural character with adjoining buildings. Complementary use of public pedestrian spaces may also be considered as a contributory element.

(d) **Relationships Among Structures and Components**. Buildings and parking structures shall be designed with common elements that both create a sense of unity and express a relationship to the interior. An example is using ornamentation to reflect floor levels. These elements may include the horizontal spacing of bays, columns, and windows; and the vertical alignment and spacing of floors. Structures shall relate harmoniously to the existing landscape and to the scale and architecture of existing buildings that have a functional and/or visual relationship to the proposed

structures. Special attention shall be paid to reduce the effect of shadows on an abutting property, public open space or street, or to otherwise lessen any negative visual impacts of a proposed structure.

(e) **Detailing**. Architectural detailing and surface textures and colors of adjoining components of the UAMUD project, such as anchor stores, residential structures, and parking structures, should be related and contribute to an overall sense of cohesion within the project. While a variety of design treatments is encouraged to avoid monotony, individual components shall be designed to avoid overly strong contrasts.

(f) **Rooftops**. Rooftop mechanical features, heating and air conditioning units, vents, stacks, mechanical penthouse(s) shall be screened by use of parapet walls or similar elements

9.7.11.2 **Visual Mitigation and Screening of Infrastructural Elements**. Exposed storage areas, exposed machinery or electric installations, common service areas, truck loading areas, utility structures, trash/recycling areas and other elements of the project infrastructure shall be subject to reasonable visual mitigation requirements, including, but not limited to, screen plantings or buffer strips, combinations of visually impermeable fencing and plantings, or other screening methods necessary to assure an attractive visual environment.

9.7.11.3 **Utilities**. All new, permanent utilities such as electricity, telephone, gas, and fiber optic cable to be installed in connection with the UAMUD development shall be placed underground. All UAMUD developments, and all principal buildings within them, shall be connected to the public water supply. Sewage collection shall be by the public sewage collection system or by a local area or on-site treatment facility approved by the Planning Board by special permit pursuant to Section 10.3, Special Permits. Access easements to any utility connections shall be granted to the Town to assure maintenance and emergency repair.

9.7.11.4 **Land Uses and Common Areas**. Open space or publicly-accessible common areas shall be included within the development, to encourage pedestrian activity and to visually separate buildings or groups of buildings. When reasonably feasible, independently sited common areas shall be connected to other nearby open space and common areas by use of pathways and other similar pedestrian connections.

9.7.11.5 **Street Design**. Streets, interior drives and related infrastructure within the proposed development shall be designed in accordance with applicable engineering standards, and shall be designed with sufficient capacity to accommodate anticipated trip generation and turning movements, to

provide for adequate access by public safety vehicles and maintenance equipment, and to safely maintain and encourage pedestrian and bicycle circulation.

9.7.11.6 **Circulation, Traffic Impact & Public Street Access**. A UAMUD development shall provide for a comprehensive, interconnected, safe and efficient system of circulation that adequately incorporates varied transportation modes, both vehicular and non-vehicular. This system shall include the layout of roadways, interior drives, automobile and bicycle parking facilities and shall include pedestrian and bicycle circulation and directional signage. Review of site circulation shall include: entrances and approaches, ramps, walkways, interior drives, and parking access. Traffic planning shall consider the surrounding system of public streets, the existing and future vehicular trip volume, the number and location of proposed access points to public streets, and existing and proposed traffic controls and management measures. The impact of volume increases on adjacent residential districts and business areas shall be mitigated to the satisfaction of the Planning Board using traffic engineering and traffic calming techniques. Drive-Through Services shall not impede the circulation of traffic on roadways or within parking lots in a way that gives rise to congestion or safety hazards. The proponent shall provide plans identifying potential locations for future shuttle or bus stops in the event that a shuttle or public bus service becomes available.

9.7.11.7 **Public Safety**. UAMUD projects shall be designed and located so as not to endanger their occupants or the public. The design shall include adequate water supply distribution and storage for fire protection. Vehicular circulation shall consider the access needs of emergency and public safety vehicles.

9.7.11.8 **Stormwater Management**. Stormwater management systems serving the proposed development shall be designed in conformance with DEP Stormwater Standards, as amended from time to time, to efficiently collect runoff from all impervious surfaces, roofs, and canopies in a manner that avoids adverse drainage impact on any neighboring property. A plan for controls that are appropriate and specific to the site and the project, and which includes both pre-construction and post-development measures, shall be employed to mitigate erosion and sedimentation impacts. Where space, topography, soils, and the character of the proposed development make it practical, low impact designs (LID) that capture and recharge runoff to the groundwater shall be used as an alternative to closed systems.

9.7.11.9 **Outdoor Lighting**. Lighting shall be designed so as to avoid any material light trespass and glare on adjacent neighborhoods, business areas, and streets. Exterior lighting fixtures shall be of the full-cutoff type, and hoods and shields shall be incorporated as needed to prevent light trespass and glare. Lighting in minimally-used areas shall be reduced after business

hours. The project shall incorporate lighting practices and systems that will reduce light pollution and conserve energy, while maintaining reasonable nighttime safety and security. Section 6.4 shall not be applicable to a UAMUD project.

9.7.11.10 **Mixed Uses and Activities**. A UAMUD project must contain a mix of uses. Proponents are strongly encouraged to include a beneficial mix of commercial and non-commercial uses. Compatibility between uses shall take into account peak hours of use and parking for individual components.

9.7.11.11 **Energy Efficiency**. A UAMUD project shall incorporate energy-efficient technology in building materials, lighting, heating, ventilating and air conditioning systems, as well as use of renewable energy resources, and shall adhere to the principles of energy-conscious design with regard to building orientation, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of a building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.

9.7.11.12 **Sustainability**. Tenants shall be encouraged to adopt energy-efficient construction methods and technologies using a Tenant Energy Efficiency Manual that identifies green requirements, initiatives, and goals for the UAMUD project. The Tenant Energy Efficiency Manual is to be prepared by the proponent and provided to each tenant within the UAMUD project. The UAMUD project shall also voluntarily submit to a state-level review of its greenhouse gas impacts, and, in connection with such review, shall incorporate sustainable measures and practices, potentially including white roofing, daylighting, photovoltaics, LED technology, water using fixtures that meet WaterSense or equivalent standards, and similar measures, that demonstrate a measurable reduction in such impacts.

9.7.11.13 **Public Gathering Areas**. A UAMUD development shall include one or more areas, exclusive of wetlands, to which the public has at least visual access, and preferably physical access, including landscaped areas and features such as pedestrian walks, landscaped pedestrian spaces and plazas, and incidental support structures, but excluding vehicular travelways, driveways, and parking surfaces. These public gathering areas shall be designed to maximize visibility for persons passing the site or viewing it from nearby properties.

9.7.11.14 **Air Quality, Noise, Vibration, Etc**. The approved project, when open, shall comply with applicable DEP standards as to the project's environmental impacts. Under no circumstances shall the project result in "noxious" impacts to the environment or the community, and the air quality, noise, and vibration impacts associated with the project shall be appropriate for the project and the character of surrounding uses, with the

sole exception of any temporary impacts associated with public gatherings or special events, emergency and public safety vehicle operations, construction, and similar activities. Section 6.6 shall not be applicable to UAMUD projects.

9.7.11.15 **Construction Solid Waste Management**. The proponent shall make arrangements for the disposal of tree stumps and debris resulting from construction, and shall arrange for appropriate on-site storage of refuse pending its removal. Such on-site storage shall be screened from public view, secure from birds or other animals, protected from wind and other weather conditions, and located so as to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

9.7.11.16 **Water Quality.** The requirements with respect to uses and structures within the WRPOD are addressed in Section 9.7.5.

9.7.11.17 **Spill Prevention and Response.** The proponent shall provide an operation and maintenance plan and an emergency response and contingency plan that identify design and operational controls and measures to prevent and respond to potential releases, discharges, and spills of oil and/or hazardous material within the UAMUD project area that are appropriate in view of the proximity to public water supply.

9.7.11.18 **Water Efficiency.** A UAMUD project shall incorporate water-efficient technology in building materials, air conditioning systems, irrigation systems, and plumbing fixtures and appliances, and shall, where reasonably feasible, utilize EPA WaterSense or equivalent labeled toilets, faucets, urinals, showers, pre-rinse nozzles and irrigation controllers.

9.7.12 **Administration**

9.7.12.1 **Development Agreement**. A UAMUD project shall mitigate the impacts of the development to the satisfaction of the Town both through seeking grants and incentives from state and/or federal agencies and the proponent's mitigation commitments and contributions. The mitigation and other general project commitments of the proponent shall be memorialized in a Development Agreement entered into between the proponent and the Board of Selectmen. No building permit shall be issued until the Development Agreement has been executed.

9.7.12.2 **Project Review**

9.7.12.2.1 **Conformance Determination.** The CDA shall undergo Conformance Determination review simultaneously with the Planning Board's review and recommendation of this Section 9.7 for purposes of Town Meeting approval. In the event that the Planning Board requires additional

information or materials prior to approving the CDA, and the proponent is not able to deliver such materials sufficiently in advance of Town Meeting, then the CDA shall undergo Conformance Determination following the receipt of such materials by the Planning Board. All other areas and phases of the approved UAMUD project shall undergo Project Development Review in accordance with Section 9.7.12.2.2 below. The Planning Board shall issue the Conformance Determination if it finds that the final plans and materials (i) materially conform to the approved Master Development Plan materials, and (ii) are otherwise compliant with the standards and requirements set forth in this Section 9.7. The Conformance Determination shall be conclusive evidence of such findings. No building permit shall be issued with respect to the CDA prior to the issuance of a Conformance Determination for the CDA.

9.7.12.2.2 **Project Development Review**. Following approval of the Master Development Plan for a UAMUD project by Town Meeting, the proponent shall undergo Project Development Review for any phase or area of the approved UAMUD project other than the CDA prior to issuance of a building permit for such phase or area. The Planning Board shall issue a Project Development Review (PDR) Approval for a phase of the UAMUD project if it finds that the following criteria have been met with respect to the project or the phase thereof for which a building permit is being sought:

(a) Conformance. The project or applicable phase thereof materially conforms to the approved Master Development Plan submittals submitted pursuant to Section 9.7.3, as the same may be modified pursuant to this Bylaw.

(b) Impact. (i) Any previously-developed portion of the UAMUD project has not resulted in material adverse impacts that have caused a condition that does not comply with applicable regulatory requirements or, in the opinion of the Planning Board, is substantially detrimental to the public health or safety or the environment; (ii) the project or applicable phase thereof does not pose new material adverse impacts or materially exacerbate existing adverse impacts to any adjacent property or the proximate neighborhood that have not already been addressed through mitigation required by the Development Agreement, as the same may be

amended from time to time, or a prior PDR Approval; and (iii) the project component for which PDR Approval is sought results in net fiscal benefits to the Town and the proponent has adequately mitigated any adverse fiscal impacts.

(c) Design. The project or applicable phase thereof complies with the standards and requirements set forth in this Section 9.7, including but not limited to the performance and design standards set forth in Section 9.7.11.

The findings required under paragraphs (b) and (c) above may be satisfied through the Planning Board's imposition of mitigation measures and other requirements pursuant to Section 9.7.12.2.5 that, if satisfied, will cause the project or applicable phase thereof to conform to these criteria.

A PDR Approval shall be conclusive evidence of the Planning Board's findings under this section.

9.7.12.2.3 **Submittal Requirements.** An application for a Conformance Determination or PDR Approval shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations adopted pursuant to Section 9.7.12.6 of this Zoning Bylaw (the "Rules and Regulations").

9.7.12.2.4 **Review Procedure.** The Planning Board's review and consideration of an application for a CDA Conformance Determination or PDR Approval shall be in accordance with the Rules and Regulations.

9.7.12.2.5 **Supplemental Development Standards and Mitigation.** In issuing a PDR Approval, the Planning Board may include, as part of its written report, mitigation measures, supplemental development standards, requirements, safeguards, limitations, and specifications that address specific components of the approved development, such as lighting, signage, and landscaping. The Planning Board may include requirements for post-approval monitoring of certain development impacts, as well as performance guarantees, self-reporting commitments, and other measures to ensure compliance with the approved plans and submittals.

9.7.12.2.6 **Waivers**. In connection with a PDR Approval, the Planning Board, in its discretion, may waive the dimensional requirements of Section 9.7.7, except for height and FAR, if it determines that (i) the waiver will substantially improve the UAMUD project; (ii) the project or applicable phase thereof satisfies the performance and design standards set forth in this Section 9.7; and (iii) the granting of a waiver will not nullify or substantially derogate from the intent or purpose of this Section 9.7. A waiver shall not be granted if it would cause the UAMUD project to become inconsistent with the approved Master Development Plan submittals pursuant to Section 9.7.3 of this Bylaw.

9.7.12.2.7 **Denial.** In the event that the Planning Board denies a Conformance Determination, PDR Approval, or waiver, the proponent shall either (i) withdraw the development proposal; (ii) modify its plans to make them consistent with the Planning Board's findings and submit the modified plans to the Planning Board for reconsideration of the Conformance Determination, PDR Approval, or waiver; (iii) seek approval of a modification of the Master Development Plan by the Planning Board pursuant to Section 9.7.12.12 or Section 9.7.12.13, followed by a Conformance Determination for the CDA or a PDR Approval for development outside of the CDA; or (iv) seek, at its option, either (a) a Special Permit for modification of the Master Development Plan pursuant to Section 9.7.12.14 of this Bylaw or (b) approval of a revised Master Development Plan by a majority vote at Town Meeting. Additionally, where a Conformance Determination is denied, the proponent may, at its option, submit additional materials and undergo full Project Development Review in accordance with Section 9.7.12.2.2.

9.7.12.3 **Phased Development**. An approved UAMUD project may be constructed in one or more phases, provided that such phased development complies with the requirements of Section 9.7.12.2.1, with respect to the CDA, or the requirements of Section 9.7.12.2.2 with respect to other phases or areas shown on the approved Master Development Plan. Upon the granting of a Conformance Determination for the CDA or a PDR Approval for any other phase of the approved UAMUD project, such phase shall be deemed to be in compliance with the requirements of this Bylaw at the time such finding is made, notwithstanding the status of any other phase of the development and/or any noncompliance of such other phase with the requirements of this Section 9.7.

9.7.12.4 **Application of Requirements to Individual Lots**. The requirements of Section 9.7 of this Bylaw shall not be applied to the individual lots or ownership units within an approved UAMUD project, but shall be applied as if the entire plan area were a single conforming lot, whether or not the same is in single or multiple ownership. Any violation of this Bylaw by an owner or occupant of a single lot or ownership unit or demised premises within an approved UAMUD project shall not constitute a violation by any other owner or occupant; provided, however, that the foregoing shall not be deemed to affect the Planning Board's right to impose conditions on development phases subsequent to the CDA to address adverse project impacts related to any previous phase.

9.7.12.5 **Relationship to Underlying Districts and Regulations**. The UAMUD is established as an overlay district superimposed over, rather than replacing, the applicable underlying zoning district(s). Except as otherwise noted in this Section 9.7, the provisions and requirements of other applicable overlay districts, including, without limitation, Section 9.5, Flexible Multiple Use Overlay District (FMUOD), and any rules and regulations or design standards of the Planning Board, shall not apply to any project developed pursuant to this Section 9.7.

Except as provided elsewhere in this Section 9.7, special permit and similar approvals/criteria otherwise required under this Bylaw shall not be required for a UAMUD development, including, without limitation, any such approvals/criteria required pursuant to: Section 7.1, Earth Material Movement; Section 7.2, Major Business Development (MBD); Section 7.3, Environmental Impact Design Review (EIDR); Section 8.4, Senior Residential Development (SRD); Section 8.5, Residential Retirement Community (RRC); and Section 9.2, Flood Area Overlay District. The requirements of Section 9.3, Water Resource Protection Overlay District, as applied to a UAMUD project are addressed elsewhere in this Section 9.7.

Upon approval of a Master Development Plan, the use regulations of the underlying zoning district(s) shall not apply to the area within the Master Development Plan, but all other regulations of the underlying zoning district(s) shall apply except to the extent that they are inconsistent with, supplemented by, or modified by the provisions of this Section 9.7. In the event of any conflict or inconsistency between the other provisions of this Bylaw and this Section 9.7, the provisions of this Section 9.7 shall prevail.

Development of any or all lots within an approved Master Development Plan may be pursued under other applicable

underlying zoning and overlay districts, subject to receipt of approvals, if any, required under such other regulations only if the Planning Board, in its discretion, votes to release the lot or lots from the Master Development Plan.

9.7.12.6 **Rules and Regulations.** The Planning Board may adopt rules and regulations for the administration of this section, which shall be limited to defining the application and submittal requirements, fees, reimbursement for consultants, performance guarantees, and procedural requirements for any approvals required pursuant to Section 9.7. The Planning Board may also adopt bicycle rack standards required by Section 9.7.8.5.

9.7.12.7 **Enforcement.** The Building Commissioner shall have jurisdiction to enforce compliance with the standards and requirements of a Conformance Determination for the CDA and PDR Approval for all other areas and phases of the approved UAMUD project, both before and after construction, and may institute legal proceedings or take such other actions as are necessary to ensure compliance.

9.7.12.8 **Issuance of Building Permit**. Following the Planning Board's issuance of a Conformance Determination for the CDA or PDR Approval for all other areas and phases of the approved UAMUD project, the proponent shall submit copies of the Planning Board's Conformance Determination or PDR Approval and accompanying reports to the Building Commissioner, along with other required building permit application materials and fees, and a building permit may thereafter be issued for the approved project, or any individual component thereof, without the need for any further approvals under this Bylaw, except where this Section 9.7 specifically requires further approval. Building permits may be sought and issued for individual components of an approved project, and nothing in this Section 9.7 shall obligate the proponent to construct all of the improvements shown on an approved Master Development Plan, except that all construction associated with public roadways, infrastructure, utilities, and open space shall be substantially complete prior to the issuance of any building permit for a building outside of the CDA unless adequate performance guarantees have been incorporated into the Development Agreement.

9.7.12.9 **Issuance of Occupancy Permit**. All construction associated with public roadways, infrastructure, utilities, and open space shall be substantially complete prior to the issuance of any occupancy permit for a building within the CDA unless adequate performance guarantees have been incorporated into the Development Agreement.

9.7.12.10 **Transfer of UAMUD Approvals**. UAMUD approval of a project, or any individual portion thereof, may be freely transferred between lots and between owners, provided that the transferee complies with the provisions of this Section 9.7.

9.7.12.11 **Post-Construction Development Review.** Following completion of construction of any portion of the UAMUD project, PDR Approval from the Planning Board pursuant to Section 9.7.12.2.2 shall be required for the following within such UAMUD area: (i) construction of any new building not previously approved; (ii) an expansion of an existing building that increases the gross floor area of such building by 3,000 square feet or more or by 10% or more of the existing gross floor area, whichever is less; or (iii) any exterior alteration to an existing building that is deemed by the Planning Board not to constitute a minor modification because it would have the effect of materially changing the overall character of the applicable portion of the UAMUD project.

9.7.12.12 **Minor Modifications of the Master Development Plan**. Once a Master Development Plan has been approved at Town Meeting, the Planning Board may, in its discretion, approve a minor modification of the Master Development Plan by a majority vote at a public meeting. For purposes of this subsection, a plan modification is "minor" if the changes proposed, considered in the aggregate with all minor modifications previously approved:

(a) Are consistent with the requirements and standards set forth in this Section 9.7 and do not have a material adverse effect on the overall design and implementation of the UAMUD project;

(b) Do not increase by more than ten percent (10%) the maximum gross floor area limitations for each category of use as noted in the approved Master Development Plan or the size of any individual permissible building area;

(c) Do not result in the aggregate floor area ratio of all lots on the approved Master Development Plan exceeding 1.0;

(d) Do not increase the land area included within the Master Development Plan by more than ten percent (10%);

(e) Do not adversely affect the storm water quality of the development;

(f) Do not increase projected vehicle trips by more than five percent (5%), unless it is demonstrated that such increase (i) for any intersection in the vicinity of the development that operates at LOS D or better would not result in a reduction of

overall intersection level of service below LOS D and (ii) would not otherwise cause vehicular traffic to operate in an objectively unsafe manner, or cause queue lengths that block intersections, unless any such impacts are addressed with adequate traffic mitigation, as certified by the proponent's Registered Traffic Engineer and approved by the Planning Board; and

(g) Do not include any residential dwelling units in excess of the limits established by this Section 9.7.

Minor adjustments in the location and configuration of the buildings, parking areas, and other site features within an approved development area, shall not require further Planning Board approval, as long as such adjustments are considered de minimis by the Building Commissioner, do not exceed individual gross floor area requirements, and would not have the effect of changing the overall character of the applicable portion of the UAMUD project.

9.7.12.13 **Permitted Modifications to Retail and Office Uses.** In addition to minor modifications pursuant to Section 9.7.12.12, the Planning Board may, in its discretion, approve modification of the Master Development Plan by a majority vote at a public meeting if the modification meets one of the following criteria:

(a) An increase in Office/R&D Uses to a maximum of 550,000 square feet and/or increase in Retail/Service and Restaurant/Entertainment Uses to a maximum of 900,000 square feet, provided that (i) the increase does not trigger any of the thresholds in Section 9.7.12.12, with the exception of the limits set forth in Sections 9.7.12.12(b) and (d), which may be exceeded with the approval of the Planning Board; and (ii) any traffic and parking impacts attributable to any such increase(s) are mitigated to the satisfaction of the Planning Board.

(b) Substitution of Office/R&D Uses for any other uses outside of the CDA, except Open Space Uses, provided that (i) the substitution does not trigger any of the thresholds in Section 9.7.12.12, with the exception of the limits set forth in Sections 9.7.12.12(b) and (d), which may be exceeded with the approval of the Planning Board; and (ii) any traffic and parking impacts attributable to any such increase(s) are mitigated to the satisfaction of the Planning Board.

9.7.12.14 **Master Development Plan Special Permit.** In the event that the Planning Board determined that a proposed change in the Master

Development Plan does not meet the requirements for approval pursuant to Section 9.7.12.12 or Section 9.7.12.13, or in the event that the Planning Board exercised its discretion not to approve a proposed modification pursuant to those sections, then the proponent shall have the option of seeking either (A) an amendment of the Master Development Plan at Town Meeting, or (B) a special permit for modification of the Master Development Plan pursuant to Section 10.3 of this Bylaw authorizing the final development plans to be implemented as proposed. The Planning Board shall be the special permit granting authority for any such special permit.

9.7.12.15 **Lapse**. A Master Development Plan approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within three (3) years following the date of approval by Town Meeting. The Planning Board may extend such approval, for good cause, upon the written request of the proponent. Substantial use, including, without limitation, the filing of a building permit application for construction, of any portion of the approved Master Development Plan shall permanently vest the Master Development Plan and it shall not thereafter lapse for any reason.

SECTION 10.0 ADMINISTRATION AND PROCEDURES

10.1 EXECUTION AND ENFORCEMENT

10.1.1 **Execution.** The Building Commissioner shall execute the provisions of this Bylaw, except where otherwise provided, and in so doing shall have the same powers as are provided for the execution of the Massachusetts State Building Code. The Building Commissioner shall issue no permit for the construction, alteration or relocation of any building or structure if the building or structure as constructed, altered or relocated would be in violation of this Bylaw; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this Bylaw. Where a special permit or other permit is required pursuant to the provisions of this Bylaw, or where an appeal or petition involving a variance, special permit or other permit is pending, the Building Commissioner shall issue no building permit until such permit is granted and the applicable appeal period has expired or such appeal is no longer pending.

10.1.2 **Building Permits.** Applications for permits shall be accompanied by a certified plot plan, submitted in duplicate, of the lot showing the exact location and size of the actual dimensions of the lot and the exact location and size of the buildings or structures already upon the lot, and of the other buildings or structures to be constructed or altered, together with the streets adjacent to the lot. Construction or operations pursuant to a building or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within six (6) months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

10.1.3 **Occupancy Permits.** It shall be unlawful to initially use any building or structure, or any addition to an existing building or structure, hereafter constructed, or to use that portion of a building or structure which is hereafter renovated, or to occupy or use any building or structure for a purpose other than that for which it was designed (as set forth in the permit for its construction, if any), until the Building Commissioner has issued an occupancy permit. Such permit shall not be issued unless and until the Building Commissioner has found the premises to be in apparent conformity in all applicable respects to the provisions of this Bylaw or decision rendered hereunder.

10.1.4 **Enforcement.**

10.1.4.1 If the Building Commissioner shall be informed or have reason to believe that any provision of this Bylaw or any permit or decision hereunder has been, is being, or is about to be violated, he shall make or cause to be made an investigation of the facts, including the inspection of the premises where the violation may exist, and if the Building Commissioner finds any violation, he shall give immediate notice in writing to the owner or duly authorized agent and to the occupant of the premises. If after such notice, a violation occurs, with respect to any building, structure or use contrary to the provisions of this Bylaw, the Building Commissioner shall forthwith

revoke any permit issued in connection with the premises and shall take such other action as is necessary to enforce the provisions of this Bylaw.

10.1.4.2 If the Building Commissioner is requested in writing to enforce this Bylaw against any person allegedly in violation thereof and declines to act, the Building Commissioner shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen (14) days of receipt of such request. If the Building Commissioner is so requested in writing and does not decline to act, he shall give written notice of his disposition of the matter to the party making such request within thirty (30) days of such receipt.

10.1.4.3 Any person taking cognizance of a violation of the Zoning Bylaw that he is empowered to enforce (including without limitation the Building Commissioner and any police officer), hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice, in which event the procedure for enforcement shall be as set forth in M.G.L. Chapter 40, Section 21D.

10.1.5 **Penalty for a Criminal Complaint.** Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provisions of this Bylaw, or any of the conditions under which a permit or special permit is issued, or any decision rendered hereunder, shall be subject to a fine not to exceed the amount of two hundred dollars ($200.00) for each offense, which shall be recovered as provided by law and shall inure to the Town. Each day that any such violation continues shall constitute and be considered a separate offense.

10.1.6 **Penalty for Noncriminal Complaint.** In addition to the procedures for enforcement as described in this Section, the provisions of this Bylaw may be enforced by the Building Commissioner by noncriminal complaint pursuant to the provisions of M.G.L. Chapter 40, Section 21D. The penalty for a violation enforced hereunder shall be one hundred dollars ($100.00) for each offense. Each day that such violation continues shall constitute and be considered a separate offense.

10.1.7 **Appeals.**

10.1.7.1 Appeals to the Board of Appeals may be taken by a person aggrieved by reason of their inability to obtain a permit or enforcement action under this Zoning Bylaw, or may be taken by an officer or board of the Town or other person aggrieved by an order or decision of any administrative official under this Bylaw. The Petitioner shall file such appeal with the Town Clerk within thirty (30) days after the refusal of a permit or the issuance of the order of decision. The Petitioner shall forthwith transmit a

copy thereof, with the date of filing certified by the Town Clerk, with the Board of Appeals and the officer or board whose order or decision is being appealed. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action upon a petition within the one hundred (100)-day period shall be deemed to be a grant of the appeal.

10.1.7.2 A person aggrieved by a decision of the Board of Appeals or the Special Permit Granting Authority or by the failure of the Board of Appeals to take final action concerning any appeals, application or petition within the required time or by the failure of a Special Permit Granting Authority to take final action concerning an application for a special permit within the required time, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to a court of competent jurisdiction within twenty (20) days after the decision has been filed with the Town Clerk. Notice of such action with a copy of the complaint shall be filed with the Town Clerk within said twenty (20) days.

10.1.8 **Repetitive Appeal, Application or Petition.** No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals or Planning Board shall be favorably and finally acted upon within two (2) years after the date of such unfavorable action unless the Board which acted upon the appeal, application or petition, by a unanimous vote if the Board of Appeals or all but one of the members if the Planning Board, finds specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in its records. All but one of the members of the Planning Board must also consent to a repetitive appeal, application or petition initially acted upon by the Board of Appeals and submitted for reconsideration within two (2) years after the date of unfavorable action after notice is given to parties in interest of the time and place of the proceedings to consider consent.

10.2 BOARD OF APPEALS

10.2.1 **Establishment.** There is hereby established a Board of Appeals of three (3) members and six (6) associate members. All members shall be residents of the Town, who shall be appointed by the Board of Selectmen.

10.2.2 **Powers.** The Board of Appeals shall have and exercise all the powers granted to it by M.G.L. Chapters 40A, 40B and 41 and by this Bylaw. The powers of the Board of Appeals are as follows:

10.2.2.1 To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the Special Permit Granting Authority, to act in all matters in accordance with the provisions of Section 10.3, or as otherwise specified.

10.2.2.2 To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in M.G.L. Chapter 40A, Section 10. The Board of Appeals shall not grant use variances.

10.2.2.3 To hear and decide appeals taken by any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. Chapter 40A, Sections 8 and 15.

10.2.2.4 To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L. Chapter 40B, Sections 20 through 23.

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

10.2.4 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals and applications for comprehensive permits.

10.3 SPECIAL PERMITS

10.3.1 **Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

10.3.2 **Application.** An application for a special permit for uses designated in the Zoning Bylaw shall be filed with the Town Clerk, who shall forthwith transmit it to the Special Permit Granting Authority. The Special Permit Granting Authority shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing. Failure to take final action within the ninety (90)-day period shall be deemed to be a grant of the special permit.

10.3.3 **Decision.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

10.3.3.1 Social, economic or community needs which are served by the proposal;

10.3.3.2 Traffic flow and safety, including parking and loading;

10.3.3.3 Adequacy of utilities and other public services;

10.3.3.4 Neighborhood character, aesthetics and social structures;

10.3.3.5 Impacts on the natural environment; and

10.3.3.6 Potential fiscal impact, including impact on Town services, tax base and employment.

10.3.4 **Procedures.** An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

10.3.5 **Conditions.** Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.

10.3.6 **Plans.** An Applicant for a special permit shall submit a plan in substantial conformance with the requirements of the Special Permit Granting Authority.

10.3.7 **Regulations.** The Special Permit Granting Authority may adopt rules and regulations for the administration of this Section.

10.3.8 **Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

10.3.9 **Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17 from the grant thereof) with the Town Clerk.

10.4 VARIANCES

10.4.1 **Permit Granting Authority.** Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a use not otherwise permitted in a particular zoning district shall not be granted.

10.4.2 **Application.** A petition for a variance shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action within the one hundred (100)-day period shall be deemed to be a grant of the variance.

10.4.3 **Findings.** Before granting a variance from the requirements of this Bylaw, the Board of Appeals must specifically find that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or

structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

10.4.4 **Procedures.** An application for a variance shall be filed in accordance with the rules and regulations of the Board of Appeals.

10.4.5 **Conditions.** Variances may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Board of Appeals may deem necessary to serve the purposes of this Bylaw.

10.4.6 **Plans.** An Applicant for a variance shall submit a plan in substantial conformance with the requirements of the Board of Appeals.

10.4.7 **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of this Section.

10.4.8 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for applications for variances.

10.4.9 **Lapse.** Any rights authorized by a variance which are not exercised within one (1) year from the date of grant of such variance shall lapse. The Board of Appeals, in its discretion and upon the written application of the Applicant, may extend the time for exercise of the variance for a period not to exceed six (6) months provided that the application for such extension is filed with the Board of Appeals prior to the expiration of the one (1) year period. If the request for an extension is not granted, the variance may be reestablished only after notice and new hearing pursuant to M.G.L. Chapter 40A, Section 10.

10.5 REPETITIVE BYLAW AMENDMENT

10.5.1 **Repetitive Bylaw Amendment.** No proposed amendment to this Bylaw which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change has been recommended in the final report of the Planning Board to the Town Meeting.