



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, C.M.C., C.M.M.C.

Town Clerk
Justice of the Peace
Notary Public

POSTING DATE: July 7, 2016
NORFOLK, SS.

TO EITHER OF THE CONSTABLES IN THE TOWN OF WESTWOOD IN SAID COUNTY:

GREETING:

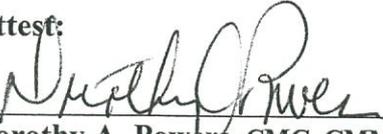
In the name of the Commonwealth of Massachusetts you are hereby directed to post in at least four public places in the Town in each of the four precincts, copies of the attached Amendments to the Town Zoning and General By-laws.

These amendments were voted under Articles 19,20,22,23,24,25,26,27,28, and 29 of the Warrant for the 2016 Annual Town Meeting, which meeting was held on May 2, 2016.

Any claim of invalidity by reason of any defect in the procedure of adoption or amendment of the aforementioned bylaws may only be made within ninety days of the date of the posting of this notice. Copies of the bylaws are available in the office of the Town Clerk, Town Hall, 580 High Street, Westwood, Massachusetts.

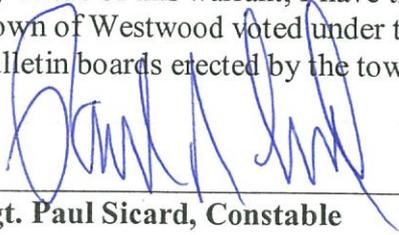
Hereof fail not and make due return upon this warrant with your action thereon to the Town Clerk.

Attest:



Dorothy A. Powers, CMC, CMMC
Town Clerk

By virtue of this warrant, I have this day posted attested copies of the amendment to the Bylaws of the Town of Westwood voted under the aforementioned articles of the 2016 Annual Town Meeting on four bulletin boards erected by the town in public places in each of the four precincts of the Town.



Sgt. Paul Sicard, Constable



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

2016 JUL -7 A 10:40

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago
TOWN CLERK
TOWN OF WESTWOOD

July 7, 2016

Dorothy A. Powers, Town Clerk
Town of Westwood
580 High Street
Westwood, MA 02090

Re: Westwood Annual Town Meeting of May 2, 2016 - Case # 7908
Warrant Articles # 23, 24, 25, 26, 27, 28, and 29 (Zoning)
Warrant Articles # 19, 20, and 22 (General)

Dear Ms. Powers:

Articles 19, 20, 22, 23, 24, 25, 26, 27, 28, and 29 - We approve Articles 19, 20, 22, 23, 24, 25, 26, 27, 28, and 29, and the map pertaining to Article 28 from the May 2, 2016, Westwood Annual Town Meeting. We will return the approved map to you by regular mail. Our comments on Articles 19 and 23 are provided below.

Article 19 - Article 19 adds to the Town's general by-laws a new "Unattended Donation Container ("UDC")" by-law. The new by-law regulates the location of UDCs and requires a license from the Board of Selectmen for the placement of a UDC. Our comments on the new by-law are provided below.

A. Religious Uses.

Based on the protections given to religion and religious uses under the federal and state Constitutions and laws of the Commonwealth, the Town should consult with Town Counsel regarding whether the Town may require religious uses to obtain a license for an UDC. The constitutions of the United States and the Commonwealth of Massachusetts protect the rights of individuals to exercise their religion freely. *See* U.S. Const. amend. I; Declaration of Rights of the Constitution of Massachusetts, art. 2; Mass. Const. amend., art. 46, § 1. Moreover, several state statutes limit the requirements that may be placed on religious uses by local laws. For example, G.L. c. 40A, § 3, provides exemptions from local zoning for religious uses in pertinent part as follows:

No zoning . . . by-law shall prohibit, regulate or restrict the use of land or structures for religious purposes or 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; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements

The Town should discuss these principles in more detail with Town Counsel.

B. Refundable Deposit.

The new by-law requires the operator of a UDC to provide the Town with a refundable deposit (in an amount determined by the Board of Selectmen) to cover any town costs associated with overflow or removal of an UDC. Any deposit proceeds do not become Town funds unless and until the applicant defaults on the obligation under the by-law. Moreover, if the Town must use the deposit proceeds to pay for compliance with the requirements of the by-law, the Town must first appropriate the money for this purpose by Town Meeting vote. General Laws Chapter 44, Section 53, provides that “[a]ll moneys received by a city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury.” Under Section 53, all moneys received by the Town become part of the general fund, unless the Legislature has expressly made other provisions that are applicable to such receipt. In the absence of any general or special law to the contrary, performance deposits of the sort contemplated here must be deposited with the Town Treasurer and made part of the Town’s general fund, pursuant to G.L. c. 44, § 53. The Town must then appropriate the money for the specific purposes required by the by-law. The Town should consult with Town Counsel regarding this issue.

C. Entry onto Private Property.

The new by-law authorizes the Building Commissioner to repair or remove any UDC that is dangerous, unsafe, in disrepair, or otherwise in violation of the by-law. Municipal officials do not have the authority to conduct non-emergency warrantless searches of private property without permission of the owner. Commonwealth v. John G. Grant & Sons Co., Inc., 403 Mass. 151, 159-60 (1988). The U.S. Supreme Court has held that warrants are required for non-emergency administrative inspections. Camara v. Municipal Court of San Francisco, 387 U.S. 523 (1966) (requiring warrant for health inspector non-emergency entry); See v. City of Seattle, 387 U.S. 541 (1966) (requiring warrant for non-emergency inspection by fire chief). “[A]dministrative entry, without consent, upon the portions of commercial premises which are not open to the public may only be compelled through prosecution or physical force within the framework of a warrant procedure.” See, 387 U.S. at 545. Massachusetts courts have similarly recognized that “statutes can no longer convey blanket powers of warrantless entries.” Commonwealth v. Hurd, 51 Mass. App. Ct. 12, 17 (2001) (holding that G.L. c. 129, § 7, does not authorize warrantless searches for animal inspection). The Town may wish to consult with Town Counsel to ensure that this Section is enforced in a manner that is consistent with state law and applicable constitutional requirements.

Article 23 - Article 23 amends the Town’s zoning by-laws by amending Section 8.3, “Open Space Residential Development (OSRD)” to provide for age-restricted housing and by

deleting Section 8.4, "Senior Residential Development. Our comments on Section 8.3 are provided below.

Section 8.3 allows OSRD in the Single Residence B, Single Residence C, and Single Residence E pursuant to the requirements of Section 8.3 subject to the Planning Board's approval.

Section 8.3.10 of the by-law pertains to common open space requirements. Specifically, Subsection 8.3.10.4.1 provides that:

The common open space may be conveyed to any of the following entities:

- 1) The Town of Westwood or its Conservation Commission.
- 2) A nonprofit 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.

The Town must carefully apply Section 8.3.10.4.1 to avoid a violation of G.L. c. 41, § 81Q. General Laws Chapter 41, Section 81Q, prohibits a planning board from requiring the dedication of open space to public use or to the Town, without just compensation, as a condition of subdivision approval, as follows:

No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the public use, or conveyed or released to the commonwealth or to the county, city or town in which the subdivision is located, for use as a public way, public park or playground, or for any other public purpose, without just compensation to the owner thereof.

In Collings v. Planning Board of Stow, 79 Mass.App.Ct. 447 (2011), the court annulled the planning board's condition, for approval of a subdivision, that open space be dedicated to the public use or transferred to the town or a land trust, without compensation, because such a requirement violated G.L. c. 41, § 81Q. *See also* Young v. Planning Bd. Of Chilmark, 402 Mass. 841, 842, 844-845 (1988) ("A planning board may not impose, as a condition of its approval, a requirement that any land within a subdivision be conveyed for any public purpose," in the absence of just compensation or the owner's consent.)

Subsection 8.3.10.4.1 does not clearly state that the conveyance options are at the applicant's election. It must be the applicant, not the planning board, who decides which of the conveyance options will be utilized. The Town should also consult with Town Counsel when applying the by-law, and consider amending the text at a future Town Meeting to make clear that the conveyance options are at the applicant's election.

Subsection 8.3.10.4.4 of the by-law pertains to maintenance and care of the common open space and authorizes the Town to provide reasonable maintenance in order to prevent or

abate a nuisance. Subsection 8.3.10.4.4 further provides that the “Town may file a lien against the lot or lots to ensure payment of such maintenance.”

Expenses incurred by the Town to maintain the common open space in an OSRD may be considered a charge for purposes of G.L. c. 40, § 58, the municipal charges lien statute. However, in order to avail itself of the provisions of G.L. c. 40, § 58, the Town will either need to amend its by-law to specify that the costs will be liens for purposes of G.L. c. 40, § 58, or take a separate vote authorizing the use of G.L. c. 40, § 58, for charges incurred in maintaining the common open space. We suggest that the Town discuss this issue in more detail with Town Counsel before it imposes a “lien” against the lot or lots in the OSRD for costs incurred to maintain common open space in an OSRD.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
Municipal Law Unit
Office of the Attorney General
Ten Mechanic Street, Suite 301
Worcester, MA 01608
508-792-7600

cc: Town Counsel Thomas P. McCusker



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, Esq. Esq.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 19 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 19. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to amend the Code of the Town of Westwood, by adding a new section entitled "Unattended Donation Container (UDC)", and by renumbering subsequent sections as appropriate in order that it be in compliance with the numbering format of the Code of Westwood, with such new section to read as follows:

Unattended Donation Container

Authority and Interpretation. This Bylaw is hereby declared to be remedial and protective, and is to be so construed and interpreted as to secure the beneficial interests and purposes defined in this Section of the Bylaw.

Purpose: The purpose of this Bylaw is to regulate and restrict the placement of Unattended Donation Containers (UDCs) in order to:

1. Protect and enhance the visual environment of the Town for purposes of safety, convenience and welfare of the residents;
2. Provide an alternative to disposal of certain waste into the waste stream, to reduce tipping fees, and to protect the environment of the Town;
3. Decrease the probability of accidents caused by distraction of attention or obstruction of vision or pedestrian or vehicular traffic; and
4. Reduce visual and informational conflict and regulation of the placement of a UDC on private property.

Non-conformance of an Existing UDC. Any non-conforming UDC legally erected prior to the adoption of this provision, may be continued and maintained subject to the requirement of obtaining a UDC License and annual renewals thereof from the Board of Selectmen. Any UDC rendered non-conforming through change or termination of activities on the premises, or through failure to obtain a UDC License or annual renewal thereof, shall be removed within thirty (30) days of order by the Building Commissioner. No existing UDC shall be replaced, enlarged, moved, redesigned, or altered in any way unless it conforms to the provisions contained herein. Any UDC which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third (1/3) of the replacement value as of the date of destruction shall not be repaired, rebuilt, restored or altered unless in conformity of this Bylaw.

Prohibition. UDCs are prohibited from being kept on or within the layout of any street, way or sidewalk or on other public property by any person or entity other than the Town of Westwood, except in the case of a UDC placed by a lessee, contractor or assign of the Town pursuant to a written agreement signed by the Town Administrator. UDCs are prohibited from being kept on any private property without first obtaining a License from the Board of Selectmen. UDCs are prohibited in all Residential Zones.

License for UDC. The applicant shall apply for a License for a UDC with the Board of Selectmen pursuant to that Board's UDC License Regulations and the provisions of this Bylaw. The UDC application shall be in conformance with the requirements of the Board of Selectmen's UDC License Regulations.

Placement of UDC. Placement of a UDC shall conform to the setback requirements for an accessory structure as set forth in the Westwood Zoning Bylaw for the particular district in which the UDC is located. The UDC shall be placed in a location such that there shall be safe and convenient pedestrian and/or vehicular access to the UDC.

The Board of Selectmen may deny any application for a UDC when it finds that the proposed UDC does not meet the purpose of this Section or when the proposed UDC otherwise fails to comply with the requirements of this Bylaw and/or the requirements of the Board's UDC License Regulations.

Cost of Said License. License fees shall be as set forth in the Board of Selectmen's UDC License Regulations. The Board of Selectmen may waive license fees for UDC License applications and renewal applications submitted by 501(c)(3) entities and /or 501(c)(3) organizations.

Refundable Deposit. The applicant shall provide a refundable deposit, in a reasonable amount as specified in the Board of Selectmen's UDC License Regulations, which deposit shall be used by the town if necessary to cover any town costs associated with overflow of a licensed UDC or the physical removal of the UDC pursuant to the terms of this Bylaw and said regulations. Any remaining portion of this deposit, shall be returned to the applicant following verification of the removal of the UDC.

Administration and Enforcement.

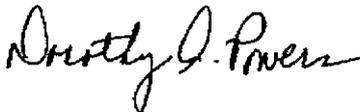
1. Enforcement – The Building Commissioner is hereby charged with the enforcement of this Bylaw.
 - a. The Building Commissioner and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have power to enter upon the premises on which any UDC is erected or maintained in order to inspect said UDC.
 - b. The Building Commissioner is further authorized, upon notice as herein provided, to order the repair or removal of any UDC which in his judgment is prohibited or is likely to become dangerous, unsafe or in disrepair, or which is erected or maintained contrary to this Bylaw. The Building Commissioner shall serve a written notice and order upon the owner of record of the premises where the UDC is located and any advertiser, tenant, or other person known to him having control of or a substantial interest in said UDC, directing the repair or removal of the UDC within a time not to exceed seven (7) days after giving such notice. If such notice and order is not obeyed within such period of time, the Building Commissioner and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which said UDC is erected or maintained and repair or remove, or cause to be repaired or removed, said UDC. All expenses incurred by the Building Commissioner and his duly authorized agents in repairing or removing any UDC shall be assessable against any person who failed to obey said notice and order and shall be recoverable in any court of competent jurisdiction

if not paid within thirty (30) days after written notice of assessment is given by the Building Commissioner at any such person.

- c. Alternate penalties. If such UDC is not removed for non-compliance with the provision hereof or non-compliance with any license granted hereunder after seven (7) day notice from the Building Commissioner, a fine of three hundred dollars (\$300.00) per day to the person or organization placing said UDC and a three hundred dollar (\$300.00) per day to the property owner where UDC was placed may be issued and enforced in accordance with the provisions of MGL c. 40, §21D.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:

A handwritten signature in black ink that reads "Dorothy A. Powers". The signature is written in a cursive, flowing style.

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC, CMMC

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 20 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 20. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to amend the Code of the Town of Westwood, Chapter 321 [Retail Stores], by expanding this chapter to apply to both retail establishments and restaurants, so that Chapter 321 reads as follows, or take any other action in relation thereto:

Chapter 321: Retail Stores and Food Establishments

§321-1 Article 1: Retail Hours of Operation

For the purpose of controlling and abating noise and illuminations and to protect and promote the nighttime tranquility, no person shall sell at retail, including the sale of food, shall serve food or drink, shall be open for transaction of retail business, shall accept deliveries, or shall allow the removal of solid waste between the hours of 12:00 midnight and 6:00 a.m., except as expressly permitted pursuant to a one-day permit granted by the Board of Selectmen in accordance with §321-2. Notwithstanding the foregoing, any restaurant, coffee shop, ice cream parlor, or fast order food establishment may serve food or drink and may be open for the transaction of business between the hours of 5:00 a.m. and 6:00 a.m., if specifically authorized to do so pursuant to the terms of a duly issued Common Victualler's License granted by the Board of Selectmen, but may not accept deliveries or allow the removal of solid waste between the hours of 12:00 midnight and 6:00 a.m. The term "food" as used by this bylaw shall include any article or commodity, however stored or packaged, intended for human consumption. Notwithstanding the foregoing, nothing contained within this Chapter 321 shall be deemed to prohibit or limit a retail business from conducting interior activities that are accessory to the operation of the retail business, such as cleaning, stocking, food preparation and other supporting operations between the hours of 12:00 midnight and 6:00 a.m., provided that (i) truck deliveries shall not occur during the hours of 12:00 midnight to 4:00 a.m.; (ii) during the hours of 4:00 a.m. to 6:00 a.m. truck deliveries shall be made solely to sealed loading docks, with no exterior loading or unloading permitted; and (iii) waste removal shall in all events not occur between 12:00 midnight and 6:00 a.m.

§321-2 Article 2: One-day Permit for Extended Hours of Operation

The Board of Selectmen may, at the Board's sole discretion, grant a one-day permit to allow a retail store to remain open for the transaction of retail business between the hours of 12:00 midnight and 6:00 a.m. as part of a special event. The terms and conditions of said one-day permit shall be such as the Board of Selectmen determines necessary to protect public health and safety. No retail store may be granted a permit under this provision for more than 10 days in any calendar year. The Board of Selectmen may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of one-day permits.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:

Dorothy A. Powers

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, C.M.C., M.C.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 22 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 22. The Finance and Warrant Commission recommended and the Town voted by a 2/3 Standing vote (204 YES 36 NO) in favor declared by the Moderator to amend the Code of the Town of Westwood to adopt a Historic Structure Demolition Bylaw as a separate General Bylaw, and by renumbering subsequent sections as appropriate in order that it be in compliance with the numbering format of the Code of Westwood, with such new section to read as follows:

Historic Structure Demolition Bylaw

Intent and Purpose. The purpose of this Bylaw is to maintain the character of the Town of Westwood, protecting its historic and aesthetic resources built on or before December 31, 1910 by surveying, preserving, rehabilitating, researching, or restoring whenever possible, buildings or structures which constitute or reflect distinctive features of the architectural, cultural, or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of Westwood. The intent of this Bylaw is to encourage owners to seek alternative options to preserve historic buildings rather than complete demolition. This Bylaw authorizes the Westwood Historical Commission to advise the Building Commissioner with respect to demolition permits for historic properties regulated by this Bylaw.

Definitions. As used in this Bylaw, the following terms shall have the meanings indicated:

Applicant - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

Application - An application for a demolition permit filed by the owner of record of the premises, or the holder of a bona fide purchase and sale agreement for such premises. The application must be signed by both the applicant and (if different) the owner of record at the time of application. An applicant may withdraw an application without prejudice at any time prior to a decision by the Commission.

Building - 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.

Commission - The Westwood Historical Commission.

Commissioner - The Building Commissioner of the Town of Westwood.

Demolition - Any act of pulling down, destroying, removing or razing a building and/or structure or commencing the work of total or substantial destruction with the intent of completing the project; "substantial" herein shall mean either half the volume of the structure or half the assessed value. Demolition regulated hereunder shall NOT INCLUDE replacement of roofing materials, siding, stairs, railings, windows, or similar features, nor shall it include demolition of non-historic additions or accessory structures.

Demolition Permit - The permit issued by the Commissioner as required by the State Building Code for the demolition or removal of a building or structure.

Historic or Architecturally Significant Structure - Any building or structure which is:

- a. Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic, or social history of the Town of Westwood, the Commonwealth of Massachusetts, or the United States of America; or which is
- b. Historic or architecturally important by reason of period, style, method of construction, or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

Preferably Preserved - Any historic or architecturally significant structure individually or in context which, because of the important contribution made by such structure to the Town's historic or architectural resources, is in the public interest to preserve, rehabilitate, or restore.

Premises - The parcel of land on which an historic or architecturally significant structure exists.

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.

Regulated buildings and structures. The provisions of this Bylaw shall apply to only the following buildings and structures:

Buildings and structures listed on the National Register of Historic Places or the State Register of Historic Places, including contributing properties within the Colburn School Historic District and the Fisher School Historic District.

Buildings and structures which in whole or in part were constructed on or before December 31, 1910.

Procedure.

Upon receipt of an application for a demolition permit for a building or structure regulated by this Bylaw, the Commissioner shall within seven (7) days transmit a copy thereof to the Commission. No demolition permit shall be issued except in conformance with the provisions of this section.

A public hearing shall be conducted by the Commission within twenty (20) days of receipt of the application for demolition permit by the Commission, and shall be closed within ten (10) days of the opening of said hearing. Failure to open or close the hearing within these prescribed time periods shall be deemed to constitute constructive approval by the Commission, and in such case,

the Commissioner shall, subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations, issue the demolition permit.

The Commissioner shall give notice of the public hearing by publishing at least five (5) days before the hearing an announcement in a local newspaper of the time, place, and purpose of the hearing. The Commissioner shall also transmit a copy of said notice to the applicant, to the owner of record (if different from the applicant), to the owners of all properties within three hundred (300) feet of the subject property, to the Westwood Historical Society, and to any others the Commissioner deems necessary to notice. In cases where it is known that additional approvals will be required for the proposed redevelopment of the premises, including zoning variances, special permits, and/or subdivision approvals, notice of the Commission's public hearing shall be provided to the authority responsible for granting said approvals.

If, following the public hearing, the Commission determines that the building or structure proposed for demolition is not an historic or architecturally significant structure, or that the proposed demolition of the building or structure would not be detrimental to the purposes protected by this Bylaw, the Commission shall notify the Commissioner within five (5) days of such determination. Upon receipt of such notification, or upon the expiration of five (5) days from the close of the hearing without such notification, the Commissioner shall, subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations, issue the demolition permit.

If, following the public hearing, the Commission determines that (1) the building or structure is an historic or architecturally significant structure and (2) the demolition of this historic or architecturally significant structure would be detrimental to the historic or architectural resources of the Town, the Commission shall declare the building or structure a preferably preserved historic or architecturally significant structure. In making such a determination, the Commission will consider any information submitted by the property owner or its representative outlining a significant hardship, financial, or otherwise, resulting from any delay that may be caused by the employment of this Bylaw. The Commission shall notify the applicant and the Commissioner within five (5) days of such determination. If the Commission determines the building or structure to be a preferably preserved building or structure, then no demolition permit shall be issued for up to six (6) months from the date of the original Application. Furthermore even if the owner or the owner's representative fails to accord the Commission with that which the Commission desires or requires for determination (such as, but not limited to, entry into the structure), if six (6) months from the date of the original Application have passed, a demolition permit shall be promptly issued by the Building Commissioner subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations.

Notwithstanding the above, prior to the expiration of the six (6) month waiting period, the Commissioner may issue a demolition permit for a preferably preserved historic or architecturally significant structure after receipt of written notice from the Commission that (a) the structure has been fully documented (At no cost to the property owner) to the satisfaction of the Commission, and that (b) all salvageable and valuable artifacts and materials have been or will be removed and preserved (At no cost to the property owner) to the satisfaction of the Commission, and that (c) any of the following applies:

The Commission is satisfied that there is no reasonable likelihood that the applicant, owner, or some other reasonable person or group is willing to purchase, preserve, rehabilitate, restore, or relocate said building structure; or

The Commission is satisfied that for up to (6) months from the date of the original Application, including periods of time prior to the date of submission of an application for demolition permit, the owner has made continuing, bona fide, and reasonable efforts to locate a purchaser to preserve, rehabilitate, restore, or relocate said building or structure, and that such efforts have been unsuccessful; or

The Commission is satisfied that the proposed demolition may be conducted in a manner that is not detrimental to the historic or architectural resources of the Town.

A decision by the Commission expires two (2) years from the date of the decision and is transferable to a new property owner during this time period. If demolition has not occurred prior to the expiration of the Commission's decision, a new application for a demolition permit must be filed with the Commissioner, and reviewed by the Commission in accordance with the provisions of this section, prior to any subsequent demolition.

If a building or structure is determined to be a preferably preserved historic or architecturally significant structure, the owner shall be responsible for properly securing such building or structure, if vacant, to the satisfaction of the Commission. Should the owner fail to properly secure such building or structure, a subsequent destruction of such building or structure at any time during the period of the demolition delay through fire or other cause which could have been prevented by properly securing such building or structure, shall be considered a voluntary demolition in violation of this Bylaw and shall be subject to Section 1.6.2.

Commission's review and recommendation on other applications.

Upon receipt of an application for an Environmental Impact and Design Review (EIDR) Approval, a Flexible Multiple Use Overlay District (FMUOD) Special Permit, an Earth Material Movement (EMM) Special Permit, a Definitive Subdivision Approval, a Senior Residential Development (SRD) Special Permit, or an Open Space Residential Development (OSRD) Approval involving a parcel of land containing a building or structure regulated under Section 1.3, the granting authority shall transmit to the Commission a copy of the application for review and recommendation. Failure of the Commission to respond to the granting authority within thirty (30) days of its receipt of such application shall be deemed to signify its lack of opposition to the project.

Enforcement, remedies and appeals.

The Commission and the Commissioner are each authorized to institute any and all proceedings in law or in equity as they deem necessary and appropriate to obtain compliance with the requirements of this Bylaw or to prevent a violation thereof.

No building permit shall be issued with respect to any premises upon which an historic or architecturally significant structure has been voluntarily demolished in violation of this Bylaw for a period of two (2) years after the date of the start or completion of such demolition.

Appeals to Court. A person aggrieved by a decision of the Commission may appeal to a court of competent jurisdiction within twenty (20) days after the Commission's 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.

Pre-determination

Any property owner or their designee may submit a pre-determination request directly to the Commission, in order to determine significance of their property prior to initiating a demolition permit application with the Building Inspector. Once a determination is made by the Commission, they shall submit their decision in writing to the Building Inspector's Department and the applicant. Such determination shall be recorded by the Building Inspector's Department with the intent of allowing any future application to proceed promptly through the demolition process in the case of a pre-determination that the structure is not significant. Such written pre-determinations shall be considered valid, barring any relevant future changes to this Bylaw regarding historic structures.

Severability

If any section, paragraph, or part of this Bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:



Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, Esq. Esq.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 23 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 23. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw related to Section 8.3 [Open Space Residential Development (OSRD)] to provide for age-restricted housing, amend the application procedures, and delete in its entirety Section 8.4 [Senior Residential Development (SRD)].

- 1) Delete Section 8.4 [Senior Residential Development (SRD)] in its entirety and renumber subsequent sections as appropriate.
- 2) Amend Section 8.3 to read as follows:

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.
- 8.3.1.6 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 interior drive	20'	10'
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 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. 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.

<u>Total Number of Dwelling Units</u>	<u>Minimum Number of Affordable Dwelling Units</u>
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, length, 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 OSRD application meets one or more of the allowed bonuses in Section 8.3.9.4 and demonstrates consistency with the standards below:

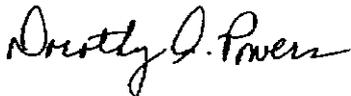
- 1) Conformance with the Aggregate Yield requirements of Section 8.3.9.4.6.
- 2) Demonstration of no significant negative fiscal impact to the town.
- 3) Consistency with the purposes of Section 8.3.
- 4) Demonstration of proper and complete application of the OSRD 4-step design process.
- 5) Compatibility 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.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:

A handwritten signature in cursive script that reads "Dorothy A. Powers".

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, E.M.C. E.M.C.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 24 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 24. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw to allow commercial outdoor seating as a permitted accessory use in association with permitted commercial uses by adding a new use category to Section 4.3.1 [Table of Accessory Uses].

1) Add a new Section 4.3.2.5 to read as follows:

	SRA	SR B	SR C	SR D	SR E	GR	SR	LB A	LB B	HB	I	IO	AR O
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

2) Add a new Section 4.4.2 to read as follows:

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.

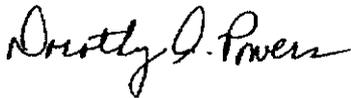
- 4.4.2.1 Plans for all proposed outdoor seating must be approved by the Town Planner, in writing, in advance of implementation.
- 4.4.2.2 In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.
- 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.

3) Delete Note 6 in Section 4.2 [Notes for Table of Principal Uses] in its entirety and renumber subsequent notes as appropriate.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:



Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, Esq. E.M.C. E.M.C.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 25 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 25. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw to further define how to calculate the required number of affordable housing units in various sections of the Zoning Bylaw, including without limitation Section 8.3 [Open Space Residential Development], Section 8.4 [Senior Residential Development], Section 9.5 [Flexible Multiple Use Overlay District], and Section 9.7 [University Avenue Mixed Use District].

1) Add a new Section 8.3.11 to read as follows, and renumber subsequent sections as appropriate:

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.

<u>Total Number of Dwelling Units</u>	<u>Minimum Number of Affordable Dwelling Units</u>
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

2) Amend Section 8.4.3.6 to read as follows:

8.4.3.6 Affordability Requirements. Where any project authorized under a SRD 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 SRD 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.

<u>Total Number of Dwelling Units</u>	<u>Minimum Number of Affordable Dwelling Units</u>
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

3) Amend Section 9.5.14 to read as follows:

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 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 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 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.

<u>Total Number of Dwelling Units</u>	<u>Minimum Number of Affordable Dwelling Units</u>
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

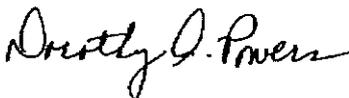
4) Amend Section 9.7.4.5.3 to read as follows:

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, rounded up to the next whole number, shall be Affordable Housing units, unless the proponent satisfies the alternative requirements provided in Section 9.7.4.5.3.c below.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:



Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC, CMMC

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 26 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 26. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to amend the Westwood Zoning Bylaw to add a new Section 9.4.5.5 under Permits Required in the Wireless Communications Overlay District to allow an administrative process for minor alterations.

1) Add a new Section 9.4.5.5 to read as follows:

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.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:

Dorothy A. Powers

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, Esq. E.M.C.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 27 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 27. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw Section 6.1 related to Off-Street Parking.

1) Amend Section 6.1.2 to read as follows:

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.

2) Amend Section 6.1.9.3.4 to read as follows:

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.

3) Amend Section 6.1.10 to read as follows:

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.

4) Amend Section 6.1.11 to read as follows:

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.

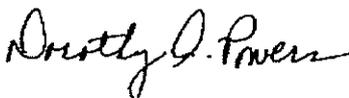
5) Amend Section 6.1.12 to read as follows:

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.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:



Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, L.M.C. & L.M.C.

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 28 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 28. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain housekeeping amendments to various sections of the Westwood Zoning Bylaw and official Zoning Map as may be necessary to correct any errors or inconsistencies.

1) Amend Section 4.1.6.1 to read as follows:

	SRA	SR B	SR C	SR D	SR E	GR	SR	LB A	LB B	HB	I	IO	AR O
4.1.6.1 Earth Material Movement per Section 7.1	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB

2) Delete Note 10 in Section 4.2 [Notes for Table of Principal Uses] in its entirety, and renumber subsequent notes as appropriate.

3) Amend Section 6.1.5.13 to read as follows:

6.1.5 COMMERCIAL USES

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

4) Amend Section 6.1.19.5 to read as follows:

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.

5) Amend Section 7.4.4 to read as follows:

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.

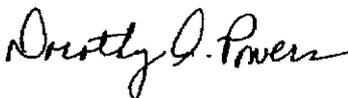
6) Amend Section 7.4.6 to read as follows:

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) Amend the Official Zoning Map to correct the depiction of the UAMUD (University Avenue Mixed Use Overlay) District by extending the delineation of UAMUD to cover a ~3,600 SF rear portion of a parcel of land on Whitewood Road near the intersection of the former Blue Hill Drive shown on Assessor's Parcel Map 33 as Lot 51, so that the Official Zoning Map is consistent with the previously adopted Master Development Plan referenced in Section 9.7 of the Zoning Bylaw, and to correct the depiction of zoning district boundaries to be coincidental with lot lines where appropriate, as shown on the revised Official Zoning Map dated May, 2016.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:



Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk



TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC, CMMC

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 29 of the Warrant for the Annual Town Meeting held on May 2, 2016:

Annual Town Meeting, Article 29. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw Section 9.5.9.1 [Minimum Project Area] under the Flexible Multiple Use Overlay District (FMUOD-1) also known as the University Avenue Business District from 30 acres to 10 acres.

- 1) Amend Section 9.5.9 [Alternative Dimensions Table] to decrease the minimum project area in the FMUOD-1 from 30 acres to 10 acres by amending Section 9.5.9.1 to read as follows:

		<u>FMUOD</u> <u>1</u>	<u>FMUOD</u> <u>2</u>	<u>FMUOD</u> <u>3</u>	<u>FMUOD</u> <u>4</u>	<u>FMUOD</u> <u>5</u>	<u>FMUOD</u> <u>6</u>	<u>FMUOD</u> <u>7</u>
9.5.9.1	Minimum Project Area ¹	10 acres	5 acres	10 acres	5 acres	5 acres	1 acre	1 acre

- 2) Add a footnote to Minimum Project Area in Section 9.5.9.1 to read as follows, and renumber subsequent footnotes as appropriate:
 - 1 Minimum project area shall include contiguous parcels and parcels separated by a roadway or railroad right-of-way that are effectively contiguous.

Witness my hand and seal of the Town of Westwood this 7th day of July, 2016

Attest:

Dorothy A. Powers

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk