

The Charter

ABINGTON CODE

Chapter C

CHARTER

[HISTORY: Adopted by the voters at the Annual Town Election by referendum 4-30-2016; approved by the Legislature by c. 445, L. 2016. Amendments noted where applicable.]

[EDITORIAL NOTE: References to the Town of Abington General Bylaws throughout have been inserted by the Town Clerk, in consultation with the Town Manager, for the convenience of the reader, but are not part of the Town Charter. Such references take a form similar to the following, "[Bylaws, Chapter ____]"]

ARTICLE I
INCORPORATION

Section 1-1. Incorporation.

The inhabitants of the Town of Abington, within the corporate limits as now established, or as hereafter may be established in the manner provided by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Abington."

Section 1-2. Short Title.

This instrument may be cited and shall be known as the Abington Home Rule Charter.

Section 1-3. Form of Government.

The administration of all the fiscal, prudential, and municipal affairs of the Town, with the government thereof, shall be vested in a legislative branch, to consist of a Town Meeting open to all registered voters of the Town and an executive branch, to be headed by a Board of Selectmen and Town Manager.

Section 1-4. Powers of the Town.

The form of government provided by this charter shall be known as the Abington Home Rule Charter Plan. Pursuant to this charter, and subject to only limitations as may be imposed by the constitution and statutes of the Commonwealth of Massachusetts, it is the intent and the purpose of this charter to confer on the Town of Abington all of the powers it is possible to confer under the constitution and statutes of said Commonwealth, as fully and as completely as though each such power was specifically and individually enumerated herein.

Section 1-5. Interpretation of Powers.

The powers of the Town of Abington under this charter shall be construed liberally in favor of the Town, and the specific mention of particular powers is not intended, nor is it to be construed, as limiting in any way the general powers of the Town as stated in Section 1-4.

Section 1-6. Intergovernmental Relations.

Subject to the applicable requirements of any provision of the constitution or statutes of the Commonwealth of Massachusetts, the Town of Abington may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States Government or any agency thereof.

Section 1-7. Definitions.

Unless another meaning is clearly apparent from the manner in which the word is used the following words as used in the Charter shall have the following meanings:

"Appointing authority," where appropriate - Board of Selectmen, Board of Library Trustees, School Committee, and Town Manager.

"Charter," this charter and any amendments to it made through any of the methods provided under article LXXXIX of the Amendments to the Constitution of the Commonwealth of Massachusetts and General Laws chapter 43B.

"Majority vote," a majority of those present and voting, provided that a quorum of the body is present.

"Multiple member body," any board, commission or committee consisting of two or more persons, whether elected or appointed, but specifically excluding Town Meeting.

"Town," the Town of Abington.

"Town agency," any board, commission, committee, department or office of the Town government.

"Town bulletin board," the bulletin board, on which official Town notices are posted, located in the Town office building. Whenever reasonably possible, official Town notices shall be posted on the Town's website.

"Voters," the registered voters of the Town of Abington.

ARTICLE II
LEGISLATIVE BRANCH

Section 2-1. Open Town Meeting.

The legislative powers of the Town shall continue to be exercised by a Town Meeting open to all registered voters of the Town.

Section 2-2. Presiding Officer.

The Moderator, as provided for in Section 3-3, shall preside at all sessions of the Town Meeting, but the Moderator shall have no vote unless those voters present and voting are equally divided. He/she shall at the first session of the Town Meeting following each Annual Town Election appoint a Deputy Moderator to serve in the event of his absence or disability, provided that the Town Meeting ratifies such appointment. In the event of the absence or disability of the Moderator and Deputy Moderator the Town Meeting shall elect from those voters present at the Town Meeting a Temporary Moderator to act during such absences or disabilities. The Moderator shall perform such duties as may from time to time be assigned to the office of Moderator by by-law, rule or other vote of Town Meeting.

Section 2-3. Committees.

2-3-1. Subject to the provisions of this Charter and to such by-laws or other Town Meeting votes regarding committees as may be provided, the Moderator shall appoint for fixed terms the members of such committees of the Town Meeting, special or standing, as may from time to time be established, other than those appointed by vote of the Town Meeting.

2-3-2. There shall be a Finance Committee, the members of which shall be appointed by the Moderator. The number of members, the term of office and any other condition of appointment or service as may be deemed necessary or desirable shall be established by bylaw. The Finance Committee shall report its recommendations on every article contained

in a Town Meeting warrant, in writing, at least ten (10) days prior to a scheduled Town Meeting. Prior to making its recommendations the Finance Committee shall hold one or more meetings to permit discussion of the subject matter of all articles contained in the warrant, except those articles subject to public hearings by other multiple member town bodies and not containing appropriations. The Finance Committee shall have such additional powers and duties as may be provided by Massachusetts General Laws, by this Charter or by by-law. [Bylaws, Chapter 67]

Section 2-4. Annual Town Meeting.

There shall yearly be held an Annual Town Meeting, to transact business relating to the prudential affairs of the Town, which shall be held on the date fixed in the bylaws of the Town.

Section 2-5. Special Town Meetings.

Special Town Meetings shall be held at the call of the Board of Selectmen at such times as it may deem appropriate and whenever a Special Town Meeting is requested by the voters of the Town in accordance with procedures made available by the laws of the Commonwealth of Massachusetts.

Section 2-6. Clerk of the Meeting.

The Town Clerk shall serve as the clerk of the Town Meeting. In the event of unavoidable absence, the Town Clerk shall designate a substitute; otherwise, the Moderator shall appoint a Clerk Pro Tempore. The Town Clerk shall give notice of all meetings to the public, keep a journal of its proceedings and perform such other functions as may be provided by the laws of the Commonwealth of Massachusetts, by the Charter, by bylaw or by other Town Meeting vote.

Section 2-7. Warrant Articles.

The Board of Selectmen shall at all times receive all requests or petitions which are addressed to it and which seek the inclusion of an article in a Town Meeting warrant and are filed by: (1) the Town Clerk or Moderator; (2) any elected or appointed multiple member body, acting by a majority of its members; (3) any ten voters for a regular Town Meeting and any one hundred voters for a Special Town Meeting; (4) any other person or entity authorized by law. The original copy of each request or petition filed hereunder shall be retained by the Board of Selectmen until at least ninety days following the completion of the Town Meeting at which the request or petition is acted upon. The Board of Selectmen shall have discretion as to whether to include on a warrant for any Town Meeting a request or petition filed by: (1) the Town Clerk or Moderator or (2) any elected or appointed multiple member body, acting by a majority of its members.

Section 2-8. Warrants.

Every Town Meeting shall be called by a warrant issued by the Board of Selectmen which shall state the date, time and place at which the meeting is to be convened and, by separate articles, the subject matter to be acted upon. Notice of an annual or special town meeting shall be provided in the manner prescribed by the General Laws and bylaws. The original copies of all warrants for Town Meeting shall be kept in the office of the Town Clerk in a record book maintained for that purpose. [Bylaws, Chapter 152]

Section 2-9. Availability of Town Officials at Town Meetings.

Every Town officer, or in the case of a multiple member body, a designated representative of such multiple member body, and every Town department head shall attend all sessions of the Annual Town Meeting and any and all Special Town Meetings for the purpose of providing the Town Meeting with information pertinent to matters appearing on the warrant, unless deterred for reasonable cause as determined by the Town Manager. If any person described above is so deterred, he/she shall designate a designee to attend the Town Meeting in his/her place, and shall notify the Town Manager of such designee.

If any person required to attend the sessions of the town meeting under this section is not a voter, he/she shall, notwithstanding, be entitled to speak in order to provide the Town Meeting with information on pertinent warrant articles.

ARTICLE III
ELECTIONS AND ELECTED OFFICIALS

Section 3-1. Elections: General Provisions.

3-1-1. Elected offices. The offices to be filled by ballot of the voters of the entire Town shall be a Board of Selectmen, Moderator, Town Clerk, School Committee, Board of Assessors, Board of Health, Board of Library Trustees, Board of Sewer Commissioners, Board of Water Commissioners, Housing Authority, and Planning Board and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.

Any voter shall be eligible to hold any elective town office, but no elected Town official shall simultaneously hold any other elected Town office.

Notwithstanding their election by the voters, the Town officers named in this section shall be subject to the call of the Board of Selectmen or of the Town Manager, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

Such elected officials may be subject to recall as set forth in Section 3-13 of this Charter.

3-1-2. Annual Town Election.

The regular annual election of Town officers shall be held on such date as may from time to time be fixed in the by-laws of the Town, and shall be acted upon and determined by the voters on official ballots without party or other designation. [Bylaws, Chapter 152]

3-1-3. Nomination of Candidates.

The number of signatures of voters required to place the name of a candidate for any office on the official ballot for use at any Town election shall be fifty (50), unless a greater number is required by state law.

Section 3-2. Board of Selectmen.

There shall be a Board of Selectmen consisting of five (5) members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. Vacancies in the office of Selectmen, other than those occurring in the three months immediately preceding the Annual Town Election, shall be filled by a special election in accordance with the provisions of Massachusetts General Laws.

The executive powers of the Town shall be vested in the Board of Selectmen which shall be deemed to be the chief executive office of the Town. The Board of Selectmen shall have all of the executive powers it is possible for a Board of Selectmen to have and to exercise. The Board of Selectmen shall serve as the chief policy making agency of the Town. The Board of Selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all Town agencies serving under it, and in conjunction with other elected Town officers and multiple member bodies to develop and promulgate policy guidelines designed to bring the operation of all Town agencies into harmony. Provided however, nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of such members, to become involved in the day-to-day administration of any Town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines, which are to be implemented by officers and employees serving under it.

The Board of Selectmen:

- (a) shall cause the charter, by-laws, and rules and regulations for the government of the Town to be enforced and shall cause an up-to-date record of all its official acts to be kept.
- (b) shall appoint a Town Manager as provided for in Article IV of this charter and shall appoint a Town Counsel.
- (c) shall appoint those multiple member bodies authorized by law, and those authorized by the provisions of Section 7-10 of this Charter;
- (d) may investigate the affairs of the Town and the conduct of any Town agency including any doubtful claims against the Town, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of the results of such investigation shall be placed on file in the office of the Town Manager, and a report summarizing the results of such investigation shall be printed in the next annual Town report;
- (e) shall be the licensing board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions thereto as it deems to be in the public interest. The Board of Selectmen shall enforce the laws relating to all businesses for which it issues such licenses. The Board of Selectmen may delegate such licensing authority unless specifically prohibited by the laws of the Commonwealth of Massachusetts.

Section 3-3. Moderator.

There shall be a Moderator elected for a term of three (3) years. The Moderator shall preside and regulate the procedure at all sessions of the Town Meeting, and shall have all of the powers and duties to which are given moderators under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the Charter, by by-law or by other vote of the Town Meeting.

Section 3-4. Town Clerk.

There shall be a Town Clerk elected for a term of three (3) years. The Town Clerk shall be the keeper of vital statistics of the town and the custodian of the Town Seal and all public records, shall administer the oaths of office to all Town officers who apply to him/her therefore, be the clerk of the Town Meeting and perform such duties with regard to elections and other matters as may be provided by law. The Town Clerk shall have all of the powers and duties which are given to town clerks under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the

Charter, by bylaw or by other vote of the Town Meeting.

Section 3-5. School Committee.

There shall be a School Committee consisting of five (5) members elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The School Committee shall have general charge and superintendence of the public schools and for this purpose shall have all of the powers and duties which are given to school committees under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the Charter, by bylaw or by other vote of the Town Meeting.

Section 3-6. Board of Assessors.

There shall be a Board of Assessors which shall consist of three (3) members elected for terms of three (3) years each, so arranged that one term shall expire each year. The Board of Assessors shall annually make a fair cash valuation of all property, both real and personal, within the Town, and it shall have all of the powers and duties which are given to boards of assessors under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the Charter, by bylaw or by other vote of the Town Meeting.

Section 3-7. Board of Health.

There shall be a Board of Health which shall consist of five (5) members elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The Board of Health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health, and shall have all of the powers and duties which are given to boards of health under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the Charter, by bylaw or by other vote of the Town Meeting.

Section 3-8. Board of Library Trustees.

There shall be a Board of Library Trustees which shall consist of nine (9) members elected for terms of three (3) years each, so arranged that the term of office as nearly an equal number of members as is possible shall expire each year. The Board of Library Trustees shall have general charge of the care and management of the Town library, and of all property of the Town relating thereto, in consultation with the Town Manager. The Board of Library Trustees shall have all of the powers and duties which are given to library trustees under M.G.L. c.78 and any other relevant provision of the constitution and laws of the Commonwealth of Massachusetts and shall have such additional powers and duties as may be authorized by the Charter, by bylaw or by other vote of the Town Meeting. The Board of Library Trustees shall appoint the Library Director in consultation with the Town Manager, who shall act in the capacity of the principal personnel officer of the Town, as defined in Section 4 of this Charter.

Section 3-9. Board of Sewer Commissioners.

There shall be a Board of Sewer Commissioners consisting of five (5) members elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The Board of Sewer Commissioners shall have general charge of the care and management of the municipal sewer system, and of all property of the town relating thereto. The Board of Sewer Commissioners shall have all of the powers and duties which are given to boards of sewer commissioners under the constitution and laws of the Commonwealth of Massachusetts, and such

additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-10. Board of Water Commissioners.

There shall be a Board of Water Commissioners consisting of three (3) members elected for terms of three (3) years each, so arranged that one term shall expire each year. The Board of Water Commissioners shall have general charge of the care and management of the municipal water system, and of all property of the Town relating thereto. The Board of Water Commissioners shall have all of the powers and duties which are given to boards of water commissioners under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the Charter, by bylaw or by other vote of the Town Meeting.

Section 3-11. Housing Authority.

There shall be a Housing Authority consisting of five (5) members whose composition shall be subject to the provisions of M.G.L. c.121B, §3. The Housing Authority shall have all of the powers and duties which are given to housing authorities under the constitution and laws of the Commonwealth of Massachusetts.

Section 3-12. Planning Board.

There shall be a Planning Board consisting of five (5) members elected for terms of five (5) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The Planning Board shall make studies and prepare plans concerning the resources, possibilities and needs of the Town. It shall prepare and may from time to time amend and perfect a comprehensive plan which shall set forth in graphic and textual form information concerning the present development of the Town and parts thereof. Such comprehensive plan shall include recommendations of the Planning Board concerning the future development (including physical, economic, and environmental aspects) of the entire Town and parts thereof.

The Planning Board shall annually report to the Town giving information regarding the condition of the Town and any plans or proposals known to it affecting the resources, possibilities and needs of the Town, and shall specify amendments that the Planning Board has made during the past year in the comprehensive plan.

The Planning Board shall have all of the other powers and duties which are given to planning boards under the constitution and laws of the Commonwealth of Massachusetts, and shall have such additional powers and duties as may be authorized by the Charter, by bylaw or by other vote of the Town Meeting.

Section 3-13. Recall of Elected Officials.

3-13-1. Who can be Recalled.

Any holder of a Town elective office listed in Section 3-1 may be recalled therefrom by the voters as herein provided.

3-13-2. Recall Affidavit and Petition.

Any twenty-five (25) registered voters of the Town may file with the Town Clerk an affidavit signed under oath or sworn to before a notary public bearing the name of the officer sought to be recalled and a statement of the grounds for the recall. Within three days following such filing the registrars of voters and/or Town Clerk shall determine whether such filing is sufficient and valid.

If said filing is determined to be sufficient, the Town Clerk shall thereupon make available in the office of the Town Clerk to the first voter who signed the affidavit (the "lead petitioner") copies of petition blanks demanding such recall with the Clerk's signature and official seal attached thereto, and a copy of said petition shall be considered a permanent record of the Town. They shall be dated, addressed to the Board of Selectmen and contain the names of the first ten signers of the affidavit, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit, and demand the election of a successor in the said office. The recall petition shall be returned and filed with the Town Clerk no later than 5:00 p.m. on the twentieth (20th) day after the petitions are made available. The petition shall have been signed by at least twenty percent (20%) of the registered voters of the Town, determined as of the date the affidavit was filed, and the signatories to such petition shall add their number and street, if any, of their residences, to their signatures.

The Town Clerk shall submit the recall petition to the Registrars of Voters in the Town by the end of the next business day following the deadline for filing, and the Registrars shall forthwith, but in no event more than seven (7) days after receipt, certify thereon the number of signatures which are names of registered voters of the Town.

3-13-3. Selectmen's Action on Receiving Petition.

If the petition shall be found and certified by the Registrars of Voters to be sufficient they shall submit the same with their certificate to the Board of Selectmen without delay. The Board of Selectmen shall forthwith meet at a properly posted meeting in accordance with the Open Meeting Law and give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within seven (7) days thereafter, the Board of Selectmen shall order an election to be held on a dated fixed by it, in accordance with the minimum requirements of the election laws of the Commonwealth of Massachusetts, provided however, that the recall election must be held no later than fourteen (14) days after adherence to the minimum statutory requirements; provided, however, that if another municipal election is scheduled to occur within one-hundred (100) days of the date the Board votes to schedule the election, the question of recall may be presented to the voters on the same date and on the same ballot, at the discretion of the board. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

3-13-4. Nomination of Candidates.

The officer whose recall is sought may be a candidate in the recall election, and unless such officer requests otherwise in writing, the Town Clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of the law relating to elections, unless otherwise provided in this section.

3-13-5. Incumbent Holds Office Until Election.

The officer whose recall is sought shall continue to perform the duties of his office until the recall election. If not then recalled, such person shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided for in Section 3-13-7. If recalled, such person shall be deemed removed immediately.

3-13-6. Propositions on Ballot.

Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer, office)

Against the recall of (name of officer, office)

Immediately at the right of each proposition there shall be a space in which the voter, by making a mark, may vote for either of said propositions. Under the propositions shall appear the word "Candidates," the directions to voters required by section 42 of chapter 54 of the General Laws, and beneath this the names of candidates nominated as herein before provided. If a majority of the votes cast upon the question of recall is in the affirmative, the

candidate receiving the highest number of votes shall be declared elected, and shall upon qualification serve the balance of the unexpired term. If the successor shall fail to qualify within ten (10) days after receiving notification of election, the office shall be deemed vacant and shall be filled in the manner provided for in Article III, Section 3-14. If a majority of the votes cast upon the question of recall is in the negative, the officer whose recall was sought shall not be recalled and the ballots for candidates shall not be counted and shall have no legal effect.

3-13-7. Timing of Recall Petition.

No recall petition shall be filed against an officer within three (3) months after the officer takes office nor less than six (6) months prior to the end of the officer's elected term. In the case of an officer subjected to a recall election and not recalled thereby, no recall petition may again be filed until at least three (3) months after the election at which the question of recall was submitted to the voters of the Town.

3-13-8. Appointment of Person Recalled.

A person who has been recalled from an office, or who has resigned from office at any time after a valid recall affidavit has been certified, shall not be appointed to any Town office within two (2) years after such recall or resignation.

Section 3-14. Vacancy in Office.

If there exists a vacancy in the office of Town Clerk or Town Moderator the Selectmen shall provide for notice of such vacancy as provided for in Article VII, Section 7-11 by posting the vacancy on the Town Bulletin Board. Any person who desires to be considered to fill such vacancy may, within ten (10) days following the date the notice is posted file with the Board of Selectmen a statement which sets forth in clear and specific terms the qualifications which he/she holds for the position. The Board of Selectmen shall fill such vacancy no earlier than fourteen (14) days and no later than thirty (30) days after the notice was posted. The person appointed to fill such vacancy shall be the person who receives a majority of the votes cast at such meeting. The person appointed to fill such vacancy shall hold office until the next regularly scheduled Annual Town Election at which time the vacant position shall be included on the ballot as provided for in Article III, Section 3-1.

If there exists a vacancy in an elected multiple member body, other than the Board of Selectmen the remaining members shall forthwith give notice of the existence of any such vacancy to the Board of Selectmen. The Board of Selectmen shall then provide for notice of such vacancy as provided for in Article VII, Section 7-11 by posting the vacancy on the Town Bulletin Board. Any person who desires to be considered to fill such vacancy may, within ten (10) days following the date the notice is posted file with the Board of Selectmen and the board or committee which has experienced the vacancy a statement which sets forth in clear and specific terms the qualifications which he/she holds for the position. Not earlier than fourteen (14) days nor later than thirty days after said notice is posted, the Board of Selectmen and the remaining members of the board or committee which has experienced the vacancy shall fill such vacancy at a joint meeting of the Board of Selectmen and such board

or committee. The filling of such vacancy shall be by a joint vote of those members of the Board of Selectmen and those members of such board or committee who are in attendance, provided that a quorum of the Board of Selectmen is present. The person appointed to fill such vacancy shall be the person who receives a majority of the votes cast at such meeting. The person appointed to fill such vacancy shall hold office until the next regularly scheduled Annual Town Election at which time the vacant position shall be included on the ballot as provided for in Article III, Section 3-1.

An elected official who is no longer a resident of the Town shall be deemed to have vacated the office to which the official was elected. When doubt exists as to the residency of an elected official, the Board of Registrars of Voters of the Town shall decide the issue of residency in accordance with law.

ARTICLE IV
TOWN MANAGER

Section 4-1. Appointment, Qualification, Term of Office.

The Town Manager shall be appointed by the Board of Selectmen for a term not to exceed five (5) years. A committee consisting of seven (7) members, including one (1) member of the School Committee (selected by vote of the School Committee), one (1) member of the Finance Committee (selected by vote of the Finance Committee) and five (5) residents appointed by the Board of Selectmen, shall present to the Board of Selectmen no less than three (3) candidates chosen from the applicants after interviews by the committee.

The Town Manager shall be the chief administrative officer of the Town and be responsible to the Board of Selectmen for the administration of all Town affairs placed in his/her charge by or under the charter. The Town Manager shall be a person especially fitted by education which shall consist of at least a bachelor's degree from an accredited degree granting college or university, and his/her professional experience shall include at least five (5) years of, full time, compensated service in a managerial capacity in public or business administration. The Town Manager shall not have served in an elected office in the Town of Abington government for at least twenty-four (24) months prior to his/her appointment. The Town Manager need not be a resident of the Town or of the commonwealth but must be a United States citizen.

The Town Manager shall devote full time to the duties of the office and shall not hold any other elective or appointive Town office, nor shall the Town Manager engage in any other business unless such action shall be approved in advance in writing by the Board of Selectmen.

The Town Manager shall execute a bond in favor of the Town for the faithful performance of his/her duties in such sum and with such surety as shall be fixed or approved by the Board of Selectmen, who shall not waive the requirement of a performance bond.

Section 4-2. Powers.

The Town Manager shall be the chief administrative officer of the Town, shall be responsible and accountable to the Board of Selectmen generally, and specifically for the efficient and orderly conduct of the departments, offices and functions placed in charge of the Town Manager by this Charter or vote of the Board of Selectmen. The Town Manager's responsibilities shall include, but not be limited to, the proper execution of the powers and duties that follow:

- (a) The Town Manager shall be the personnel director of the Town, responsible for the administration of all personnel matters, including personnel by-laws and all personnel policies and regulations that the Board of Selectmen may adopt.
- (b) The Town Manager shall appoint and may remove, subject to the civil services law where applicable, all department heads, all officers and all subordinates and employees of the Town, except those appointments for which another method of appointment is provided in the charter, including the Library Director under Section 3-8 and employees of the Housing Authority under Section 3-11, as well as employees of the School Department, and subject to the provisions of Section 7-12 of this Charter. Appointments of department heads of elected multiple member bodies shall be made after consultation with the respective multiple member body. In the case of department heads and officers, appointments shall become effective on the fifteenth (15th) day following the day notices of the appointment is filed with the Board of Selectmen unless the said Board shall within that period by a two-thirds vote of all its members vote to reject said appointment. Within said fifteen (15) day period

the Board of Selectmen may, by a two-thirds vote of all its members vote to waive its power to reject the appointment, whereupon the appointment shall become effective forthwith. All other appointments shall become effective immediately.

- (c) The Town Manager shall exercise general supervision of all Town agencies for which the Town Manager is appointing or employing authority.
- (d) All appointments by the Town Manager shall be based upon merit and fitness alone.
- (e) Copies of notices of appointments shall be submitted to the Board of Selectmen and posted on the Town Bulletin Board.

Section 4-3. Administrative Powers and Duties.

The Town Manager shall be the chief administrative officer of the Town and shall be responsible to the Board of Selectmen for the effective management of all Town affairs placed in the manager's charge by this Charter, said Board of Selectmen, by bylaw, or vote of the town meeting, and for the implementation of town policies placed in the Town Manager's charge by said Board of Selectmen.

The powers, duties and responsibilities of the Town Manager shall include, but are not intended to be limited to, the following

- a) To supervise, direct and be responsible for the efficient administration of all officers appointed by the Town Manager and their representative departments, and of all functions for which the Town Manager is given responsibility, authority or control by this charter, by bylaw, by town meeting vote, or by vote of the Board of Selectmen;
- b) To administer and enforce either directly or through a person or persons supervised by the Town Manager, in accordance with this Charter, all provisions of the laws of the commonwealth or special laws applicable to the Town, all bylaws, and all regulations established by the Board of Selectmen;
- c) To be responsible for coordination of operational and strategic planning for the Town;
- d) To attend all meetings of said Board of Selectmen, except when excused, having the right to speak but not vote;
- e) To attend all sessions of the Town Meeting and answer all questions addressed to the Town Manager which are related to the warrant articles and to matters under the general supervision of the Town Manager;

- f) To keep said Board of Selectmen fully informed regarding all departmental operations, fiscal affairs, general problems, administrative actions, and the availability of federal and state funds and how such funds might relate to unmet long range needs and to this end shall submit quarterly reports to the Board of Selectmen;
- g) To assure the complete and full records of the financial and administrative activity of the Town are maintained and to render reports to the Board of Selectmen as may be required, but not less frequently than quarterly, a full report of all Town administrative operations during the period reported on, which report shall be made available to the public.
- h) To assure that a full and complete inventory of all property of the Town, both real and personal, is kept, including all property under the jurisdiction of the School Committee:
- i) To be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all Town facilities, except those under the jurisdiction of the Housing Authority, School Committee, Sewer Commission or Water Commission, unless requested by those agencies;
- j) To be responsible for purchasing for all functions and departments, pursuant to chapter 30B of the General Laws, and all other applicable statutes, procedures and bylaws. Said Town Manager shall at the request of the School Committee, delegate such duties for school department purchasing to an employee of the School Committee as per the requirements of said chapter 30B;
- k) To administer the Town's personnel system, personnel evaluation policies and practices, enforcement of labor contracts, labor relations, collective bargaining and state and federal equal employment opportunities law compliance function of the Town, except for School Department agreements, entered into by the Town;

- l) To annually fix compensation of all Town employees and officers appointed by the Town Manager within limits established by appropriation and any applicable compensation plan and collective bargaining agreements, and or Town Meeting; provided further however that any interim revision to same shall require approval of the Board of Selectmen.
- m) To have the authority to sign payroll and accounts payable warrants concerning the everyday operations of the Town;
- n) To be responsible for the negotiation of all contracts with Town employees over wage, and other terms and conditions of employment, except employees of the school department. The Town Manager may, subject to the approval of the Board of Selectmen, employ special counsel to assist in the performance of these duties. Any such contracts shall be subject to approval of the Board of Selectmen.
- o) To prepare and submit annual operating budgets and capital improvement programs as provided in Section VI of this charter;
- p) To keep the Board of Selectmen and Finance Committee fully informed as to the financial condition of the Town and to make recommendations to the Board of Selectmen as the Town Manager deems necessary;
- q) To coordinate the activities of all Town agencies serving under the office of Town Manager and the office of the Board of Selectmen with those under the control of other officers and municipal member bodies elected directly by the voters. For the purposes of effecting coordination and cooperation among all agencies of the Town, the Town Manager shall have the authority to require persons so elected, or their representatives, to meet with the Town Manager, at reasonable times, to submit such reports of their doings and summaries of action taken as may be deemed to be necessary or desirable for the purposes of such coordination.
- r) To investigate or inquire into the affairs of any Town department or office;
- s) To prosecute, defend or compromise all litigation to which the Town is a party, upon request and with approval of said Board of Selectmen

- t) To delegate, authorize or direct any subordinate or employee of the Town to exercise any power, duty, or responsibility which the office of Town Manager is authorized to exercise, provided, that all acts that are performed under such delegation shall be deemed to be the acts of the Town Manager;
- u) To perform such other duties as necessary as may be assigned by this Charter, bylaw, by Town Meeting vote, or by vote of the Board of Selectmen.

Section 4-4. Financial Powers and Duties.

The Town Manager shall be the chief financial officer of the Town, and be responsible for the design and preparation of the annual budget, filing grant applications, and controlling budget expenditures, including approval of the warrant and for the payment of funds prepared by the Town Accountant in accordance with the provisions of section 56 of chapter 41 of the General Laws. Provided, further, however, that the Board of Selectmen shall alone approve all warrants prepared and signed by the Town Accountant in the event of the absence of the Town Manager or a vacancy in the office of Town Manager.

Section 4-5. Temporary Absence.

The Town Manager may designate by letter with the Board of Selectmen and Town Clerk a qualified officer of the Town to perform the duties of the Town Manager during a temporary absence or disability. If such temporary absence or disability shall exceed thirty days, any designation made by the Town Manager shall be subject to the approval of the Board of Selectmen. In the event of the failure of the Town Manager to make such designation, or if the person so designated is for any reason unable to serve, the Board of Selectmen may designate some other qualified person to perform the duties of Town Manager until the Town Manager shall return.

The powers of a temporary Town Manager appointed under this section shall be limited to matters not admitting of delay and shall include authority to make necessary temporary, emergency appointments or designations to Town office or employment but not to make permanent appointments or designations.

Section 4-6. Vacancy in Office/Acting Town Manager.

Any permanent vacancy in the office of Town Manager shall be filled as soon as possible by the Board of Selectmen. The filling of such vacancy shall be done as provided for in Article IV, Section 4-1.

Pending such appointment, the Board of Selectmen shall appoint a qualified Town administrative officer or employee, or other individual, to perform the duties of the office on an acting basis. Such temporary appointment shall not exceed six months but one renewal may be voted by the Board of Selectmen not to exceed a second six months. Compensation for such person shall be set by the Board of Selectmen but shall not exceed the compensation paid to the most recent incumbent of the office of Town Manager.

The powers of an acting Town Manager appointed under this section shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to Town office or employment but not to make permanent appointments or designations unless specifically so authorized by the Board of Selectmen.

Section 4-7. Removal and Suspension.

The Board of Selectmen by the affirmative votes of at least three members may terminate, remove or suspend the Town Manager from office; provided, however, that further conditions applicable to termination, removal and suspension may be addressed by the terms of any contract between the Board of Selectmen and the Town Manager.

ARTICLE V
ADMINISTRATIVE ORGANIZATION

Section 5-1. Police Department Organization.**5-1-1. Organization; Chief of Police.**

The Police Department shall be organized under the provisions of section 97A of chapter 41 of the General Laws. There shall be a Chief of Police, appointed by the Town Manager, for an indefinite term. The Town Manager, in consultation with the Board of Selectmen, shall determine the qualifications for appointment to the office of Chief of Police. The Chief of Police, once appointed, may only be removed from office for just cause, as defined and after a hearing in accordance with the provisions of Article VII, Section 7-13 of this charter.

The Town Manager shall use an assessment process using not less than three police professionals, not employed by the Town of Abington, to evaluate candidates for the position of Chief of Police. The Chief of Police shall be appointed on the basis of qualifications and fitness for service.

The Town Manager may enter into a contract of employment with the Chief of Police in compliance with Section 4-3(n); however, there shall be no defined term of office.

5-1-2 Deputy Chief of Police.

The Chief of Police shall appoint the Deputy Chief of Police. The Chief of Police shall determine the qualifications for appointment of the Deputy Chief of Police, provided however, that the Chief of Police shall use an assessment process, using not less than three police professionals, not employed by the Town of Abington, to evaluate candidates for the position of Deputy Chief of Police. The Deputy Chief shall be appointed on the basis of qualifications and fitness for service. The decision of the Chief of Police in the selection of the Deputy Chief of Police shall be final. The Deputy Chief of Police, once appointed, may only be removed from office for just cause and after a hearing in accordance with the provisions of Article VII, Section 7-13 of this Charter.

5-1-3 Department Personnel and Officers.

The Chief of Police shall appoint all other personnel and officers of the department provided that appointment of all sergeants and patrol officers shall be in accordance with the provisions of chapter 31 of the Massachusetts General Laws.

Section 5-2. Fire Department Organization.

There shall be a Fire Department organized under sections 42, 43 and 44 of chapter 48 of the General Laws. As provided in said chapter 48 there shall be a Fire Chief who shall be appointed by the Town Manager, in accordance with the provisions of chapter 31 of the General Laws and the rules made thereunder.

The Fire Chief shall be responsible for the appointment, management and supervision of personnel, shall be responsible for all operations of the Fire Department, shall serve as the Town's forest fire warden, and shall perform all fire related duties and tasks considered necessary by the Town Manager.

The Fire Chief shall be the appointing authority for all fire department personnel and shall have full authority to appoint, demote, suspend and terminate all employees, including firefighters, captains, superior officers and the Deputy Fire Chief. The officers and firefighters shall be appointed in accordance with the provisions of chapter 31 of the General Laws.

Section 5-3. Department of Public Works.

5-3-1. Department of Public Works. There shall be a department of public works under the supervision of a Director. Said department shall include the Board of Sewer Commissioners, Board of Parks and Recreation, Park Superintendent, Superintendent of Highways, Tree Warden, and Trustees of Veterans Memorials and each of their respective functions. The department of public works shall be responsible for: the repair, alteration and maintenance of all Town-owned public works related equipment, property and vehicles; central purchasing of all public works related supplies, materials and equipment and management of all contracts and projects for the repair, alteration, remodeling, construction, reconstruction, maintenance or renovation of all town public ways, sewer lines, grounds, facilities and equipment, except those under the jurisdiction of the School Department and the Board of Water Commissioners.

Notwithstanding that the Board of Sewer Commissioners, Board of Parks and Recreation, Park Superintendent, Superintendent of Highways, Tree Warden, and Trustees of Veterans Memorials shall be part of the Department of Public Works, such multiple member bodies and officers shall continue to exercise their respective policy-making duties and responsibilities under the General Laws, except as otherwise provided in this charter.

Additional public works functions, including but not limited to solid waste collection and disposal, recycling, engineering, and building maintenance, may be transferred to the said department, after a public hearing, by vote of the Board of Selectmen upon a recommendation from the Town Manager and Director of Department of Public Works.

The department may, with the approval of the Town Manager and Board of Selectmen, be organized into one or more operational divisions.

5-3-2. Director of Department of Public Works. Powers and Duties. Said department shall be under the supervision of a Director of Public Works who shall exercise and perform, under the policy direction of the above-referenced boards and committees and the policy direction and supervision of the Town Manager, all of the powers, rights and duties to be exercised by the department in sections 5-3-1 and 5-3-2, except as otherwise provided. The Director shall be appointed by the Town Manager in accordance with the provision of Section 4-2(b) of this Charter, and may be removed by said Manager.

Said director shall hold no other elective or appointive office in the Town and shall not be engaged in any other business or occupation; provided however, that the Director shall be eligible to also be appointed as head of any division of the department of public works and such service shall constitute a single position with the Town. The director shall give to the Town a bond with a surety company authorized to transact business in the commonwealth as surety for the faithful performance of the Director's duties, in such sum and upon such conditions as the town administrator shall require. Said Director shall report to the Town Manager as to the doings of the office at such times as said Manager may require. Said Director shall supervise day to day operations and provide administrative coordination of the various boards and committees and functions assigned to the department of public works, and, for that purpose, shall supervise department division heads or directors.

5-3-3. Staffing. Appointments and Removals. The Town Manager shall appoint in accordance with Section 4-2(b), including division heads, directors, principal deputies or principal agents for any division or function of the department for which a multiple member body or officer provides policy direction, and, in addition to any requirements set forth in said sections, the Town Manager shall also consult with the Director of the department of public works and with the appropriate policy making multiple member body or officer. The Town Manager shall provide notice to any policy making multiple member board or officer of the department of any suspension or removal of employees assigned to any division thereof. The decision of the Town Manager in suspending or removing any person appointed by the Town Manager shall be final.

ARTICLE VI
FINANCE AND FISCAL PROCEDURES

Section 6-1. Fiscal Year.

The fiscal year of the Town shall begin on the first day of July and shall end on the last day of June, unless another period is required by the General Laws of the Commonwealth of Massachusetts.

Section 6-2. Submission of Budget.

The Town Manager shall submit to the Board of Selectmen, thirty (30) days prior to the date a budget is required to be submitted to the Finance Committee as specified by bylaw, a written proposed budget for Town government for the ensuing fiscal year, including the budget proposed by the School Committee. The proposed budget shall detail all estimated revenues from all sources, and all expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital during the ensuing year, detailed by agency, department, committee, purpose, and position, together with estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The Town may, by bylaw, establish additional financial reports to be provided by the Town Manager. [Bylaws, Chapter 67]

In addition:

- (a) To assist said Town Manager in preparing the proposed annual budget of revenues and expenditures, all boards, officers and committees of the Town, including the School Committee shall furnish all relevant information in their possession and submit to the Town Manager, in writing and in such form as the Town Manager shall establish, a detailed estimate of the appropriations required and available funds.
- (b) The Town Manager shall report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the Town, together with an estimate of the tax rate necessary to raise such amount.
- (c) Within the time fixed by by-law the Town Manager, with the advice and consent of the Board of Selectmen, shall submit to the Finance Committee a proposed, balanced, operating budget for the ensuing year with an accompanying budget message and supporting documents. The Town Manager shall provide for a general summary of the proposed budget on the Town's website.

Section 6-3. Budget Message.

The budget message of the Town Manager shall explain the budget for all Town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the Town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the Town's debt position and include other material as the Town Manager deems desirable or the Board of Selectmen may reasonably require.

Section 6-4. The Budget.

The proposed operating budget shall provide a complete financial plan for all Town funds and activities for the ensuing fiscal year. Except as may be otherwise be required by the General Laws of the Commonwealth of Massachusetts, by this Charter, or by bylaw, it shall be in the form which the Town Manager deems

desirable or the Board of Selectmen may require. In the presentation of the budget, the town manager shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The budget shall show, in detail, all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency and position in terms of work programs, and the method of financing such expenditures;
- (b) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

Section 6-5. Action on the Budget.

The Finance Committee shall, upon receipt of the budget from the Town Manager, consider in public meetings detailed expenditures for each Town department and agency and may require the Town Manager, or any other Town agency, to furnish it with such additional information as it may deem necessary to assist the committee in its review and consideration of the proposed budget. The finance committee shall file with the Town Clerk at least ten (10) days prior to Town Meeting a report containing its recommendation for action to be taken on each line item in the proposed operating budget as submitted by the Town Manager. Said report shall also be made available to voters of the Town, forthwith after filing with the Town Clerk, in the manner provided in the Town Bylaws, and at Town Meeting. The budget shall be voted upon in accordance with the bylaws of the Town. [Bylaws, Chapter 152]

Section 6-6. Capital Improvement Program.

The Town Manager shall submit a capital improvement program to the Board of Selectmen and the Finance Committee at least six (6) months before the start of the fiscal year. Said program shall be based on material prepared by the capital improvement committee established by by-law, if any, including:

- (a) A clear, concise general summary of its contents;
- (b) A list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need or each capital improvement;
- (c) Cost estimates, methods of financing and recommended time schedules for each improvement; and
- (d) The estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the Town Manager with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

Section 6-7. Audits.

The Board of Selectmen shall annually provide for an independent audit of all financial books and records of the Town, or, whenever it deems an audit of the whole Town or of any particular Town agency, to be

necessary.

Audits of the Town's financial books and records shall be conducted by a certified public accountant, or firm of such accountants, having no interest, direct or indirect, in the affairs of the Town.

ARTICLE VII
GENERAL PROVISIONS

Section 7-1. Charter Changes.

This charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth of Massachusetts and General Laws chapter 43B.

Section 7-2. Severability.

The provisions of the Charter are severable. If any provision of the Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 7-3. Specific Provisions Shall Prevail.

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 7-4. References to General Laws.

All references to the General Laws contained in the Charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the Charter.

Section 7-5. Computations of Time.

In computing time under the Charter, if seven (7) days or less, "days" shall refer to secular days and shall not include Saturdays, Sundays or legal holidays. If more than seven (7) days, every day shall be computed.

Section 7-6. Number and Gender.

Words importing the singular number may extend and be applied to several persons or things, Words importing the plural number may include the singular, and words importing the masculine gender shall include the feminine gender.

Section 7-7. Rules and Regulations.

A copy of all rules and regulations adopted by any Town agency shall be filed in the office of the Town Clerk and made available for review by any person who requests such information. Such rules and regulations shall not become effective until ten days following the date they are so filed.

Section 7-8. Periodic Review, Charter and By-laws.**7-8-1. Charter Review.**

At least once in every ten (10) years, in each year ending in a four (4) beginning in the year 2014, a special Charter Review Committee shall be established for the purpose of reviewing this Charter and to make a report, with recommendations, to the Town Meeting concerning any proposed amendments which said committee may determine to be necessary or desirable. The committee shall consist of five (5) members who shall be chosen by the Town Moderator. The committee shall meet to organize forthwith following the final adjournment of the Annual Town Meeting and shall report to the Annual Town Meeting the following year with any recommendations.

7-8-2. By-Law Review.

At intervals of not more than five (5) years from the date of adoption of this Charter, proposed revisions or recodifications of the by-laws of the Town shall be presented to the Town Meeting for re-enactment. Such revisions or recodifications shall be prepared by a special By-law Review Committee appointed by the Board of Selectmen for that purpose, which shall conduct its review under the supervision of the Town Counsel or, if the Board of Selectmen shall so direct, by special counsel appointed for that purpose. Such committee shall be appointed immediately following the adjournment of the Annual Town Meeting in the year preceding the year in which their report is to be filed.

Within eight (8) months following their appointment, the committee shall cause to be published on the Town's website (1) a report summarizing their recommendations and noting the times and places within the Town where complete copies of their report are available for inspection by the public and (2) the date, time and place not less than two (2) weeks following such publication when a public hearing will be held by the committee on the report.

Subsequent to their enactment by the Town Meeting, copies of all bylaws shall be forwarded to the Attorney General of the Commonwealth of Massachusetts for his/her review and approval, and they shall be otherwise published all as required by the General Laws of the Commonwealth of Massachusetts. Copies of the revised bylaws shall be made available for public distribution. In each year between such re-enactments and publications there shall be published an annual supplement which contains all by-laws and amendments to by-laws which have been adopted in the previous year.

Section 7-9. Procedures.**7-9-1. Meetings.**

All multiple member bodies of the Town, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the Town as they may prescribe. Special meetings of any multiple member body shall be held on the call of the respective chairman, or by one-third (1/3) of the members thereof by suitably written notice delivered to the residence or place of business of each member at least forty eight hours in advance of the time set. A copy of the said notice shall also be posted on the Town Bulletin Board. Special meetings of any multiple member body shall also be called within one week following the date of the filing with the Town Clerk of a petition signed by at least fifty (50) voters and which states the purpose or purposes for which the meeting is to be called. Except as otherwise authorized by law, all meetings of all multiple member bodies shall be open and public. However, the multiple member body may recess, for the purpose of meeting in executive session in accordance with the General Laws of the Commonwealth of Massachusetts.

7-9-2. Open Meeting Law.

Multiple member bodies shall be subject to applicable provisions of the Open Meeting Law as it may be amended from time to time.

7-9-3. Rules and Journal.

Each multiple member body shall determine its own rules and order of business unless otherwise provided by the charter or by-law, and shall provide for keeping minutes of its proceedings. Such minutes shall be voted on and approved within sixty (60) days following the date of such proceedings. These rules and minutes shall be a public record kept available in a place convenient to the public at all reasonable times, and copies shall be kept available in the Town library.

7-9-4. Voting.

Except on procedural matters, all votes of all multiple member bodies shall be taken by voice or roll call vote, the result of which shall be recorded in the minutes; provided, however, that if the vote is unanimous, only that fact need be recorded.

7-9-5. Quorum.

A majority of the members of the multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time. No other action of the multiple member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple member body.

Section 7-10. Committees; Appointing Authority, In General.

Whenever, whether under the provisions of a Town Meeting vote or by by-law, a multiple member body is established, the primary purpose of which is to perform an administrative or executive function, notwithstanding the provisions of any such vote to the contrary, the members of such committee shall be appointed by the Board of Selectmen. Whenever, whether under the provisions of a Town Meeting vote or a by-law, a multiple member body is to be established, the primary purpose of which is to perform a legislative function, notwithstanding any provision in such vote to the contrary, the member of such multiple member body shall be appointed by the Moderator. Nothing in this section shall be construed to prevent the Town Meeting by vote or by by-law, to provide that a multiple member body shall include, as a portion of its membership, certain persons to serve ex-officio, provided that such authority is not used to defeat the clear purpose of this provision.

Section 7-11. Notice of Vacancies.

Whenever a vacancy occurs in any Town office or Town employment, or as a member of any multiple member body, except for positions covered under the civil service law of the Commonwealth of Massachusetts, whether by reason of death, resignation, expiration of a fixed term for which a person has been appointed, or otherwise, the Board of Selectmen or other appointing authority shall cause public notice of the vacancy to be posted on the Town Bulletin Board. No permanent appointment to fill such a position shall be effective until at least fourteen days have elapsed following such posting. Any person who desires to be considered for appointment to the position may, within ten days following the date the notice is posted, file with the Board of Selectmen or other appointing authority a statement which sets forth in clear and specific terms the qualifications which he/she holds for the position.

Section 7-12. Appointments and Removals.

Except as otherwise provided in this charter, the Town Manager shall appoint, subject to the provisions of Article IV, Section 4-2 of this Charter all persons categorized as head of departments. Except as may otherwise be required by the civil service law, appointments made by the Town Manager shall be for

periods not to exceed five years. The Town Manager may suspend or remove any person appointed by the Town Manager in accordance with the procedure established in Section 7-13. The decision of the Town Manager in suspending or removing a department head shall be final.

All persons categorized as department heads shall, subject to the consent of the Town Manager, appoint all assistants, subordinates and other employees of the department for which such person is responsible. The department head may suspend or remove any assistant, subordinate or other employee of the department for which such person is responsible in accordance with the procedures established in Section 7-13. The decision of the department head to suspend or remove any assistant, subordinate or other employee shall be subject to review by the Town Manager. A person for whom a department head has determined that suspension or removal is appropriate may seek review of such determination by the Town Manager by filing a petition for review in the office of the Town Manager, in writing, within ten (10) days following receipt of notice of such determination. The review by the Town Manager shall follow the procedures established in Section 7-13. The decision of the Town Manager shall be final.

Section 7-13. Removals and Suspensions.

Any appointed Town officer, member of a multiple member body or employee of the Town, not subject to the provisions of the state civil service law or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or, after notice and the opportunity for a hearing, removed from office, without compensation, by the appointing authority for good cause. The term "good cause" shall include, but not be limited to incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed officer, member of a multiple member body or employee of the Town may be suspended from office by the appointing authority if such action is deemed, by said appointing authority, to be necessary to protect the interests of the Town. However, other than the Town Manager as provided in Section 4-7, no suspension shall be for more than fifteen (15) days. Suspension may be coterminous with removal.

Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when the original term expires.

Section 7-14. Loss of office, excessive absence.

If any person appointed as a member of a multiple member body shall fail to attend four or more consecutive meetings, or one-half of all of the meetings of such committee held in one (1) calendar year, the remaining members of the multiple member committee may, by a majority vote of the remaining members of such committee, notify the appointing authority for said position for such action as such appointing authority deems appropriate. Prior to taking such vote, the multiple member body shall, not less than ten (10) days prior to the date said vote is scheduled to be taken, mail notice of such proposed or pending vote to the last known address of such person.

ARTICLE VIII
TRANSITIONAL PROVISIONS

Section 8-1. Continuation of Existing Laws.

All General Laws, special laws, Town by-laws, votes, rules and regulations of or pertaining to the Town which are in force when the amendments to the Town Charter approved at the 2015 Annual Town Meeting take effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

Section 8-2. Continuation of Government.

Following the effective date of the amendments to the Town Charter approved at the 2015 Annual Town Meeting, all Town agencies shall continue to perform their duties until re-appointed or re-elected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

Section 8-3. Continuation of Personnel.

Any person holding a Town office or employment under the Town as of the effective date of the amendments to the Town Charter approved at the 2015 Annual Town Meeting affected by the changes authorized by the Town at said meeting shall retain such office or employment and shall continue to perform his/her duties until provision shall have been made in accordance with the Charter for the performance of the said duties by another person or agency; provided, however, that no person in the permanent fulltime service or employment of the Town shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical to do so.

Section 8-4. Time of Taking Effect, Continuing Obligations, and Transfer of Records and Property.

The amendments to this Charter approved at the 2015 Annual Town Meeting shall take effect immediately upon approval by the voters of the Town at the 2016 Annual Town Election. Upon the effective date of the amendments, the elected Park and Recreation Commission and Trustees of Veterans Memorials shall be abolished. At that time, they shall, by operation of law, become appointed multiple member bodies of the Town and the terms of the elected incumbents shall terminate. Any elected incumbents serving on the Park and Recreation Commission or Trustees of Veterans Memorials as of the effective date of the amendments shall serve as the first appointees to such multiple member bodies for such periods of time equivalent to the remainder of their respective elected terms, or sooner resignation, retirement or removal. As vacancies arise on said multiple member bodies, they shall be filled in accordance with the applicable provisions of this Charter as revised, including Sections 3-2, 7-10 and 7-11.

No contracts or liabilities in force upon the effective date of this act shall be affected by the consolidation of public works functions authorized hereunder or of the change in the manner of selection of the Park and Recreation Commission and Trustees of Veterans Memorials. All records, property and equipment whatsoever of any office, department, or part thereof assigned to the department of public works created under this act or of the elected Park and Recreation Commission and Trustees of Veterans Memorials shall by operation of law be so assigned to the said department of public works and appointed successor boards, respectively.

The Code

Part I: General Bylaws

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹ Amendments noted where applicable]

1. Editor's Note: This Article also superseded former Ch. 1, General Provisions, Art. I, General Penalty, derived from Ch. 9, Sec. 1, of the 1992 Town of Abington Bylaws, as amended.

ARTICLE I

General Penalty**[Amended in is entirety 4-2-2012 ATM by Art. 15A²]****§ 1-1. Enforcement through indictment or on complaint to District Court.**

Any Bylaw of the Town of Abington may be enforced through any lawful means in law or in equity including but not limited to enforcement by criminal indictment or on complaint before the district court pursuant to MGL c. 40, § 21. Each day that a violation exists shall constitute a separate offense. A fine of up to \$300 may be imposed for each violation.

§ 1-2. Enforcement through non-criminal disposition.

- A. Any Bylaw of the Town of Abington, or rule or regulation of its officers, boards or departments adopted at a public meeting for which notice is posted on the Town website and bulletin board for a two-week period prior to the meeting, and which is on file with the Town Clerk, may in the discretion of the Town official who is the appropriate enforcing person, be enforced through non-criminal disposition as provided in MGL c. 40, § 21D. The specific penalty for purposes of non-criminal disposition for each such violation, if not otherwise specified, shall be as follows; **[Amended 6-6-2016 ATM by Art. 9]**

First violation	Warning
Second violation	\$50
Third violation	\$100
Fourth violation	\$200
Fifth and subsequent violations	\$300

- B. Each day a violation exists shall constitute a separate violation for purposes of this Bylaw.
- C. The term "enforcing person" as used in this Bylaw shall mean: any Town of Abington police officer with respect to any offense; as well as the Building Inspector and his designee, the members of the Conservation Commission and its designee, the members of the Board of Health, its Health Agent or other designee, the Sealer of Weights and Measures and the Sealer's designee and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of Bylaws, rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.
- D. The fines set forth in the notice of violation issued in accordance with this Bylaw shall be payable to the Town within 21 days of the date set forth on the notice or, if the person so notified seeks to contest the violation, such person may request a hearing before the District Court. The person so notified may also seek to resolve the matter locally by appealing the issuance of the notice, in writing, to the Town Manager no later than 14 days following the date of the notice of violation. The Town Manager or the Manager's designee shall, no later than 20 days following the date of the notice of violation, decide the appeal, or hold a hearing to determine such additional facts as may be necessary. If the person so notified is dissatisfied with the Town Manager's determination and resolution, they may contest the violation as set forth in the notice by seeking a hearing before the District Court in accordance with MGL c.40, § 21D. The Manager's failure to make a determination within the time

set forth herein shall be construed for purposes of this paragraph as a determination to void the notice of violation.

ARTICLE II
Terms and References

§ 1-3. Reference to statute.

Any reference within these Bylaws to a regulation or statute enacted by the Commonwealth of Massachusetts shall incorporate by reference the provisions of said regulation or statute, as they may be amended in the future. In the event the provisions of a Bylaw conflict with the provisions of state regulation or statute, the more restrictive and/or more definitive provisions shall prevail, unless otherwise mandated by law.

§ 1-4. Town website.

All references in these Bylaws to the "Town website" or "Town's website" shall mean the official Town website registered and operated by the Town of Abington.

§ 1-5. Authority of Town Clerk to assign appropriate number. [Added 6-6-2016 ATM by Art. 9]

The Town Clerk shall hereby be authorized to assign appropriate numbers to Bylaw sections, subsections, paragraphs and subparagraphs, where none are approved by Town Meeting, and, if such are approved by Town Meeting, after consultation with the Town Manager, to make non-substantive, editorial revisions to ensure consistent and appropriate sequencing and numbering, provided that such editorial revisions shall be identified by a footnote or other convention.

ALCOHOLIC BEVERAGES

Chapter 7

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Town Meeting of the Town of Abington as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Peace and good order — See Ch. 113.

ARTICLE I

Consumption in Public**[Adopted 4-3-2006 ATM by Art. 8³]****§ 7-1. Drinking on public or private property restricted.**

No person shall drink alcoholic beverages as defined in Chapter 138, Section 1 of the General Laws while on, in or upon any public way or upon any way to which the public has a right of access, or any public park, public playground or public recreational area, or any place to which members of the public have access as invitees or licensees, nor while on, in or upon any private land or place without the consent of the owner or person in control thereof. The Board of Selectmen may, however, grant temporary or limited permits to allow the consumption and possession of alcoholic beverages on public property.

§ 7-2. Seizures of alcoholic beverages.

All alcoholic beverages being used in violation of this Bylaw shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.

§ 7-3. Violations and penalties.

Whoever violates any provision of this Bylaw shall be liable to pay a fine of not more than \$100 for each violation.

3. Editor's Note: This Article also superseded former Art. I, Consumption in Public, derived from Ch. 8, Sec. 8, of the 1992 Town of Abington Bylaws.

ABINGTON CODE

Chapter 11

ANIMALS

[HISTORY: Adopted by the Town of Abington 6-6-2016 ATM by Art. 9.⁴ Amendments noted where applicable.]

4. Editor's Note: This Article also superseded former Ch. 11, Animals, adopted 4-3-2006 ATM by Art. 8.

ARTICLE I

Pasturing of Certain Animals

§ 11-1. Pasturing within streets or ways prohibited.

No person shall pasture or cause to be pastured any cattle or other animals upon or within the limits of any street or way of the Town, either with or without a keeper.

ARTICLE II

Dogs**§ 11-2. Running at large prohibited; exception for hunting purposes.**

- A. An owner or keeper of a dog shall not cause or permit such a dog to run at large in any street or public place or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises grants permission. While in any public place or street, dogs shall be under restraint by owner or keeper. A dog is under restraint within the meaning of this Bylaw if it is controlled by a leash or confined within a vehicle driven or parked on a street. Notwithstanding the preceding, an owner or keeper shall be prohibited from bringing a dog, even under restraint, to/into the following events/venues:
- (1) Any concert or other public event organized and/or administered by the Abington Summer Concerts Committee;
 - (2) The Island Grove swimming and recreation area, which shall be designated from time to time by the Board of Selectmen. Until or unless otherwise designated, the Island Grove swimming and recreation area shall be bounded by Memorial Bridge at the west, Park Avenue at the east, and the main walking path at the north, and shall include the swimming pool and recreation area.
 - (3) On the grounds of the Millennium Memorial Complex.
- B. Subsection A shall not be construed to limit or prohibit the use of hunting dogs during the hunting season, or the training of hunting dogs, or during field trials for hunting dogs.
- C. Subsection A shall not be applicable to dogs when utilized by law enforcement and public safety officials or in search and rescue efforts, or as a service animal, as that term is defined by the Americans with Disabilities Act of 1990, as amended, 42 U.S. Code § 12101 et seq., and any regulations promulgated thereunder.

§ 11-3. Impoundment; maintenance and administrative charges.

Dogs running at large will be impounded. If the owner is known, notice shall be given within three days to such owner. If the owner is unknown, or the dog remains unclaimed for more than seven days, disposition of the dog shall be as provided under Massachusetts General Laws, Chapter 140, Section 151A. The owner or keeper of any dog so impounded may reclaim such dog upon payment of the dog license fee if it is then unpaid, and upon payment of any outstanding fines, maintenance and administrative charges as may be established by the Animal Control Officer.

§ 11-4. Licensing required; license period.

Every owner or keeper of a dog who is six months old or over shall license it with the Town Clerk on or before January 1 of each year. Every owner or keeper of a dog which becomes six months old subsequent to January 1 of any year shall license it with the Town Clerk when it becomes six months old. The owner or keeper of every dog which is so licensed shall cause it to wear at all times a license tag issued for the purpose by the Town Clerk. An annual dog license shall be valid from January 1 to December 31.

§ 11-5. Confinement of dogs during heat.

If the Animal Control Officer determines that a dog in its oestrus cycle (in heat) is attracting other dogs

and such attraction is causing damage or disturbance to any neighborhood, the Dog Officer shall order in writing that the owner or keeper of such dog restrain the dog for the duration of its oestrus cycle. If the Dog Officer determines that such owner or keeper is not complying with such order, the Dog Officer shall impound said dog for the duration of its oestrus cycle and the owner shall pay the current boarding fee for each day the dog is held in the pound as may be established by the Animal Control Officer.

§ 11-6. Kennels.

- A. No person may maintain a kennel, as defined in M.G.L. c. 140, § 136A, without a kennel license.
- B. A kennel license may be obtained upon submission of a written application to the Town Clerk with the prior approval from the Animal Control Officer and the Zoning Board of Appeals, if required under the Town's Zoning Bylaws, and upon payment of the applicable fee.
- C. The kennel license application shall be on a prescribed form and shall specify the name of the owner, the name of the kennel, the name of the keeper, and the location of such kennel. Such license shall specify the maximum number of dogs to be kept on the premises at any one time. Prior to approving any application, the Animal Control Officer shall conduct an inspection of the premises and shall deliver notice of said kennel application by first class mail to all owners of property situated within 300 feet of the boundaries of the proposed kennel property, in accordance with a certified abutters list issued for said purpose by the Board of Assessors. All costs of said notice shall be paid by the applicant, and said notice shall inform the abutters of their right to submit written comments about the proposed kennel within 10 days of its mailing. No kennel license shall be approved unless the operation of a kennel in the particular location complies with all applicable laws, including but not limited to the Town's Zoning Bylaws. The approval of the license may include sufficient conditions, at the discretion of the Animal Control Officer, to prevent any nuisance to neighboring properties. Any party thereafter objecting to the decision of the Animal Control Officer may appeal said decision to the Board of Selectmen for independent review.
- D. An annual kennel license shall be valid from January 1 through December 31.
- E. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.
- F. While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license and the year of issuance and the name of the Town.
- G. The Chief of Police or Animal Control Officer may at any time inspect or cause to be inspected any kennel, and if in their judgment the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall by order revoke or suspend said kennel license.
- H. In the case of revocation of said licenses, the Board of Selectmen may reinstate such license and impose conditions and regulations upon the operation of said kennel only after holding a public hearing, with notice of said hearing going to abutters at least 10 days prior to the date of said hearing, such notice to be provided as set forth in § 11-6C of this Bylaw.
- I. All kennels shall be limited to the number of dogs that the kennel license states are to be maintained on said premises.
- J. In accordance with Chapter 102 of the Town's General Bylaws, the Town Clerk may deny any

application for kennel license if the applicant has outstanding unpaid taxes or fees owed to the Town.

§ 11-7. Animal waste.

- A. The owner or custodian of every dog or animal shall be responsible for any fecal matter deposited by the animal(s) on public walks, streets, recreation areas or private property of another.
- B. The owner or custodian of an animal when appearing with the animal on any public walk, street, recreation area, or private property shall possess the means of removal of any fecal matter left by such animal.
- C. For purposes of this regulation, the means of removal shall include any tool, implement, or other device carried for the purpose of picking up and containing such fecal matter. Disposal shall be accomplished by transporting such fecal matter to a place suitable and regularly reserved for the disposal of human fecal matter, specifically reserved for disposal of animal fecal matter or otherwise designated as appropriate by the Board of Health.

§ 11-8. Fees.

Fees for individual dog licenses and kennel licenses shall be established annually by the Town Clerk in accordance with Massachusetts General Laws, Chapter 40, section 22F.

§ 11-9. Violations and penalties.

- A. This Bylaw may be enforced by the Animal Control Officer or any Town of Abington police officer. In addition to the remedies set forth herein and in GL c. 140, §§ 136A to 174E, inclusive, or any other applicable provision of law, whoever violates any provision of this Bylaw may be penalized by a noncriminal disposition process as provided in G.L. c. 40, § 21D and the Town's non-criminal disposition Bylaw. If non-criminal disposition is elected, then any person who violates any provision of this Bylaw shall be subject to the following penalties:

Failure to license dog	\$50
Operation of kennel without a license	\$50
Operation of kennel above maximum allotment of dogs	\$25 per dog
Allowing dog to run at large	\$100
Removal of animal waste	\$50
Any other violation not specifically enumerated	\$50

- B. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

ABINGTON CODE

Chapter 17

BOARDS, COMMITTEES AND COMMISSIONS

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.⁵ Amendments noted where applicable.]

GENERAL REFERENCES

Council on Aging — See Ch. 40.

Historical Commission — See Ch. 89.

Finance Committee — See Ch.. 67.

Town Meetings — See Ch. 152.

5. Editor's Note: This Article also superseded former Ch. 17, Boards, Committees and Commissions, comprised of Art. I, Terms of Office, derived from Ch. 3, Sec. 4, of the 1992 Town of Abington Bylaws, added by Art. 29 of 1996 ATM; Art. II, Organization, adopted 10-24-2000 STM by Art. 28; and Art. III, Public Hearings, adopted 4-30-2001 ATM by Art. 21.

ARTICLE I
Terms of Office

§ 17-1. Term to be specified at creation; default term.

The term of office for a member of any committee appointed by the Town Meeting, the Town Manager, the Board of Selectmen, or the Moderator shall be specified at the time of the creation of the committee, and if no such term is specified the term of office shall be three years.

ARTICLE II
Organization

§ 17-2. Reorganization by elected officials.

Elected officials shall reorganize their respective board, committee, commission, council or authority on or before May 15 of each year, or at the next regularly scheduled meeting after the Annual Town Election. The present chairperson of the board, committee, commission, council or authority shall step down and the secretary or senior member shall take nominations from the floor for chairperson. All members of the board, committee, commission, council or authority may nominate candidates for chairperson. All members may vote on all nominations for officers of their respective board, committee, commission, council or authority. The Town Manager and the Town Clerk shall be notified in writing of the newly reorganized board, committee, commission, council or authority no later than June 15 of the same year.

§ 17-3. Reorganization by appointed officials.

With the exception of the Finance Committee, appointed officials shall reorganize their respective board, committee, commission, council or authority on or before May 15 of each year, or at the next regularly scheduled meeting after the Annual Town Election. The present chairperson of the board, committee, commission, council or authority shall step down and the secretary or senior member shall take nominations from the floor for chairperson. All members of the board, committee, commission, council, or authority may nominate candidates for chairperson. All members may vote on all nominations for officers of their respective board, committee, commission, council or authority. The Town Manager and the Town Clerk shall be notified in writing of the newly organized board, committee, commission, council or authority no later than June 15 of the same year.

ARTICLE III
Public Hearings

§ 17-4. Minimum notice requirements. [Amended 6-6-2016 ATM by Art. 9]

All appointed and elected boards, committees, and commissions required by either state statute or internal rules to hold a public hearing on any matter within their jurisdiction shall post notice thereof in compliance with the Open Meeting Law, M.G.L. chapter 30A, §§ 18 to 25, as it may be amended from time to time, and shall provide such additional notice as may be required by federal, state or local law, rule or regulation. Public hearing notices shall also be posted on the Town website whenever feasible as an additional means of notification to the general public, but the failure to post any notice on the Town website as required by these General Bylaws shall not be deemed to violate the minimum notice requirements of any section of these General Bylaws.

ARTICLE IV

Recording of Meetings

[Added 4-2-2012 ATM by Art. 15K]

§ 17-5. Recording of meetings of multiple-member bodies for broadcast on local cable station.

The Board of Selectmen shall be authorized to adopt a policy concerning televising of meetings of multiple member bodies, which policy may, to the extent that the same is technologically and practically feasible, require such meetings to be televised live or recorded for the purpose of later broadcast on a local cable television station. Notwithstanding any other provision of this Bylaw or policy adopted by the Board of Selectmen, however, whether a meeting is televised or for later broadcast shall have no effect on the validity of such meeting.

Chapter 18**AFFORDABLE HOUSING TRUST**

[HISTORY: Adopted by the Town Meeting of the Town of Abington 10-19-2020ATM by Art. 25. Amendments noted where applicable.]

§ 18-1. Name of Trust.

The Trust shall be called the "Abington Affordable Housing Trust," herein referred to as the "Trust."

§ 18-2. Purpose.

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Abington for the benefit of low- and moderate-income households and for the funding of community housing as defined in Chapter 44B.⁶

§ 18-3. Board of Trustees. [Amended 5-24-2021 ATM by Art. 16]

There shall be a Board of Trustees (the "Board") consisting of five members appointed by the Board of Selectmen. At least one of the Trustees shall be a member of the Board of Selectmen. Only persons who are residents of the Town of Abington shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that two of the initial trustee appointments shall be for a term of one year, and two of the initial appointments shall be for two years, and the Selectmen's designee shall serve until the end of their term on the Board of Selectmen or for two years, whichever comes first; and Trustees may be reappointed at the discretion of the Board of Selectmen for succeeding terms, with no limits on the number of terms that a Trustee can serve. Any Trustee who ceases to be a resident of the Town of Abington shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy, provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. Upon the appointment of any succeeding Trustee and the filing of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Trustees may be removed by the Board of Selectmen at any time for cause following the opportunity for a hearing. For purposes of this Bylaw, the term "cause" shall include, but not be limited to, violation of any local, state, or federal law, incapacity to perform the duties of a Trustee; and acts of a Trustee, that in the opinion of the Board of Selectmen, are negligent or detrimental to the Town of Abington or the Trust. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

§ 18-4. Meetings of Trust.

The Board shall meet at least quarterly in the Town of Abington at such time and at such place as the Trustees shall determine. Special meetings may be called by the Chair of the Trustees. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, General Laws Chapter 30A, Sections 18-25, as may be amended from time-to-time. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

6. Editor's Note: See MGL c. 44B, Community Preservation.

§ 18-5. Powers of Board.

The powers and duties of the Board shall include the following, all of which shall be carried on in furtherance of the purposes and in compliance with the terms set forth in Section 55C:

- A. To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any bylaw or any general or special law or any other source, including money from Chapter 44B; provided, however, that any such money received from Chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said Chapter 44B are reported to the Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;
- B. To purchase and retain real or personal property, including, without restriction, investments that yield a high rate of income or no income.
- C. To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
- D. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- E. To employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary.
- F. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable.
- G. To apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- H. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- I. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- J. To carry property for accounting purposes other than acquisition date values.
- K. To borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral.

- L. To make distributions or divisions of principal in kind.
- M. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of Section 55C, to continue to hold the same for such period of time as the Board may deem appropriate;
- N. To manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;
- O. To hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate; and
- P. To extend the time for payment of any obligation to the Trust.

§ 18-6. Acts of Trustees.

Provided that a quorum of the Board is present, a majority of those Trustees present and voting may exercise any or all of the powers of the Board hereunder, except as otherwise provided, and such Trustees may execute on behalf of the Board any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered by the Board with respect to the Trust estate.

§ 18-7. Status of Trust and Board of Trustees.

The Trust is a public employer, and the members of the Board are public employees for purposes of General Laws Chapter 258. The Trust shall be deemed a municipal agency and the members of the Board of Trustees special municipal employees for purposes of General Laws Chapter 268A, the Conflict of Interest Law. The Trust is a governmental body for purposes of Massachusetts General Laws Chapter 30A, Sections 18-25, the Open Meeting Law. The Trust is also a board of the Town for purposes of General Laws Chapter 30B, the Uniform Procurement Act, and General Laws Chapter 40, Section 15; provided, however, that agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said Chapter 30B. Notwithstanding the foregoing, neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town.

§ 18-8. Custodian of funds.

The Town of Abington Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. Cost associated with the independent audit shall be borne by the Trust. Upon receipt of the audit by the Board of Trustees, a copy shall be provided forthwith to the Board of Selectmen.

§ 18-9. Funds paid to Trust.

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, remain Trust property.

§ 18-10. Taxes.

The Trust is exempt from General Laws Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

§ 18-11. Duration of Trust.

This Trust shall continue until terminated by a vote of the Abington Town Meeting. Upon termination of the Trust, the Board, with the approval of the Board of Selectmen, may sell all or any portion of the Trust property, both real and personal, and, following the payment of all obligations and liabilities of the Trust and the Trustees, shall transfer to the Town the net assets of the Trust, which shall be held by the Board of Selectmen for affordable housing purposes.

§ 18-12. Compensation of Trustees.

Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of Abington. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

§ 18-13. Annual report.

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the Abington Board of Selectmen by December 31 of each year and will be included in the Town's Annual Report. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust.

ABINGTON CODE

Chapter 25

BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.⁷ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. I.

§ 25-1. Display of numbers.

At the time of the sale, rental, new occupancy or transfer of any building in the Town, numbers representing the address of such building and assigned to such building by the Assessors shall be affixed to such building in such a manner that they are clearly visible from the nearest street and/or driveway entrance which provides access to such building. Said numbers shall be no less than four inches in height and shall be of a color in direct contrast to the surface to which it is attached. In addition to affixing numbers on the building, a building which is not clearly visible from the street or the driveway entrance, whether due to distance, topography, vegetation or other obstruction, may also be required by the Fire Department to affix its assigned numbers on a sign or other marker of a size and design acceptable by the Fire Department, which shall be erected in a more visible area along the public way as determined by the Fire Department. Nothing in this section shall prohibit a property owner from voluntarily erecting or affixing building numbers on a sign or marker in a location more visible to the public, so long as said sign or marker conforms to the Sign Bylaws and Zoning Bylaws of the Town. [See MGL Ch. 148 § 59.]

§ 25-2. Verification by Fire Department.

No sale, rental, new occupancy, or transfer of a building shall take place until the Fire Department verifies that such numbers are affixed in accordance with this Bylaw.

7. Editor's Note: This Article also superseded former Ch. 25, Buildings, Numbering of, derived from Ch. 8, Sec. 14, of the 1992 Town of Abington Bylaws.

(RESERVED)

Chapter 29

(RESERVED)

[Former Ch. 29, Carbon Monoxide Detectors, derived from Ch. 8, Sec. 17, of the 1992 Town of Abington Bylaws; added by Art. 46 of 1996 ATM, was repealed 4-3-2006 ATM by Art. 8. For current requirements, see MGL c. 148, 26F1/2.]

Chapter 35**CONDOMINIUM CONVERSIONS**

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.⁸]

GENERAL REFERENCES

Investigation of land use complaints — See Ch. 98, Art. I.

Zoning — See Ch. 175.

§ 35-1. Declaration of emergency. [Amended 6-6-2016 ATM by Art. 9]

The Town of Abington, acting by and through its Town Meeting, finds and declares that a serious public emergency exists within the Town with respect to the availability and affordability of rental housing to citizens of said Town, particularly to elderly and persons with a disability and to families of low and moderate income; that this emergency results from the aggravated local impact of factors set forth in Chapter 527 of the Acts of 1983, most particularly from limited rental housing development, prolonged increases in sales and rental housing costs exceeding increases in personal income, the increased pressures on the Town's housing stock from the metropolitan housing market and the conversion of existing rental housing to more expensive condominiums or cooperative sales housing; that this rental housing shortage generates serious threats to the public health, safety, and general welfare of the citizens of the Town; that increased protection of the present tenants of rental housing and of future occupants of converted units requires local action including establishment of provisions protecting a greater portion of the rental housing stock, extending the effective conversion notice period, lessening tenant uncertainty regarding conversion plans, encouraging appropriate safety improvements to converted housing, and establishing a local permit system to regulate and oversee the conversion process; and that this Bylaw is accordingly adopted pursuant to the provisions of Chapter 527 of the Acts of 1983.

§ 35-2. Purpose.

- A. To provide the community with the ability to oversee and regulate the conversion of property for use as condominium or cooperative housing.
- B. To assure compliance with state and local regulations for the construction and physical features of buildings which are to be used for condominiums.
- C. To require landlords who seek to convert their rental property into condominium, cooperative, or other form of non-rental property to give their tenants a reasonable period of notice before evicting them in furtherance of the conversion. Such prior notice will provide the potentially displaced tenants with sufficient time to examine the housing market, evaluate available housing alternatives, formulate future housing plans, secure any necessary financing and decided whether to acquire the housing accommodations being converted or to relocate.

§ 35-3. Definitions.

APPLICANT — A person who records, or proposes to record, the condominium instruments or on

8. Editor's Note: This Article also superseded former Ch. 35, Condominium Conversions, derived from Ch. 13 of the 1992 Town of Abington Bylaws, as amended.

whose behalf the condominium instruments are recorded, thereby subjecting the property to condominium ownership, and includes successors or persons who come to stand in the same relation to the condominium development as all applicants.

BOARD — The Planning Board of the Town of Abington.

CONDOMINIUM CONVERSION — Creation of units for condominium or cooperative ownership in a building, which was at any time before the recording of the declaration wholly or partially occupied by persons other than purchasers and persons who occupied with the consent of the purchasers.

CONDOMINIUM OR COOPERATIVE CONVERSION EVICTION — An eviction of a tenant by a landlord or any agent thereof for the purpose of removing such tenant from a housing accommodation in connection with the initial sale and transfer of legal title to that housing accommodation to a prospective purchaser as a condominium unit, cooperative or similar form of ownership, or, an eviction of a tenant by any other person who has purchased a housing accommodation when the tenant whose eviction is sought was a resident of that housing accommodation as a condominium unit, cooperative or unit held in a similar form of ownership. A conversion eviction shall not include an eviction by reason of the tenants; substantial violations of the terms of the tenancy.

CONDOMINIUM UNIT — A unit of a condominium as that is defined in Chapter 183A of the Massachusetts General Laws or any successor statute with respect to condominiums (the "condominium statute").

COOPERATIVE UNIT — A unit in a housing cooperative as set forth in Massachusetts General Laws, Chapter 157.

ELDERLY TENANT — A tenant who is a person or group of persons residing in the same housing accommodation any of who has reached the age of 60 years or over as of the date of receipt of the notice provided for hereunder.

HANDICAPPED PERSON — A person as defined in Sections 3(2) of the U.S. Housing Act of 1937 as amended by the Housing and Community Development Act of 1974.

HOUSING ACCOMMODATION — Any building, structure, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes containing three or more dwelling units, together with all services connected with the use or occupancy of such property.

LANDLORD — The individual who holds legal title to any housing accommodations in any manner including, but not limited to, a partnership, corporation or trust. For the purposes of this Bylaw, the rights and duties of a landlord hereunder shall be the obligated of anyone who manages, controls, or customarily accepts rent on behalf of the landlord.

LOW AND MODERATE INCOME HOUSING — Households whose total income for the previous year was equal to or less than the qualification income for the Section 8 Housing Assistance Program as designated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended by the Housing and Community Development Act of 1974, as further amended by the Quality Housing and Work Responsibility Act of 1998, codified at 42 U.S.C. § 1437 et seq., and/or as otherwise defined by law, and calculated pursuant to such provisions.**[Amended 6-6-2016 ATM by Art. 9]**

PERSON WITH A DISABILITY — A person as defined in Section 3(2) of the U.S. Housing Act of 1937 as amended by the Housing and Community Development Act of 1974, as further amended by the Quality Housing and Work Responsibility Act of 1998, codified at 42 U.S.C. § 1437 et seq., and/or otherwise as may be defined by law. For purposes of this Bylaw, the term "person(s) with a disability" may be used

interchangeably with and/or in place of the term "handicapped person" without changing the definition of either.[Added 6-6-2016 ATM by Art. 9]

RENTAL HOUSING AGREEMENT — An agreement, verbal, written or implied between a landlord and a tenant for use or occupancy of a housing accommodation or for housing services.

TENANT — Any person entitled under the terms of a rental housing agreement to the use and occupancy of any housing accommodation or for housing services.

UNJUSTIFIABLE RENT INCREASE — Any rent increase exceeding that allowed by consumer price index, 10% maximum, and Tax Escalation Clause provisions of the Section 4(3) of Chapter 527 of the Acts of 1983.

§ 35-4. Applicability.

- A. This Bylaw shall be applicable to all multi-family dwellings located within the Town of Abington which contain three or more dwelling units which are proposed to be converted to condominium or cooperative ownership subsequent to the effective date of this Bylaw.
- B. As required by Chapter 527 of the Acts of 1983 provisions which go beyond the protection in that Act do not apply to certain federally insured, Mass. Housing Finance Agency-financed, or adoptive-reuse-created units listed in Section 2 of that Act.

§ 35-5. Condominium or cooperative conversion permit.

- A. A condominium or cooperative conversion issued by the Planning Board is required for conversion of existing structures to condominium or cooperative ownership, and such permits shall be required prior to the filing of a master deed pursuant to the Massachusetts General Laws, Chapter 183A.
- B. Anyone wishing to apply for a condominium or cooperative conversion permit shall give notice to the tenants according to this Bylaw and Chapter 527 of the Acts of 1983, and then shall file an application with the Town Clerk for transmittal to the Planning Board.
 - (1) Any application for a condominium or cooperative conversion permit shall be accompanied by a filing fee under the fee schedule established by the Planning Board and approved by the Board of Selectmen, and by copies of notices of intent and other items required by the Planning Board.
 - (2) Within 60 days of the receipt of a properly executed application at a regularly scheduled meeting of the Planning Board, the Planning Board shall hold a public hearing. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall published in the newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid, to the applicant, owners, and tenants.
 - (3) Within 30 days following the public hearing, the Planning Board shall take final action on the application. Failure to take final action shall be deemed to be a grant of the permit applied for.
 - (4) Condominium or cooperative conversion permits can only be granted by at least four members of the Planning Board voting in the affirmative.
 - (5) A copy of the attested condominium or cooperative conversion permit shall be a part of and attached to the master deed recorded pursuant to Massachusetts General Laws, Chapter 183A.

The applicant shall notify the Town Clerk within 10 days of recording a master deed.

- (6) Permits shall expire if a master deed is not filed within 12 months of permit issuance, and an eighteen-month period shall elapse before a subsequent permit application may be filed.
- C. The Planning Board must approve any such application if it finds that the applicant has fully complied with all the conditions and requirements of the Bylaw.
- D. Permits may be revoked upon finding (at a hearing advertised as per Chapter 41, Section 81T) that the applicant has violated tenants' rights during the twelve- to twenty-four-month periods described in § 35-6 below.

§ 35-6. Tenant rights. [Amended 6-6-2016 ATM by Art. 9]

- A. An applicant who intends to convert a rental building to a condominium or cooperative ownership is required to give each tenant in such building notice of this intention. Such notice must precede application for a condominium or cooperative conversion permit as per § 35-5B.
- B. No applicant will be allowed to bring an action to recover possession of the premises (i.e., to evict a tenant) within the 12 months following the recording of a master deed, or within 24 months of such recording in the case of low and moderate income, person with a disability or elderly tenants as defined in § 35-3.
- C. The notice of intention to convert must set forth generally the rights of a tenant under this Bylaw and must include a copy of this Bylaw as an attachment. The notice shall be mailed postage prepaid by registered mail, return receipt requested, to the tenant at the unit or any other mailing address provided by the tenant.
- D. The Board shall have the right to deny an applicant a condominium or cooperative conversion permit if sufficient testimony is presented indicating that the tenants' right under § 35-6A to G of this Bylaw were violated prior to the application's filing date. The Board shall also have the right to revoke a permit if sufficient testimony at a subsequent hearing called upon petition of five tenants, or if the conversion unit has less than five tenants, upon petition of a majority of the tenants of the unit, is presented to indicate that tenants' rights have been violated during the applicable twelve- or twenty-four-month periods. The Board shall exercise these rights when it determines that the intent of this Bylaw has been so compromised.
- E. No tenant may be given notice by the applicant to vacate the premises within the applicable twelve- or twenty-four-month period provided in § 35-6A above, except by reason of substantial violations of the terms of the tenancy.
- F. Any tenant under a lease entered into a subsequent to the effective date of this Bylaw shall have the right at any time after receipt of a notice to convert pursuant to this Bylaw, to terminate the lease upon notice. Such termination shall be without penalty or other termination charge to the tenant.
- G. Within 60 days after recording a master deed pursuant to Massachusetts General Laws, Chapter 183A, the applicant shall offer to sell each unit or proposed unit to the tenant who rents or leases that unit. Such an offer shall be in the form of a properly executed purchase and sale agreement. The terms and conditions shall be substantially the same as, or more favorable than, those offered to the general public for the 90 days following expiration of said tenants' right to purchase pursuant to 5.4(e) of Chapter 527 of the Acts of 1983. The tenants' right to first purchase expires 90 days after receipt of the applicant's offer to sell.

§ 35-6

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- H. The tenant in a conversion condominium or cooperative shall not unreasonably withhold consent to the applicant to enter the unit in order to inspect the premises, obtain data or show the unit to prospective or actual workers or purchasers. The applicant shall give the tenant at least two days' notice of his intent and may enter only at reasonable times.
- I. It shall be unlawful for any person to engage in any act of harassment against a tenant which is designed to, or is likely to result in the termination of the tenancy by the tenant. Conduct which shall be considered harassment shall include, but not be limited to, the following: failure of the landowner to make repairs in a timely and professional manner; imposition by the landowner of unjustifiable increases in the rental price of a unit; failure of the landowner to provide the tenant with essential services; verbal harassment and/or threats by the landowner against the tenant.

§ 35-7. Enforcement.

Any person violating any provision of this Bylaw, upon conviction thereof, shall be fined not more than \$25 for each offense. Each one-day period that willful violation continues shall constitute a separate offense.

§ 35-8. Effect on other regulations.

This Bylaw shall not interfere with or annul any Bylaw, rule, regulation or permit, provided that, unless specifically exempted, where this Bylaw is more stringent, it shall control.

§ 35-9. Severability.

The provisions of this section are severable. If a court declares invalid any such provision or its application to any person or circumstance, the invalidity shall not affect the validity of any other provision or application.

§ 35-10. Safety.

- A. Certification of final approval by the Planning Board shall be deemed to be the signing of the permit only after all involved inspectors have signed same.

COUNCIL ON AGING

Chapter 40

COUNCIL ON AGING

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.⁹ Amendments noted where applicable.]

GENERAL REFERENCES

Boards, committees and commissions — See Ch. 17.

§ 40-1. Establishment; membership; terms.

There is hereby established a Council on Aging consisting of from seven to 11 citizens of this Town, appointed by the Board of Selectmen for terms not to exceed four years for any member. Said terms shall be staggered so that not more than three appointments shall be made in any calendar year. Members can be re-appointed for concurrent terms.

§ 40-2. Duties.

The duties of said Council on Aging shall be to:

- A. Identify the total needs of the community's elderly population;
- B. Educate the community and enlist support and participation of all citizens concerning these needs;
- C. Design, promote, or implement services to fill these needs, or coordinate present existing services in the community;
- D. Promote and support any other programs which are designed to assist elderly programs in the community.

§ 40-3. State and federal agencies and laws.

Said Council on Aging shall cooperate with the Commonwealth of Massachusetts Commission on Aging and shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exists for better community programming for the elderly.

§ 40-4. Reports.

Said Council on Aging shall give an annual report to the Board Selectmen with a copy of that report directed to the Commonwealth of Massachusetts Commission on Aging.

9. Editor's Note: This Article also superseded former Ch. 40, Council on Aging, derived from Ch. 9, Sec. 5, of the 1992 Town of Abington Bylaws.

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Chapter 44

DEEDS OF RELEASE AND REDEEMED REAL ESTATE

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹⁰ Amendments noted where applicable.]

§ 44-1. Duties of Treasurer.

Deeds of release and redeemed real estate, if the estate has been taken or purchased by the Town for non-payment of taxes thereon, on the payment or tender of the amount of the tax, all intervening taxes, charges and fees, and interest in the whole in accordance with the provisions of the law of the Commonwealth, shall be made and executed by the Town Treasurer.

§ 44-2. Sale of real estate; advertisement.

Any real estate which has been acquired by the Town for non-payment of taxes may be sold by the Treasurer, with the prior assent of the Board of Selectmen, and the Treasurer shall be empowered to execute, acknowledge, and deliver sufficient deeds therefor. Notice of such sale shall be given by posting a notice at the Town Offices, posting a notice on the Town website, and by publication in two newspapers of general circulation in the Town once in each of two successive weeks, the posting of said notice and the first publication to be not less than 14 days prior to the day of the scheduled sale. [See MGL Ch. 60 § 40 et seq.]

10. Editor's Note: This Article also superseded former Ch. 44, Deeds of Release and Redeemed Real Estate, derived from Ch. 3, Sec. 1, of the 1992 Town of Abington Bylaws.

DUMPING

Chapter 49

DUMPING

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹¹ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. I.

Solid waste — See Ch. 138.

Property maintenance — See Ch. 122.

11. Editor's Note: This Article also superseded former Ch. 49, Dumping, comprised of Art. I, Landfill Material, derived from Ch. 2, Sec. 10, of the 1992 Town of Abington Bylaws; and Art. II, Control of Dump and Compost Site, derived from Ch. 7, Sec. 2, of the 1992 Town of Abington Bylaws, amended by Art. 34 of 1996 ATM.

ARTICLE I

Landfill**§ 49-1. Permit to dump required. [Amended 4-2-2012 ATM by Art. 15F; 6-9-2014 ATM by Art. 20; 6-6-2016 ATM by Art. 9; 5-20-2019 ATM by Art. 24]**

- A. When permit required. No person shall dump or allow to be dumped any fill material on any property in the Town of Abington in excess of 250 cubic yards without first receiving a permit therefor from the Planning Board. For the purposes of this Bylaw, the term "fill material" shall include debris, refuse, sand, gravel, loam or other types of earth or other materials of any kind.
- B. Application. No action shall be taken on application for a permit unless it includes:
- (1) Submission of a "Permit to Fill" application form and filing fee, as may be prepared and approved by the Planning Board from time to time;
 - (2) A plot plan or sketch plan with sufficient accuracy, scale and detail to show the subject property's boundaries and the approximate location, depth and dimensions of the portion of the property at which the fill is to be placed (the "fill area"), as well as the existing and proposed finish topography of the affected area with at least two-foot contours;
 - (3) A description of the type of fill (gravel, sand, loam, etc.) and the approximate amount of fill to be brought to the fill area;
 - (4) A description of the truck routes to be taken to access and leave the fill area, as well as the proposed hours of trucking; and where the fill is being sourced from and the estimated number of trucks to be used for delivery;
 - (5) A description of the measures to be used to control spilled material and dust (i.e., sweeping and water spraying);
 - (6) An abutter list, based upon the most recent data available to and certified by the Town Assessor, identifying all direct abutters to the property and any abutters located directly across the street from the property;
 - (7) Two sets of envelopes with printed/typed name and address of each abutter (or mailing labels available from the Assessors' Office), and with proper first-class postage on each envelope.
- C. Notice of hearing. Upon receipt of a complete application package, the Planning Board shall schedule a public hearing and the Planning Board shall provide written notice of the public hearing by first-class mail to the certified abutters and to the applicant, which written notice shall be mailed at least 14 days prior to the date of the scheduled public hearing.
- D. Permit conditions. Upon a determination by the majority of the Planning Board members present and voting that any health or safety concerns have been addressed by appropriate and reasonable conditions required by the Planning Board, a permit shall be issued to allow the fill material to be placed at the property. Such conditions may include but are not limited to: size or number of trucks which may access the property within any twenty-four-hour period; implementation of spill control and dust control measures; requirements applicable to loaming and seeding of material; and implementation of erosion and sedimentation control measures to prevent the material from moving off site or into nearby wetland or water resources during a storm event. If such conditions are thereafter violated, the Planning Board may immediately suspend or revoke the permit if the public health and safety so require, or otherwise, upon 24 hours' notice to the holder of the permit.

- E. Permit expiration. Any such permit shall expire two years from the date of issuance, unless a shorter expiration is voted by the Board. A current permit may be extended for up to an additional two years by vote of the Planning Board at any meeting, provided that the request for the extension is received before the permit expires and that such vote otherwise complies with the Open Meeting Law, as it may be amended from time to time.
- F. Permit exemptions. This section shall not apply to any project which was the subject of a public hearing for site plan approval or definitive subdivision approval, during which hearings issues regarding topography and/or fill were available. The provisions of this section shall also not apply to any public project involving any agency or department of the Commonwealth of Massachusetts or the Town of Abington or any individual or business organization performing services pursuant to a contract or subcontract with the Commonwealth and/or the Town.
- G. The provisions of this section shall not be applicable to the Town of Abington or any individual or business organization performing services pursuant to a contract or subcontract with the Town of Abington ("Town Contractor"). However, prior to commencing any undertaking which would otherwise be subject to this section, the Town of Abington or any Town Contractor shall file a plan for such undertaking with the Planning Board and may consult with the Planning Board on the implementation of said plan.
- H. If a violation of this Bylaw or any condition of a permit is suspected, the Planning Board shall, at a public meeting and, after notifying the permit-holder and/or the operator of the dumping activity in writing, determine whether a violation exists or occurred. The Planning Board or its designee shall take appropriate action, up to and including issuing a fine, ordering the permit-holder and/or the operator of the dumping activity to cure the violation by removing the unpermitted fill, imposing additional conditions to safeguard against the violation, or issuing an order to cease earth removal activities. This Bylaw may be enforced through noncriminal disposition procedures set forth in MGL. c. 40, § 21D and imposed fines up to the amount of \$300, as provided in Chapter 1, Article I of the town's General Bylaws. Each day during any portion of which such violation is allowed to continue shall be considered a separate offense. Additionally, the Planning Board may seek injunctive relief to restrain violations or to compel abatement or remediation of violations.

§ 49-2. Planning Board rules.

This article may be superseded by the rules and regulations of the Planning Board.

ARTICLE II
Control of Dump and Compost Site

§ 49-3. Control by Board of Health; other landfills prohibited. [Amended 6-6-2016 ATM by Art. 9]

The Town Landfill and compost site shall be under the control of the Board of Health and no person shall maintain a landfill on any other premises in the Town.

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Chapter 53

ELECTIONS

HISTORY: Adopted by the Town of Abington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Police Presence

[Adopted 4-3-2006 ATM by Art. 8.¹²]

§ 53-1. Posting at polling places.

The Selectmen shall have such police officers as necessary posted at all polling places for any election to enforce the laws relative to the election process.

12. Editor's Note: This article also superseded former Art. I, Police Presence, derived from Ch. 2, Sec. 5, of the 1992 Town of Abington Bylaws.

FEES

Chapter 59

FEES

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹³ Amendments noted where applicable.]

GENERAL REFERENCES

Failure to pay taxes — See Ch. 102, Art I.

13. Editor's Note: This Article also superseded former Ch. 59, Fees, comprised of Art. I, Payment into Treasury, derived from Ch. 3, Sec. 2, of the 1992 Town of Abington Bylaws; and Art. II, Town Clerk and Sealer of Weights and Measures Fees, adopted 4-30-2001 ATM by Art. 23.

ARTICLE I
Payment into Treasury

§ 59-1. Fees and revenues.

All fees or other revenues collected by any Town department or office shall be paid into the Treasury of the Town and accrue to the benefit of the Town. Any fee or fine schedule established pursuant to MGL Chapter 40 § 22F shall be kept on file with the Town Clerk.

ARTICLE II

Town Clerk and Sealer of Weights and Measures Fees**§ 59-2. Town Clerk fees.**

The schedule of fees to be charged by the Town Clerk under the provisions of Section 34 of Chapter 262 of the Massachusetts General Laws shall be those established by the Town Clerk under the provisions of Section 22F of Chapter 40 of the Massachusetts General Laws. A copy of the fees so adopted shall be posted and shall be available in the office of the Town Clerk.

§ 59-3. Sealer of Weights and Measures fees.

The schedule of fees to be charged by the Sealer of Weights and Measures under the provisions of Section 56 of Chapter 98 of the Massachusetts General Laws shall be those established by the Sealer of the Weights and Measures, subject to approval by the Board of Selectmen, under the provisions of Section 22F of Chapter 40 of the Massachusetts General Laws. A copy of the fees so adopted shall be posted and shall be available in the office of the Town Clerk.

FENCES

Chapter 63

FENCES

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹⁴ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. I.

Zoning — See Ch. 175.

Property maintenance — See Ch. 122.

14. Editor's Note: This Article also superseded former Ch. 63, Fences, comprised of Art. I, Dangerous Fences, derived from Ch. 9, Sec. 8, of the 1992 Town of Abington Bylaws, added by Art. 14 of 1999 ATM; and Art. II, Electrical Fences, adopted 4-7-2003 ATM by Art. 28.

ARTICLE I
Dangerous Fences

§ 63-1. Responsibility of property owners for dangerous fence; deadline for completion of work.

Should the presence of an otherwise lawful fence create a clear and present danger to the general public, it shall be the responsibility of the property owner to remedy the situation. The Fence Viewer may set a deadline for the completion of such work. If a fence is not repaired or removed pursuant to a determination of the Fence Viewer, the delinquent property owner shall be subject to all remedies and costs authorized by MGL Chapter 49.

§ 63-2. Responsibility of property owner for erecting fence; deadline for completion of work.

Should the lack of a lawful fence create a clear and present danger to the general public, it shall be the responsibility of the property owner to erect a lawful fence or otherwise remedy the situation. The Fence Viewer may set a deadline for the completion of such work. The presence of, or lack of, clear and present danger to the general public shall be determined by a majority decision of the Fence Viewer, Fire Chief and Police Chief.

§ 63-3. Powers of Fence Viewer.

The Fence Viewer shall be allowed to take any necessary actions in order to accomplish the duties of the Fence Viewer in a safe and timely manner.

ARTICLE II
Electrical Fences

§ 63-4. Conditions and specifications. [Amended 6-6-2016 ATM by Art. 9]

Low-voltage electrical "security" fencing with a maximum of 12 volts, primary voltage, may be permitted within areas of Abington zoned for non-residential use; and in the event a person, firm, corporation, or other entity erects electrical fencing in a permitted zone, the following conditions and specifications shall apply:

- A. An electrical fence shall be no higher than 10 feet tall from its lowest electrical point;
- B. An electrical fence shall be completely surrounded by a non-electrical fence or wall, that fence/wall must conform with all existing regulations;
- C. The surrounding non-electrical fence/wall shall be separated from the electrical fence by at least six inches at the closest point between the electrical fence and the non-electrical surrounding fence/wall;
- D. And electrical fence shall be equipped with an emergency "shut off" in a location readily accessible to emergency personnel;
- E. An electrical fence shall be identified as such at least every 30 feet.

§ 63-5. Livestock fencing.

The above regulation (§ 63-4) shall not apply to electrical livestock fencing, which may be permitted within all areas of Abington, under the following conditions:

- A. An electrical livestock fence shall be identified as such at least every 60 feet;
- B. An electrical livestock fence must comply with all other fence regulations.

§ 63-6. Fee.

The Fence Viewer shall be entitled to assess a fee for his/her services in accordance with MGL Ch. 49.

Chapter 67**FINANCE COMMITTEE**

[HISTORY; Adopted by the Town of Abington 4-3-2006 by Art. 8.¹⁵ Amendments noted where applicable.]

GENERAL REFERENCES

Boards, committees and commissions — See Ch. 17.

Town Meetings — See Ch. 152.

§ 67-1. Appointment; terms; eligibility.

A Finance Committee of nine voters of the Town shall be appointed by the Moderator to fill staggered three-year terms. No elective or appointive Town officer or Town employee shall be eligible to serve on said Committee. If any member announces his candidacy for an elective office, his position shall be deemed to be vacant and shall be filled as herein provided.

§ 67-2. Organization; vacancies.

The Finance Committee shall meet for purposes of organization each year within 75 days after the start of each fiscal year. It shall choose its own officers, and it shall cause to be kept a true record of its proceedings. It may appoint sub-committees and liaisons from its own membership. It shall notify the Town Manager, Selectmen, Town Clerk, and Moderator in writing of its organization. Vacancies shall be filled promptly by the Moderator for the unexpired term of the member whose appointment is vacated.

§ 67-3. Access to books, contracts and accounts.

The Finance Committee shall have the authority to inspect and have access to all books, accounts, contracts and documents of any department or office of the Town. Copies of all newly-negotiated employment contracts and contract amendments shall be submitted to the Town Accountant by the appropriate Town agency within 10 days after the contract's execution by all parties, and the Town Accountant shall be custodian of all original Town contracts.

§ 67-4. Consideration of articles; recommendations. [Amended 4-2-2012 ATM by Art. 15M¹⁶]

The Finance Committee shall report its recommendations in writing on every article contained in a Town Meeting warrant at least 10 days prior to a scheduled Town Meeting. Said recommendations shall include a summary of reasons for each recommendation and shall be filed with the Town Clerk. Said report shall also be made available to voters of the Town, forthwith after the filing with the Town Clerk, in the manner provided in § 152-2B, and at Town Meeting.

15. Editor's Note: This Article also superseded former Ch. 67, Finance Committee, derived from Ch. 6 of the 1992 Town of Abington Bylaws, as amended.

16. Editor's Note: This Article provided that such Bylaw amendment shall not take effect until the special legislation authorized by this vote shall have been enacted and all the provisions of MGL c.40, § 32 have been met.

§ 67-5. Preparations of budget estimates.

The Town Manager shall annually prepare a detailed budget for the ensuing year in accordance with the requirements of the Charter. A draft budget shall be submitted to the Finance Committee on or before January 15th of each year in preparation for the Annual Town Meeting. The Finance Committee and the Town Manager shall coordinate the presentation and format of final budget information for each Town Meeting.

§ 67-6. Requests for funds after Town Meeting.

When requesting a Reserve Fund Transfer from the Finance Committee subsequent to the Annual Town Meeting, Town officers, department heads, boards, and committees shall submit such requests on forms furnished by the Finance Committee together with explanatory statements in sufficient detail to justify the request.

§ 67-7. Inventory of Town property; inventory forms; disposal of property. [Amended 6-6-2016 ATM by Art. 9]

Each Town officer, department head, board, or committee shall be responsible for the proper use, handling, storage, condition and security of all tangible Town-owned property in its possession or under its control. Each responsible individual, board, or committee shall, not later than July 15 of each year, prepare and furnish to the Town Manager an inventory as of June 30 of all such property on forms provided for the purpose. Accompanying such inventory list there shall be shown separately a list of property declared to be of no further use and surplus to its needs. Before disposal of surplus property in a manner consistent with law, whether by sale, transfer to another department, destruction, or otherwise, such action shall be approved by the Board of Selectmen. Report of the action taken by such Board shall be furnished to the Town Manager. Inventory sheets and surplus property lists shall be prepared in such form and detail as the Town Manager may prescribe.

§ 67-8. Annual internal audit. [Amended 6-6-2016 ATM by Art. 9]

The Board of Selectmen shall within each calendar year, without notice, cause to be made an internal audit of the Town's inventory by the Town's Internal Auditor of all property (excluding office furniture and general office supplies with a total value of less than \$5,000) in the possession or control of each Town officer, department head, board or committee and such audits shall be filed with the Town Manager.

Chapter 69**FIRE ALARM SYSTEMS**

[HISTORY: Adopted by the Town of Abington 4-6-2009 ATM by Art. 12. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 75.

§ 69-1. Preamble.

Whereas, there has been an increase in recent years in the use of fire alarm systems which operate by way of a master box;

Whereas, improper installation, defective equipment, lack of maintenance or other reasons cause fire alarm systems to malfunction;

Whereas, in addition to the financial cost, each malfunction requires that Abington Fire Department personnel respond, thus decreasing the number of Abington Fire Department personnel available to respond to an actual fire;

Whereas, the Abington Fire Departments' responding to fire alarm malfunctions jeopardizes the safety of firefighters as well as the general public;

Now, therefore, be it ordered to be in the public interest as follows.

§ 69-2. Title.

The Town of Abington Bylaws are hereby amended by adding the following Bylaw to be entitled "Fire Alarm Systems."

§ 69-3. Definitions.

When used in this Bylaw, unless a contrary intention clearly appears, the following words shall have the following meanings:

FIRE ALARM SYSTEM — Any heat-activated, smoke-activated, flame-energy-activated or other such automatic device capable of transmitting a fire signal directly to the Abington Fire Department by way of a master box or central station.

FIRE ALARM SYSTEM MALFUNCTION — The transmittal of a fire alarm directly to the Abington Fire Department by way of a master box or central station, which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or other reasons that cause a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.

FIRE ALARM SYSTEM OWNER — An individual or entity who owns the title to and/or has on his/her business or residential premise or premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the Abington Fire Department.

FIRE CHIEF — The Chief of the Abington Fire Department.

MASTER BOX — A fire alarm control device equipped to send a fire alarm signal directly to the Abington Fire Department or its designee by way of radio frequency connection for the purpose of manually or automatically reporting a fire alarm or other emergency request for assistance. **[Added 4-2-2012 ATM by Art. 15B; amended 6-6-2016 ATM by Art. 9]**

MASTER BOX OWNER — An individual or entity who has on his/her business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the Abington Fire Department by way of a master box.

PROTECTED PREMISES — Any property that has a fire alarm system that is connected to a master box or central station that reports to the Fire Department any alarms or signals from that premises.

§ 69-4. Connection of fire alarm system to Abington Fire Department by way of master box. [Amended 6-6-2016 ATM by Art. 9]

- A. Every master box owner whose protected premises on the effective date of this Bylaw is connected to the Abington Fire Department by way of a master box shall pay the following fees for each master box:

Annual fee	\$100
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- B. Every master box owner whose protected premises is connected after the effective date of this Bylaw to the Abington Fire Department by way of a master box shall pay the following fees for each master box:

Permit fee (single charge)	\$25
Connection fee (single charge)	\$200
Annual fee	\$100

- C. Before any fire alarm system is connected to the Abington Fire Department, the master box owner shall provide the Fire Chief the following information:

- (1) The name, address and home and work telephone numbers of the master box owners.
- (2) The street address where the master box is located.
- (3) The names, addresses and telephone numbers of at least two other persons other than the master box owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located; and
- (4) Any other information pertaining to the fire alarm system as the Fire Chief may require.

- D. If a master box owner fails to comply with this section, the Fire Chief may assess a fine of \$50 for each day of noncompliance.

§ 69-5. Updating information.

- A. Every master box owner shall be responsible for updating the information herein required to be provided to the Fire Chief. If the information changes, the master box owner shall provide the Fire

Chief with the updated information and shall pay the fees, if any, required by this Bylaw.

- B. If a master box owner fails to comply with this section, the Fire Chief may assess a fine of \$50.

§ 69-6. Fire alarm system malfunctions; fines.

If there is a fire alarm malfunction as defined herein, the Fire Chief may assess a fine against the fire alarm system owner for each protected premises and for each such malfunction per fiscal year according to the following schedule:

- A. First through third malfunction: no charge.

Upon recording of the third alarm by the Fire Department, the Fire Chief shall notify the owner of the building, in writing, and by certified mail, of such fact and at this time inform the owner of the Department policy with regards to charging for false alarms.

Fourth through the sixth malfunction: \$100.

Seventh through the 11th malfunction: \$250.

Each malfunction after the 11th: \$500.

- B. Private fire alarm systems connected to the Abington Fire Department by other automatic means or through a central station system shall be subject to the above conditions.
- C. Any fire alarm system malfunction which is the result of the failure of the property owner, occupant or their agents to notify the Abington Fire Department of repair, maintenance or testing of the internal fire alarm system within the protected premises shall cause a penalty to be assessed in accordance with Subsection A above.
- D. For the purpose of this regulation, a fire alarm system malfunction may consist of but not be limited to:
- (1) The operation of a faulty smoke or heat detection device.
 - (2) Faulty control panel or associated equipment.
 - (3) An action, malicious or intentional, by an employee of the owner, or occupant of the protected premises, or a contractor employed by the owner or the occupant, causing a non-fire-related activation of the internal fire alarm system.
- E. Property owners shall be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer for deposit into the Fire Alarm Revolving Account.
- F. If a bill is not paid within 30 days, a second notice will be sent. If the bill is not paid after 60 days, a final notice will be sent and/or occupant that the master box will be disconnected and the building owner notified.

§ 69-7. Appeal procedure.

- A. Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this Bylaw

may, within 10 days of such action, file an appeal, in writing, to the Town Manager of the Town of Abington. After notice, the Town Manager shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modifies the action taken by the Fire Chief, giving its reason therefor.

- B. The Town Manager shall send its decision to the owner by first-class mail within 10 days after the hearing. The decision of the Town Manager shall be a final administrative decision. The owner shall have 30 days from the date of the written decision to seek judicial review in the District Court of Plymouth County.

§ 69-8. Deposit in fire alarm system account.

All fines and fees assessed herein shall be payable to the Town of Abington for deposit in the Fire Alarm Revolving Account, with said fees being appropriated to maintain and upgrade the fire alarm system.

§ 69-9. Severability.

The provisions of this Bylaw shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

§ 69-10. Regulations and enforcement.

The Fire Chief may promulgate such regulations as may be necessary to implement this Bylaw. The Fire Chief is authorized to pursue legal action as may be necessary to enforce this Bylaw.

FIREARMS AND EXPLOSIVES

Chapter 71

FIREARMS AND EXPLOSIVES

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹⁷ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch 1, Art I.

Underground storage of flammable fluids — See Ch 75, Art II.

Explosives and flammable materials — See Ch 75, Art I.

§ 71-1. Permission to discharge required; exceptions. [Amended 6-6-2016 ATM by Art. 9]

No person shall fire or discharge any firearm or explosive of any kind within the limits of the Town except with a permit issued by the Board of Selectmen related to a Town sponsored or private event which commemorates or celebrates a federal, state, or local holiday or a historical, cultural, or community event; provided, however, that this Bylaw shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his duties. Any person violating this Bylaw shall be punished by a fine not to exceed \$300 for each offense.

§ 71-2. Hunting or trapping. [Added 6-6-2016 ATM by Art. 9]

Notwithstanding § 71-1, this Bylaw shall not apply to hunting or trapping on private property, subject to any applicable state law or regulation. Hunting or trapping on all Town-owned land shall be prohibited except with a permit issued by the Board of Selectmen in connection with public health, safety, or welfare.

17. Editor's Note: This Article also superseded former Ch. 71, Firearms and Explosives, derived from Ch. 8, Sec. 4, of the 1992 Town of Abington Bylaws.

ABINGTON CODE

Chapter 75

FIRE PREVENTION

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹⁸ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. I.

Commercial garages — See Ch. 81.

Firearms and explosives — See Ch. 71.

Gas installations — See Ch. 84.

18. Editor's Note: This Article also superseded former Ch. 75, Fire Prevention, comprised of Art. I, Explosives and Flammable Materials, derived from Ch. 8, Sec. 7, of the 1992 Town of Abington Bylaws; and Art. II, Underground Storage of Flammable Fluids, derived from Ch. 8, Sec. 11, of the 1992 Town of Abington Bylaws.

ARTICLE I
Explosives and Flammable Materials

§ 75-1. Fees.

The fee for a license for keeping, storage, or manufacture or sale of explosives and inflammable material issued by the local licensing authority under the provisions of MGL Ch. 148 § 13 shall be established from time to time by the Fire Chief, pursuant to MGL Ch. 40 § 22F. A schedule of said fees shall be kept on file at the Fire Department and with the Town Clerk.

ARTICLE II
Underground Storage of Flammable Fluids

§ 75-2. Testing schedule.

Any flammable liquid or gasoline storage tank installed below the ground under license duly granted by the Board of Selectmen shall be tested for leakage at the expense of the owner upon installation, and according to the following schedule, the date of which shall be determined by the license date or the date of installation, whichever is later:

- A. Day of installation.
- B. Every five years up to 20 years.
- C. Every two years up to 30 years.
- D. After 30 years, annually unless the Fire Chief determines that conditions indicate more frequent testing be done.

§ 75-3. Supervision of testing; removal of leaking tanks.

Such testing shall be done under the supervision of the Fire Chief using the Kent/Moore Test Method or equal. The tank or tanks shall be removed by the owner, at their expense, if it fails the test, or at any time when it becomes a hazard because of leakage or otherwise in the opinion of the Fire Chief.

§ 75-4. Town held harmless; obligations of owners upon discontinuance.

The fact of installation, maintenance and/or usage of such storage tanks under a license granted by the Board of Selectmen shall constitute an agreement on the part of the owner or owners of such tanks to save and hold harmless the Town of Abington from any and all reasonable and necessary expenses of removing said tanks upon expiration of the license, or at any time when the same shall be required in the opinion of the Fire Chief. The fact of installation, maintenance and/or usage of such storage tanks under a license granted by the Board of Selectmen shall constitute on the part of the owners an obligation to remove such tanks at the cost of the owners upon the discontinuance and/or abandonment of that business necessitating or using such tanks, whether or not such discontinuance and/or abandonment be less than the five-year limitation above mentioned. Removal of such tanks under the provisions herein shall be within 180 days of the date of discontinuance or abandonment.

§ 75-5. Jurisdiction over leakages; notification information.

Jurisdiction over any and all leakage of flammable liquid or other harmful and injurious matter into any main, line or other conduit below the surface of the ground, constituting a detriment to the public health or safety, shall be vested with the Fire Chief.

- A. Upon determination of such leakage into such main, conduit or line, the Fire Chief shall seek to provide an immediate verbal notification of such leakage to all owners of land duly licensed for such storage of gasoline or other flammable or injurious material in the area defined as the source of such leakage and the particular main, line or conduit affected. The Fire Chief shall further notify all owners by first class and registered mail. [Amended 6-6-2016 ATM by Art. 9]
- B. The defined area within which the source of leakage is located, if ascertainable;
- C. A demand upon the owners of such licensed land within the defined area to take necessary action to

test and confirm the absence of any such leakage from storage tanks upon the owners' particular land;

- D. A reasonable time limit within which to effect such tests, not to exceed 72 hours;
- E. Notification of the intention of the Town to make such reasonable tests as are requested upon the failure of the owner to take action;
- F. The amount of charge for such tests in the event the owner fails to comply with the demand.

§ 75-6. Installation and usage constitutes agreement.

The fact of the installation, maintenance and/or usage of such storage tanks under the license of the Board of Selectmen, with the actual or implied consent of the owner of such land, shall constitute an agreement on the part of the owner of such licensed land to take such action as constitute an agreement on the part of the owner of such licensed land to take such action as requested above to discover the presence or absence of any such leakage; and shall further constitute an agreement on the part of the owner to hold and save harmless the Town from any reasonable and necessary expenditures incurred by the Town in testing the licensed land upon failure of the owner to comply with the notification of the Fire Chief.

§ 75-7. Tanks in floodplain areas; fee.

Any tanks installed in a floodplain area will be in a concrete vault. The fee for an original license and renewal license shall be in such sums set forth in Article I of this chapter.

GARAGES, COMMERCIAL

Chapter 81

GARAGES, COMMERCIAL

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.¹⁹ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch 1, Art. 1.

Zoning — See Ch. 175.

Storage of explosives — See Ch. 75.

§ 81-1. License required.

Any person who maintains a commercial garage with the facilities for the repair, alteration or towing of motor vehicles including an autobody shop, so-called, shall first obtain a license therefor from the Board of Selectmen.

§ 81-2. License fee.

Fee for the license shall be fixed from time to time by the Board of Selectmen.

§ 81-3. Expiration; revocation; hearing.

Licenses issued hereunder shall expire June 30 following the date of issue and may be revoked at any time, after a hearing, by the Board of Selectmen.

19. Editor's Note: This Article also superseded former Ch. 81, derived from Ch. 8, Sec. 6, of the 1992 Town of Abington Bylaws; amended by Art. 20 of 1998 ATM.

ABINGTON CODE

Chapter 84

GAS INSTALLATIONS

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.²⁰ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty - See Ch. 1, Art. I.

Storage of flammable liquids — See Ch. 75.

§ 84-1. Appointment of Inspector.

The Town Manager shall annually appoint an Inspector of Plumbing, Gas Piping and Gas Appliances in Buildings, which person shall be a licensed plumber or licensed gas fitter, who shall insure that installations comply with the requirements of the regulations of the Massachusetts Gas Regulatory Board.

§ 84-2. Permit to install gas equipment required.

No person, firm or corporation shall install any gas pipes, equipment, appliances or systems in the Town without first obtaining a permit.

§ 84-3. Permit fees.

The Board of Health shall determine such fees as may be payable to the Town for such gas installation permits.

20. Editor's Note: This Article also superseded former Ch. 84, Gas Installations, derived from Ch. 8, Sec. 5, of the 1992 Town of Abington Bylaws; amended by Art. 35 of 1996 ATM.

Chapter 89**HISTORICAL COMMISSION**

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.²¹ Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 175.

§ 89-1. Membership; terms.

The Historical Commission shall be comprised of five members, who must be residents of the Town. The members shall be appointed by the Board of Selectmen to fill staggered three-year terms. They shall survey, research, and record the important historic places in the Town and shall, as mandated by the state law, see to preserve, protect, and develop these historic assets.

§ 89-2. Authority of Commission.

- A. The Historical Commission shall be the authority for interpreting the historic aspects of the Town.
- B. The Historical Commission may, from time to time, classify a certain place in the Inventory to be of especial historic value to the Town as a whole. In order to make the owner of the property, as well as the appropriate Town departments and the public in general, aware of its importance, a copy of its record in the Inventory shall be forwarded to the Selectmen, together with a covering statement by the Commission. If the Selectmen concur with the Commission's decision, they shall declare the place to be of especial value to the Town, and shall have a copy filed with the Town Clerk, and shall also forward copies to the Abington Planning Board, the Zoning Board of Appeals, and any other Town departments or officers who may be interested and/or make a request. Copies shall also be forwarded to the Old Colony Planning Council and to the owner(s) of private property involved.

§ 89-3. Urging property owners to include deed designation.

The Historical Commission shall have the right to urge the owner(s) of private property which has been declared an important historic place in the Town to so indicate the designation on the instrument of transfer (or deed) if and when the property changes hands.

§ 89-4. Declassifying properties; procedure.

A declaration that a place has historic importance shall cease to be effective if and when the Historical Commission re-evaluates the place and so advises the Selectmen who shall then withdraw the item from the files of the Town Clerk and others, and a public announcement of the action shall be published in the local newspapers.

21. Editor's Note: This Article also superseded former Ch. 89, Historical Commission, derived from Ch. 11 of the 1992 Town of Abington Bylaws.

§ 89-5. Severability.

Rejection of any section or part of a section of this Bylaw shall not invalidate any other part thereof.

JUNK DEALERS

Chapter 94

JUNK DEALERS

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.²² Amendments noted where applicable.]

GENERAL REFERENCES

Junked vehicles — See Ch. 163.

§ 94-1. Authority of Selectmen to license dealers and collectors.

The Selectmen may license suitable persons to be dealers in and keepers of shops for the purpose, sale or barter of junk, old metals or secondhand articles, and may also license suitable persons as junk collectors to collect by purchase or otherwise, junk, old metals and secondhand articles from place to place in the Town.

22. Editor's Note: This Article also superseded former Ch. 94, Junk Dealers, derived from Ch. 2, Sec. 1, of the 1992 Town of Abington Bylaws.

ABINGTON CODE

Chapter 98

LAND USE

[HISTORY: Adopted by the Town of Abington as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. I.

Zoning — See Ch. 175.

ARTICLE I

Investigation of Complaints
[Adopted 4-3-2006 ATM by Art. 8²³]**§ 98-1. Investigation by Selectmen.**

Upon the complaint of an abutter, the Selectmen shall investigate the use of adjoining land, which although within the allowed use under the Zoning Bylaws (Ch. 175) or Health Regulations is alleged to be conducted in such a manner that it unnecessarily or unreasonably interferes with the use or quiet enjoyment of the complainant's land.

§ 98-2. Hearing; order to correct.

If the Selectmen, after such investigation, deem it necessary, they may order a hearing, if as a result of such hearing they find the complaint justified they shall order such corrections in the use of such land as they deem necessary.

§ 98-3. Failure to comply with order.

Failure of compliance with an order of the Selectmen under this section shall constitute an offense under these Bylaws.

23. Editor's Note: This Article also superseded former Art. I, Investigation of Complaints, derived from Ch. 2, Sec. 7, of the 1992 Town of Abington Bylaws; amended by Art. 31 of 1996 ATM.

LICENSING

Chapter 102

LICENSING

[HISTORY: Adopted by the Town of Abington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Failure to Pay Taxes**[Adopted 6-9-2014 ATM by Art. 24²⁴]****§ 102-1. Furnishing of list. [Amended 5-22-2017 ATM by Art. 17]**

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

§ 102-2. Denial by licensing authority; hearing; issuance of certificate indicating good standing.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

§ 102-3. Issuance of certificate upon compliance with payment agreement.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitation to the license or permit and the validity of said license shall be conditioned upon satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and hearing as required by applicable provisions of law.

§ 102-4. Waiver.

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268A in the business or activity conducted in or on

24. Editor's Note: This article also superseded former Art. I, Failure to Pay Taxes, adopted 4-3-2006 ATM by Art. 8.

said property.

§ 102-5. Nonapplicability.

This article shall not apply to the following licenses and permits:

- A. Open burning; Section 13 of Chapter 48;
- B. Bicycle permits; Section 11A of Chapter 85;
- C. Sale of articles for charitable purposes; Section 33 of Chapter 101;
- D. Children work permits; Section 69 of Chapter 149;
- E. Clubs, associations dispensing food or beverage licenses; Section 21E of Chapter 140;
- F. Dog licenses; Section 137 of Chapter 140;
- G. Fishing, hunting, trapping license; Section 12 of Chapter 131;
- H. Marriage licenses; Section 28 of Chapter 207; and
- I. Theatrical events, public exhibition permits; Section 181 of Chapter 140.

MARIJUANA

Chapter 106

MARIJUANA

[HISTORY: Adopted by the Town of Abington 4-6-2009 ATM by Art. 10. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 7.

§ 106-1. Public use or consumption; enforcement; violations and penalties.

No person shall smoke, ingest or otherwise consume marijuana or tetrahydrocannabinol (as defined in MGL c. 94C, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public. This Bylaw may be enforced through any lawful means pursuant to MGL c. 40, § 21 or by noncriminal disposition pursuant to MGL c. 40, § 21D by sworn members of the Abington Police Department. The fine for violation of this Bylaw shall be \$300 for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

Chapter 111**PAWNBROKERS**

[HISTORY: Adopted by the Town of Abington 6-9-2014 ATM by Art. 19. Amendments noted where applicable.]

§ 111-1. License required.

No pawnbroker shall operate in the Town of Abington unless licensed to do so by the Board of Selectmen. The Board of Selectmen is hereby authorized to adopt policies governing the licensing process for pawnbrokers.

§ 111-2. Access to premises, articles and records.

- A. Any pawnbroker license issued by the Board of Selectmen shall require that police officers of the Town of Abington be provided with reasonable access to the licensed premises to examine all articles taken in pawn or kept or stored upon the premises. All books and inventories shall be exhibited without delay upon demand.
- B. If a licensed pawnbroker, clerk, agent or other person in charge of the premises refuses to admit an authorized agent to enter or fails to exhibit to them upon demand all such articles, books and inventories or hinders, obstructs or prevents an investigation, the license shall be immediately and without delay revoked and the licensee shall be subject to the penalties set forth in MGL c. 140, § 74, including a fine of not more than \$200 or by imprisonment for not more than one year, or both.

§ 111-3. Numbering, describing and photographing of items required; identification of sellers.

- A. Any person licensed as a pawnbroker in the Town of Abington shall, at the time of making any loan, attach a number of the article taken in pawn and/purchased by the agent, clerk, agent or other person in charge. Each and every numbered item shall be kept in a record book of a style and size to be approved by the Chief of Police, in which shall be legibly written in the English language. An account and description to include any distinguishing marks or numbers of the goods, articles or items shall be recorded. The amount of money paid and/or loaned, day and hour when it was purchased and/or pawned, and rate of interest to be paid shall also be recorded. A colored photograph shall also be taken of the item and kept for a period for at least one year from the time of acquisition. The photograph shall be taken at a close enough proximity to make recognition of the item easy for any authorized agent to view.
- B. Every licensed pawnbroker shall photograph any person pawning or selling any item and keep such photographs with the record books as part of the pawnbroker's records. The photograph shall also include the name, age and residence of the person. Positive identification shall be required, clearly photocopied and kept with the records. Positive identification shall mean any picture identification issued by an authorized governmental agency of the United States of America or its political subdivisions. The pawnbroker shall also require that the seller sign his or her name.

§ 111-4. Holding period; audit sheets.

Any person licensed as a pawnbroker shall hold all items taken in for a minimum of 60 days before the resale, trade, melting, changing the appearance of or any other means of disposing an item. Audit sheets shall be submitted to the Chief of Police or his designee on a weekly basis with record of all transactions including the date of sale, amount, seller's name and address, date of birth, driver's license or other number

§ 111-4

PAWNBROKERS

provided on picture identification issued by an authorized governmental agency and an itemized list and description of each article.

§ 111-5. Return of stolen property.

Any person licensed as a pawnbroker shall, if it is determined that any goods, article or other item taken into possession are stolen property, or if the rightful owner of property identifies the same and the property is confirmed by a member of the Abington Police Department to be stolen, the property shall be immediately returned to the rightful owner at no cost to such owner.

§ 111-6. Complaints; notice of violation; suspension or revocation of license.

Complaints concerning a licensed or unlicensed pawnbroker shall be made to and may be investigated by the Chief of Police or the Chief's designee. Upon determination of a violation, the Board of Selectmen shall serve notice by certified mail or in hand as to the date, time and place of hearing along with a statement of the reasons. The Board of Selectmen, Police Chief or their respective designee may suspend or revoke a pawnbroker's license without hearing if public health and/or safety so require. In such circumstances, the Board of Selectmen shall forthwith give notice of the suspension or revocation and serve the pawnbroker by certified mail or in hand with notice of the opportunity for a hearing.

§ 111-7. Enforcement.

This Bylaw shall be enforced in accordance with the provisions of §§ 1-1 and 1-2 of the Town Bylaws. In addition, offenses that may result in suspension or revocation of a license include but are not limited to the following:

- A. Violation of any provision of the license agreement;
- B. Violation of any provision of the statutes regulating pawnbrokers;
- C. Violation of any provision of any other statute or of this Bylaw, including providing incorrect information on a license application.

ABINGTON CODE

Chapter 113

PEACE AND GOOD ORDER

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.²⁵ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art I.

Consumption of alcoholic beverages in public — See Ch. 7, Art. I.

25. Editor's Note: This Article also superseded former Ch. 113, Peace and Good Order, comprised of Art. I, Ball Playing in Streets, derived from Ch. 8, Sec. 2, of the 1992 Town of Abington Bylaws; Art. II, Posting of Advertisements, derived from Ch. 9, Sec. 3, of the 1992 Town of Abington Bylaws; Art. III, Injury to Memorials and Gravesites, derived from Ch. 8, Sec. 9, of the 1992 Town of Abington Bylaws, amended by Art. 36 of 1996 ATM; and Art. IV, Sound Trucks, derived from Ch. 8, Sec. 1, of the 1992 Town of Abington Bylaws.

ARTICLE I
Ball Playing in Street

§ 113-1. Restrictions.

No person shall play ball, or throw balls, stones, snowballs, or any other missiles within or upon any of the streets or public places of the Town, except places set apart for such purposes.

ARTICLE II
Posting of Advertisements

§ 113-2. Permission required. [Amended 6-6-2016 ATM by Art. 9]

No person shall post, draw, affix or in any way attach any poster, handbill, notice, advertisement or placard, or paint, draw, affix or stamp any letter, notice, advertisement or placard, or paint, draw, affix, or stamp any letter, notice, figure, advertisement or mark upon or into any way, fence, post, tree, building or structure not his own, without the permission of the owner if private property, or of the Town Manager if public property.

ARTICLE III
Injury to Memorials and Gravesites

§ 113-3. Desecration prohibited.

No person shall injure, deface or destroy any building, monument or memorial, or desecrate any grave or gravesite or burial place within the Town.

§ 113-4. Violations and penalties.

Any person or persons so injuring, defacing or destroying any building, monument or memorial, or desecrating any grave or gravesite or burial place will be subject to a fine of \$300, plus full restitution for the amount of damages.

ARTICLE IV
Sound Trucks

§ 113-5. Permit required. [Amended 6-6-2016 ATM by Art. 9]

No person shall operate any sound truck or other similar open air sound making device in the Town, without a permit from the Town Manager.

ARTICLE V
Public Decency

§ 113-6. Peeping into windows.

No person, except an officer of the law in the performance of his/her duties, shall enter upon the premises of another or upon any public property for the purpose of peeping into the windows of a house or other building or of spying in any manner upon any person or persons therein.

PEDDLING AND SOLICITING

Chapter 117

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.²⁶ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art I.

Junk dealers — See Ch. 94.

26. Editor's Note: This Article also superseded former Ch. 117, Peddling and Soliciting, comprised of Art. I, Peddling and Soliciting, derived from Ch. 2, Sec. 9, of the 1992 Town of Abington Bylaws; and Art. II, Hawkers and Peddlers, adopted 4-30-2001 ATM by Art. 20.

ARTICLE I
Peddling and Soliciting

§ 117-1. Registration required. [Amended 6-6-2016 ATM by Art. 9]

No person unless authorized shall go from place to place with the Town selling or bartering or carrying for sale or barter, or exposing therefor or taking orders therefor any magazines, periodicals, goods, wares and merchandise, without first having recorded his/her name and address with the Chief of Police and furnished such other information as may be requested of him/her.

§ 117-2. Issuance of permit.

The Chief of Police shall thereupon issue a permit for a period not exceeding 12 months, which must be shown on request, and shall state that said person has duly registered and is entitled to go from place to place within the Town for the purpose specified.

ARTICLE II
Hawkers and Peddlers

§ 117-3. Issuance of licenses by Selectmen; fee. [Amended 4-2-2012 ATM by Art. 15G]

The Board of Selectmen or its designee shall have the authority to grant licenses to all hawkers and all peddlers who are engaged in the sale or barter of any and all types of merchandise including the sale of prepared or unprepared food; said license fee to be established by the Board of Selectmen.

Chapter 119**PERSONNEL ADMINISTRATION**

[HISTORY: Adopted by the Town of Abington 6-16-2016 ATM by Art. 5.²⁷ Amendments noted where applicable.]

GENERAL REFERENCES

Boards, committees and commissions — See Ch. 17.

Town Meetings — See Ch. 152.

Finance Committee — See Ch. 67.

Town offices — See Ch. 155.

§ 119-1. Purposes and authorization.

The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This Bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Laws, Chapter 41, Sections 108A and 108C.

§ 119-2. Application.

All Town departments and positions shall be subject to the provisions of this Bylaw except elected officers, employees with personal contracts, positions within collective bargaining units, and employees of the School Department.

§ 119-3. Town Manager.

Pursuant to the Abington Home Rule Charter the Town Manager is entrusted with the administration of the Town personnel system. The Town Manager shall also be responsible for establishing a central record-keeping system compliant with applicable federal and state laws. The Town Manager shall be responsible for promulgating policies and procedures regarding the establishment and maintenance of a personnel system based on merit principles, the classification and reclassification of positions and an annual compensation plan. Proposed policies, and amendments to policies, subject to this Bylaw shall become effective on the 15th day following the day that such notice is provided to the Board of Selectmen unless the Board of Selectmen otherwise votes to veto the proposed change(s).

§ 119-4. Board of Selectmen.

The Board of Selectmen shall be authorized to veto any personnel policies or amendments thereto as stated in § 119-3.

§ 119-5. Personnel system.

A personnel system shall be established utilizing current concepts of personnel management and shall

27. Editor's Note: This Article also repealed former Ch. 119, Personnel, which comprised Part 1, Classification and Salary Plan, adopted 6-16-1997 ATM; as amended through 4-12-2012 ATM by Art. 2.

include but not be limited to the following elements:

§ 119-6. Method of administration.

A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews, and evaluating the personnel system.

§ 119-7. Classification plan.

A position classification plan for all employees subject to this Bylaw shall be established, based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class.

§ 119-8. Compensation plan.

A compensation plan for all positions subject to this Bylaw shall consist of:

- A. A schedule of pay grades including minimum, maximum and intermediate rates for each grade; and,
- B. An official list indicating the assignment of each position to specific pay grades.

§ 119-9. Recruitment and selection policy.

A recruitment, employment, promotion and transfer policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job related.

§ 119-10. Personnel records.

A centralized record keeping system, which maintains essential personnel records.

§ 119-11. Personnel policies.

A series of personnel policies which establishes the rights, the benefits to which personnel employed by the Town are entitled and the obligation of said employees to the Town.

§ 119-12. Other elements.

Other elements of a personnel system as deemed appropriate or required by law.

§ 119-13. Severability.

The provisions of this Bylaw and any regulations adopted pursuant to this Bylaw are severable. If any Bylaw provision or regulation is held invalid, the remaining provisions of the Bylaw or regulations shall not be affected thereby.

§ 119-14. Effective date.

This Bylaw shall take effect on July 1, 2015. Personnel policies existing prior to said date will remain in effect until promulgation of new policies or amendments.

PROPERTY MAINTENANCE

Chapter 122

PROPERTY MAINTENANCE

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.²⁸ Amendments noted where applicable.]

GENERAL REFERENCES

Land use complaints — See Ch. 98, Art I.

Junked vehicles — See Ch. 163.

28. Editor's Note: This Article also superseded former Ch. 122, Property Maintenance, comprised of Art. I, Discharge of Offensive Matter Into Streets, derived from Ch. 7, Sec. 1, of the 1992 Town of Abington Bylaws; and Art. II, Public Safety Hazard Abatement, derived from Ch. 8, Sec. 16, of the 1992 Town of Abington Bylaws, added by Art. 48 of 1994 ATM.

ARTICLE I

Discharge of Offensive Matter Into Streets

§ 122-1. Contents of sinks, cesspools and privies. [Amended 6-6-2016 ATM by Art. 9]

No person shall place, or cause to be placed, or discharge or suffer to be discharged, in any public or private way of the Town, the contents of any sink, cesspool or privy.

§ 122-2. Dead animals, rubbish and garbage.

No person shall place any dead animal or substance, rubbish or garbage, in any public or private way of the Town, except for the purpose of immediate removal therefrom.

§ 122-3. Violations and penalties.

Whoever violates any provision of this Bylaw shall be liable to a penalty for each violation.

ARTICLE II
Public Safety Hazard Abatement

§ 122-4. Enforcement officials.

In order to ensure the public safety and public convenience of the inhabitants of the Town, it shall be the duty of the Fire Chief, Police Chief, Building Inspector and Zoning Enforcement Officer, and Health Agent to require the abatement of any public health or safety hazard on public or private property. The Fire Chief, Police Chief, Building Inspector and Zoning Enforcement Officer, and Health Agent shall investigate and issue orders consistent with the General Laws, to order the abatement of the hazard.

§ 122-5. Failure to abate; filing of complaint.

Upon failure of the property owner to abate a hazard within a reasonable time after issuance of a written order to do so, as established by the General Laws or by local order, the Board of Selectmen and/or the Board of Health may assess daily fines and shall direct the various Town officials under its charge to file a complaint in the District Court seeking a criminal complaint to force the abatement of the hazard.

§ 122-6. Term defined.

The definitions of a public health or safety hazard will be as defined by the General Laws, Code of Massachusetts Regulations, these Bylaws, and the rules and regulation of the Board of Health.

Chapter 124**REVOLVING FUNDS**

[HISTORY: Adopted by the Town of Abington 5-22-2017 ATM by Art. 4. Amendments noted where applicable.]

§ 124-1. Establishment.

There are hereby established in the Town of Abington, pursuant to the provisions of MGL c. 44, § 53E 1/2, the following revolving funds:

	Revolving Fund	Authorized to Spend	Revenue Source	Use of Funds	
A	Fire Department Fund 039	Fire Chief	Fees collected relative to the fire alarm system	Maintaining the fire alarm system in the Town	\$16,000
B	Library Fund 021	Board of Library Trustees	Fees from private groups using the meeting facilities after regular hours of operation	Maintaining the library public meeting rooms	\$1,000
C	Library Fund 038	Board of Library Trustees	Fines from lost, damaged or stolen library materials	Replace lost, damaged or stolen library materials	\$2,000
D	Police Department Fund 017	Police Chief	Fines received by the Town relating to motor vehicle violations pursuant to MGL c. 90	Matching funding requirements for police grants or the purchasing of equipment for the Police Department	\$60,000
E	Police Department Fund 040	Police Chief	Fines received by the Town relating to marijuana or tetrahydrocannabinol (as defined in MGL c. 94c, § 1, as amended)	Purchasing drug prevention materials	\$1,000

	Revolving Fund	Authorized to Spend	Revenue Source	Use of Funds	
F	Board of Health Fund 028	Board of Health	Receipts received from CRT disposal permits, propane tank disposal permits, white good disposal permits, trash disposal permits, curbside collection fines and the sale of compost	Administrative and disposal costs associated with CRT's, propane tanks, white goods, waste or compost	\$10,000
G	Board of Health Fund 035	School Committee	Fines levied against Abington businesses, which violate state of local tobacco control laws, bylaws and regulations	Fund the smoking or substance abuse prevention programs	\$1,000
H	School Committee Fund 086	School Committee	Homeless transportation	Fund the cost of transporting homeless student transportation	\$40,000
I	Planning Board Fund 022	Planning Board	Review fees paid to the Abington Planning Board	Paying costs related to engineering and supervision of proposed subdivisions and site plans within the Town	\$60,000
J	Town Manager Fund 034	COA Director	Fees received from the leasing/renting of the Senior Center	For the maintenance and operation	\$15,000

§ 124-1

REVOLVING FUNDS

	Revolving Fund	Authorized to Spend	Revenue Source	Use of Funds	
K	Building Department Fund 041	Building Inspector	65% of permit fees collected from building, wiring, plumbing, gas, and zoning permits	Fund the costs of operating the building department including payment of wages and benefits of wiring, plumbing and gas inspectors	\$80,000

§ 124-2. Expenditures from revolving funds.

Expenditures from each revolving fund shall be subject to the spending limit established by Town Meeting, and to any additional limitations as otherwise set forth in General Laws Chapter 44, § 53E1/2.

ABINGTON CODE

Chapter 126

SAVING ABINGTON WITH GREEN ENERGY ("S.A.G.E.") COMMITTEE

[HISTORY: Adopted by the Town of Abington 6-6-2016 ATM by Art. 9. Amendments noted where applicable.]

§ 126-1. Establishment; membership; and terms.

The S.A.G.E. Committee shall be comprised of up to nine voters of the Town, with the number of members to be determined by the Board of Selectmen, provided such number shall always be odd. Members shall be appointed by the Board of Selectmen, to fill staggered, three-year terms. Members may be reappointed for consecutive terms.

§ 126-2. Mission.

S.A.G.E shall serve the residents of the Town by advocating energy policies that efficiently reduce energy consumption, increase awareness of the environment, and provide information on relevant programs and technologies to accomplish this mission.

§ 126-3. Goals and duties.

The goals and duties of S.A.G.E. shall include, but are not limited, to:

- A. Obtaining "green community" status within the meaning of M.G.L. c. 25A, § 10;
- B. Educating and empowering residents to reduce their energy costs and reliance on non-renewable energy sources;
- C. Developing strategies for the Town and municipal operations to reduce overall energy consumption and promoting energy cost saving.
- D. Pursuing grant opportunities, including federal, state, and private grants, and/or any other funding source;
- E. Supporting and promoting "the 4 R's," Reduce, Reuse, Recycle, and Repurpose, among Town residents and in municipal operations;
- F. Any and all activities within the mission of S.A.G.E.

§ 126-4. Reporting requirement.

The S.A.G.E Committee shall annually report its progress, activities, and goals to the Board of Selectmen for review and consideration by the Board.

Chapter 127**PLASTIC BAG BAN**

[HISTORY: Adopted by the Town of Abington 5-20-2019 ATM by Art. 23. Amendments noted where applicable.]

§ 127-1. Findings and intent.

The production and use of thin-film, single-use plastic checkout bags have significant impacts on the environment, including but not limited to: (1) contributing to pollution of the land environment; (2) creating a burden for solid waste disposal and recycling facilities; (3) contributing to the potential death of marine and terrestrial animals through ingestion and entanglement; (4) clogging storm drainage systems; (5) requiring the use of nonrenewable fossil fuel in their manufacture; and (6) plastic bags are not biodegradable, which ultimately results in the contamination of the food chain.

The intent of this Bylaw is to reduce the number of single-use plastic checkout bags that are distributed in the Town of Abington and to encourage the use of reusable bags by consumers, thereby advancing solid waste reduction, reducing local land and marine pollution, protecting the Town's natural beauty and resources, and improving the quality of life for the citizens of the Town.

§ 127-2. Definitions.

CHECKOUT BAG — The term "checkout bag" shall mean a thin plastic bag of a thickness less than 4.0 mils with handles provided to a customer by an establishment and is used to transport merchandise from the establishment. The term "checkout bag" shall not include bags typically without handles used to contain dry cleaning or newspaper, or those small bags used to contain fish, or meats, or to deliver items to the point of sale, including but not limited to produce or other products selected by the consumer.

RECYCLABLE PAPER BAG — A "Recyclable Paper Bag" shall be a bag that (1) is 100% recyclable and (2) contains at least 40% post consumer recycled paper content, and displays in a visible manner on the outside of the bag (1) the word "recyclable" or a symbol identifying the bag as recyclable and (2) a label identifying the bag as being made from post-consumer recycled content.

RETAIL ESTABLISHMENT — The term "Retail Establishment" shall mean any business within the Town of Abington that sells goods, articles, food or personal services directly to the consumer whether for profit or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, liquor stores, convenience and grocery stores and seasonal and temporary businesses.

REUSABLE CHECKOUT BAG — The term "Reusable Checkout Bag" shall mean a bag:

- A. Made solely of or in a combination of natural cloths, synthetic fibers, other washable material; or of a nontoxic plastic as defined by applicable state and federal regulations that is no less than 4.0 mils thick and has the word "Reusable" or "Reuse" printed on the outside of the bag in a visible manner; and
- B. Is specifically designed for multiple reuse and has handles.

THIN FILM, SINGLE-USE PLASTIC CHECKOUT BAGS — The term "Thin-Film, Single-Use Plastic Checkout Bags" shall mean those bags typically with handles, constructed of high-density polyethylene (HDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), low-density polyethylene (LDPE), linear low-density polyethylene (LLDPE), or polypropylene (other than woven and nonwoven polypropylene fabric), if said film is less than 4.0 mils in thickness.

§ 127-3. Regulated conduct.

- A. No retail establishment in the Town of Abington shall provide thin-film, single-use plastic check-out bags to customers.
- B. If a retail establishment provides or sells checkout bags to customers, each such checkout bag must be either a recyclable paper bag or a reusable checkout bag.

§ 127-4. Enforcement.

The administration, implementation and enforcement of this Bylaw is the responsibility of the Town Manager/Board of Health and the provisions of this Bylaw may be enforced by any Police Officer of the Town of Abington or agent of the Board of Health by any means available in law and in equity. The following penalties shall apply:

First Offense	Written Warning
Second Offense	\$50 fine
Third Offense	\$100 fine
Subsequent Offenses	\$200 fine

§ 127-5. Effective date and extensions for compliance.

This Bylaw shall take effect six months following the approval of the Bylaw by the Attorney General.

Retail establishments shall be required to comply with the requirements set forth herein on the effective date; provided, however, a retail establishment that cannot comply therewith shall be provided, upon request, with a single six-month extension. Said request for such extension will be filed with the Board of Health.

§ 127-6. Severability.

If any provision of this Bylaw shall be held to be invalid in a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this Bylaw, which will remain in full force and effect.

SEWERS

Chapter 128

SEWERS

[HISTORY: Adopted by the Town of Abington as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 200.

ARTICLE I

**Connection of Runoff Sources to System
[Adopted 4-3-2006 ATM by Art. 8²⁹]****§ 128-1. Certain connections prohibited.**

No property owner shall allow roof downspouts, foundation drains, sump pumps, areaway drains, or any other sources of surface runoff or groundwater to be connected to a building sewer or other pipe which discharges to the municipal sewer system.

§ 128-2. Notice to discontinue illegal connection.

Any property owner found to be in violation of this article shall be given written notice by the Board of Sewer Commissioners requiring said property owner to provide proof of discontinuance of said illegal connection within 30 days thereafter, unless further extended by vote of the Board of Sewer Commissioners.

§ 128-3. Violations and penalties.

Failure to discontinue said illegal connection pursuant to said notice shall cause said property owner to be assessed a fine of \$50 per day until the violation is shown to be removed and proven to be remedied. Said fine shall be added to the property owner's sewer usage bill and shall be subject to the interest and lien penalties of the usage bill.

29. Editor's Note: This Article also superseded former Art. I, Connection of Runoff Sources to System, adopted 6-13-2001 STM by Art. 14.

ARTICLE II
Illicit Discharges to Municipal Separate Storm Sewer System
[Adopted 4-2-2012 ATM by Art. 14]

§ 128-4. Purpose.

- A. The purpose of this Bylaw is to eliminate non-stormwater discharges to the Town of Abington's municipal separate storm sewer system. Non-stormwater discharges contain contaminants and supply additional flows to the Town's storm drain system. Both increased and contaminated stormwater runoff are major causes of:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - (2) Contamination of drinking water supplies;
 - (3) Alteration or destruction of aquatic and wildlife habitat; and
 - (4) Flooding.
- B. Regulation of illicit connections and discharges to the municipal separate storm sewer system is necessary for the protection of the Town of Abington's natural resources, municipal facilities, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this Bylaw are:
- (1) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
 - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
 - (3) To require the removal of all such illicit connections;
 - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - (5) To establish the legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

§ 128-5. Definitions.

Unless a different definition is indicated in other sections of this Bylaw, the following definitions and provisions shall apply throughout this Article, also referred to in this Article as this Bylaw.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS — The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Wetland Resource Areas from any source.

DISCHARGER — A person or persons who discharge any pollutant or combination of pollutants into the municipal storm drain system or into the Wetland Resource Areas from any source.

ENFORCEMENT AUTHORITY — The Town Manager, and Town employees and/or agents designated by the Town Manager to enforce this Bylaw.

GROUNDWATER — Water beneath the surface of the ground.

ILLCIT CONNECTION — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed or approved before the effective date of this Bylaw.

ILLCIT DISCHARGE — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted herein.

ILLCIT DISCHARGE DETECTION AND ELIMINATION (IDDE) — One of six Minimum Control Measures regulated under the Town's NPDES Phase II MS4 Permit. The federal regulation governing implementation of the IDDE program under this Permit is Section (b)(3) of 40 CFR 122.34, "Storm Water Phase II Regulations."

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Abington.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes and regulates the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE — Discharge to the municipal storm drain system not composed entirely of stormwater.

NOTICE OF VIOLATION — A written notice given to a person by the Enforcement Authority that states that said person has violated this Bylaw on any specified occasion.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any Wetland Resource Areas. Effluent waters from dewatering operations are adequately regulated under NPDES. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Non-hazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes;

- G. Sewage, fecal coliform and pathogens;
- H. Dissolved and particulate metals;
- I. Animal wastes;
- J. Rock, sand, salt, soils;
- K. Construction wastes and residues; and
- L. Noxious or offensive matter of any kind.

PROCESS WASTEWATER — Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE — The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER — Runoff from precipitation or snow melt.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment as defined under MGL Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under these laws and regulations.

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WETLAND RESOURCE AREAS — All wetlands and watercourses protected under the Massachusetts Wetlands Protection Act and the Abington Wetlands Protection Bylaw.

§ 128-6. Applicability.

This Bylaw shall apply to flows entering the municipally owned storm drainage system, a watercourse, and any Wetland Resource Areas located within the boundaries of the Town of Abington.

§ 128-7. Authority.

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.

§ 128-8. Responsibility for administration.

The Enforcement Authority shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Enforcement Authority may be delegated in writing by the Enforcement Authority to employees or agents of the Enforcement Authority, including other Town officials and employees.

§ 128-9. Regulations.

The Enforcement Authority may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Enforcement Authority to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

§ 128-10. Prohibited activities.

- A. Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the Wetland Resource Areas.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drain system (MS4). No Person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior consent from the Enforcement Authority. No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the MS4, or into open watercourses (swales, brooks and streams).
- D. Other prohibited activities.
 - (1) Drains. No one shall tie any pump, cellar, yard, roof or area drain directly into the storm water drainage system without approval from the Enforcement Authority.
 - (2) Catch basins. No Person shall directly or indirectly dump, discharge or cause or allow to be discharged into any catchbasin, any solid waste, construction debris, paint or paint product, antifreeze, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial and household cleaners, soap, detergent, ammonia, food and food waste, grease or yard waste, animal feces, dirt, sand, gravel or other pollutant. Any Person determined by the Applicable Authority to be responsible for the discharge of any of the above substances to a catchbasin may be held responsible for cleaning the catchbasin and any other portions of the storm water system impacted according to Town standards and requirements or paying the cost for such cleaning. In addition, the Person shall be responsible for paying any penalties assessed by the Town pursuant to this Bylaw.
 - (3) Septage. No Person shall discharge or cause or allow to be discharged any septage, or septage tank or cesspool overflow into the Town's storm water drainage system.
 - (4) Storage and disposal of hazardous material. No one shall dispose of anything other than clear water into the Town's storm drainage system. The disposal of waste, gasoline or any other hazardous material into the storm drainage system is strictly prohibited and is in violation of state and federal pollution laws.
 - (5) Private drainage systems. It is prohibited for anyone with a private drainage system from tying into the municipal storm drainage system without written approval from the Enforcement Authority. The maintenance of any and all private drainage systems shall be the responsibility of the owners.

§ 128-11. Exemptions.

- A. Discharges or flows resulting from fire fighting activities or other authorized hydrant use are exempt.

- B. The following non-stormwater discharges or flows are exempt from the prohibitions of this Bylaw provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
- (1) Waterline flushing;
 - (2) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (3) Discharge from landscape irrigation or lawn watering;
 - (4) Water from individual residential car washing;
 - (5) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week following last chlorination prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - (6) Discharge from street sweeping;
 - (7) Flow from potable water sources;
 - (8) Springs;
 - (9) Natural flow from riparian habitats and wetlands;
 - (10) Diverted stream flow;
 - (11) Rising groundwater;
 - (12) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g., sump pump), provided that the operator seeks written approval from the Enforcement Authority prior to discharge, and thereafter discharges in accordance with the applicable laws and regulations to be issued by the Enforcement Authority;
 - (13) Dye testing, provided verbal notification is given to the Enforcement Authority prior to the time of the test;
 - (14) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the written approval, waiver, or order and applicable laws and regulations; and
 - (15) Discharge for which advanced written approval is received from the Enforcement Authority as necessary to protect the public interest.

§ 128-12. Emergency suspension of storm drainage system access.

- A. The Enforcement Authority may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Enforcement Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- B. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to

this Bylaw, without the prior written approval of the Enforcement Authority.

§ 128-13. Industrial or construction activity discharges.

- A. NPDES stormwater permit. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Enforcement Authority prior to the allowing of discharges to the MS4.
- B. Monitoring of discharges. Upon notice of an alleged illicit discharge or connection, the Enforcement Authority have the right to investigate any facility that has storm water discharges associated with industrial activity, including construction activity. The exercise of this right does not constitute a replacement or substitution for enforcement by federal or state agencies for facilities that are adequately regulated either under a NPDES permit or, if a violation is determined to have occurred, under 310 CMR 40.00, the Massachusetts Contingency Plan.

§ 128-14. Watercourse protection.

- A. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- B. Failure by the property owner to maintain the watercourse does not constitute an obligation on the part of the Town to assume this responsibility.

§ 128-15. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or Wetland Resource Areas, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of non-hazardous material, the reporting person shall notify the Enforcement Authority no later than the next business day. The reporting person shall provide to the Enforcement Authority written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 128-16. Enforcement.

The Enforcement Authority or an authorized agent of the Enforcement Authority shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- A. Entry to perform duties. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Enforcement Authority may enter upon privately owned property

for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Enforcement Authority deems reasonably necessary.

- B. Civil relief. If a person violates the provisions of this Bylaw, regulations, written approval, notice, or order issued thereunder, the Enforcement Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders.
 - (1) The Enforcement Authority may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder, which may include:
 - (a) Elimination of illicit connections or discharges to the MS4;
 - (b) Performance of monitoring, analyses, and reporting;
 - (c) That unlawful discharges, practices, or operations shall cease and desist;
 - (d) Remediation of contamination in connection therewith; and
 - (e) Implementation of source control or treatment BMPs.
 - (2) If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
 - (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified, in writing, of the costs incurred by the Town, including administrative costs, for which payment is due to the Town. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Enforcement Authority within 30 days of the Town's issuance of the notification of the costs incurred. Payment of the Town's costs is due within 30 days of the issuance of the notification, or if a protest is filed, within 30 days following a decision of the Enforcement Authority affirming or reducing the costs, whichever is later. Pursuant to MGL Ch. 40, § 58, the Town is hereby authorized to impose and record a municipal charges lien on the property for any costs that have not been paid to the Town by the applicable due date, and unpaid charges shall be added to the tax on the property, in the manner provided in said statute.
- D. Criminal penalty. Any person who violates any provision of this Bylaw, regulation, order or written approval issued thereunder, shall be punished by a fine not to exceed \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Non-criminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in MGL Ch. 40, § 21D in which case the Enforcement Authority shall be the enforcing person. For non-criminal disposition, the penalty for the first violation shall be \$100, the penalty for the second violation shall be \$200, and the penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- F. Appeals. The decisions or orders of the Enforcement Authority shall be final. Further relief shall be

to a court of competent jurisdiction.

- G. Remedies not exclusive. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 128-17. Severability.

The provisions of this Bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

§ 128-18. Transitional provisions.

Property owners shall have 90 days from the effective date of the Bylaw to comply with its provisions provided good cause is shown for the failure to comply with the Bylaw during that period.

ABINGTON CODE

Chapter 134

SOIL REMOVAL

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³⁰ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art I.

Subdivision of land — See Ch. 200.

§ 134-1. Permit required; exception.

No person shall remove any soil or loam from the premises or from any land not in public use unless such removal is authorized by permit issued by the Board of Selectmen, except for the continued operation of the same parcel of an existing sand and gravel pit, and except when incidental to and reasonably required in connection with the construction of a legal or approved use or structure or an approved subdivision.

30. Editor's Note: This Article also superseded former Ch. 134, Soil Removal, derived from Ch. 2, Sec. 6, of the Town of Abington Bylaws.

SOLID WASTE

Chapter 138

SOLID WASTE

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³¹

GENERAL REFERENCES

Dumping — See Ch. 49.

31. Editor's Note: This Article also superseded former Ch. 138, Solid Waste, comprised of Art. I, Regulation of Facilities, adopted 10-24-2000 STM by Art. 38; and Art. II, Site Selection Procedures, adopted 10-24-2000 STM by Art. 39.

ARTICLE I
Regulation of Facilities

§ 138-1. Preamble.

General Laws Section 150A, Chapter 111, requires that every person maintaining or operating a solid waste facility shall operate the facility in such manner as will protect public health and safety and the environment. Upon determination by the Board of Health that the operation or maintenance of such a facility results in a threat to public health and safety or the environment the Board shall rescind, suspend, or modify the site assignment following due notice and a public hearing.

§ 138-2. Purpose.

This article establishes the following procedures in addition to the procedures required by state law and regulation, to protect the rights of the people of Abington to clean air and water guaranteed by Article 97 of the Articles of Amendment to the Massachusetts Constitution.

§ 138-3. Statutory authority.

This article is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 150A of Chapter 111 of the General Laws and regulations promulgated thereto.

§ 138-4. Petition.

Any 10 or more residents of Abington or of any town located within 1/2 mile of a solid waste facility (an "abutting town"), if any, may petition the Board of Health in writing alleging that said solid waste facility is operating in violation of its site assignment or of any applicable law, regulation, order, or bylaw or that the maintenance or operation of a solid waste facility results or may result in a threat to public health or safety or the environment.

§ 138-5. Burden of proof.

When an allegation is made that a solid waste facility is in violation of any applicable law, regulation, order, or bylaw or that the maintenance or operation of a solid waste facility results in or may result in a threat to public health or safety or the environment, the burden of proof shall be on the owner or operator of said solid waste facility to prove that the facility is not in violation or that the operation of the facility does not result in a threat to public health, safety, or the environment, as the case may be.

§ 138-6. Preliminary hearing.

No later than 21 days following receipt of such a petition, the Board of Health shall schedule a preliminary hearing. The purpose of the preliminary hearing shall be to decide whether the Board should schedule a site assignment hearing pursuant to Section 150A of Chapter 111 of the General Laws to consider whether to rescind, suspend, or modify the site assignment of said facility. The preliminary hearing shall be held no later than 60 days following receipt of the petition.

§ 138-7. Hearing notice.

Notice of the preliminary hearing shall be made at least 21 days prior to the commencement of the hearing by notice printed in a display advertisement in every newspaper of general circulation in Abington and an

abutting town, if any. Said notice shall include the entire text or concise summary of the petition, the date, the time, and place of the preliminary hearing, how residents can participate in the meeting, and where application materials can be reviewed and the deadline for submitting written comments on the petition to the Board of Health. At least 14 days prior to commencement of said preliminary hearing, the Board of Health shall send a copy of said notice of said preliminary hearing by first class mail to all residents and landowners located within one mile of the proposed site, including residents of an abutting town, if any.

§ 138-8. Hearing procedure.

The preliminary hearing shall be conducted as follows:

- A. The petitioners shall first describe the basis for their petition.
- B. Then, the owner or operator of the affected facility shall be given a reasonable opportunity to respond.
- C. The Board shall then allow public testimony, shall accept written comments for a specific period of time that shall be announced at the preliminary hearing. The hearing shall be conducted as informally as possible, and shall follow the rules of evidence commonly followed in the courts. Any resident of Abington or an abutting town, if any, and of the general public, shall be allowed to present oral or written testimony during the hearing.

§ 138-9. Written decision.

No later than 30 days following the conclusion of the preliminary hearing, the Board shall render a written decision whether or not to convene a site assignment hearing pursuant to Section 150A, Chapter 111 of the General Laws to consider whether the site assignment should be rescinded, suspended, or modified.

§ 138-10. Severability.

Each of the paragraphs within this article shall be construed as separate to the end that if any sentence, clause, or phrase thereof shall be held invalid for any reason the remainder of that paragraph and all other paragraphs of this article shall continue in force and effect.

ARTICLE II
Site Selection Procedures

§ 138-11. Preamble.

This article establishes public participation requirements to improve the public process following the filling of a site assignment application for a new solid waste facility.

§ 138-12. Purpose.

The purpose of this article is to protect the rights of the people of Abington to clean air and water guaranteed by Article 97 of the Articles of Amendments to the Massachusetts Constitution, and to protect their right to petition government guaranteed by the Massachusetts Constitution, Article 19 of the Declaration of Rights, and by the First Amendment to the United States Constitution.

§ 138-13. Statutory authority.

This article is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 15A of Chapter 111 of the General Laws and regulations promulgated thereto.

§ 138-14. Establishment of procedures.

This Bylaw establishes procedures to require an informational meeting by the Board of Health which is held following the filing of an application for a site assignment for a proposed solid waste facility.

- A. The Board of Health shall hold a public informational meeting no later than 45 days following the receipt by the Board of a site assignment application for a proposed solid waste facility, where the applicant shall be invited to give a short presentation and answer questions from attendees.
- B. At least 14 days prior to commencement of said informational meeting, the Board of Health shall require the applicant place a large four-foot by eight-foot sign at the proposed site, on the nearest public way, which states in a clearly readable typeface that "This is a proposed site of a (type of facility) proposed by (name of applicant). An informational meeting on the application will be held (date) (time) at (location). For more information, contact, (name, title, phone number and address of Board of Health contact)," and which shall contain a brief description of the proposed project and where application materials can be reviewed.
- C. At least 14 days prior to commencement of said informational meeting, the Board of Health shall send notice of said meeting, which shall include a brief description of the project, the date, time and location of the meeting, how residents can participate in the meeting, and where application materials can be reviewed, by first class mail to all residents and landowners located within one mile of proposed site, including residents and landowners in an abutting town if the proposed site is within 1/2 mile of that town (an "abutting town").
- D. At least 14 days prior to commencement of the informational meeting, the Board of Health shall forward a copy of the application for a site assignment to the Abington Town Clerk and to the Town Clerk in an abutting town, if any, and place a copy on the Town website. **[Amended 6-6-2016 ATM by Art. 9]**
- E. At least 14 days prior to commencement of the informational meeting, the Board of Health shall publish notice as display advertisement in a non-legal section of one or more newspapers in general

circulation in Abington and an abutting town, if any, which shall include notice of the informational meeting and where the application materials can be reviewed, and shall send the notice as a press release to all newspapers and media outlets which circulate in the town(s).

- F. The Board of Health shall provide for either live public broadcast of the informational meeting on the local cable access channel, or if that is not feasible, for the videotaping of the informational meeting for later broadcast.
- G. The Board of Health may assess upon the applicant the costs for complying with the provisions of this article relative to the informational meeting and providing notice thereof. Said applicant may contest the amount so assessed and may request a hearing before the Board, who may then reconsider the amount of the assessment thereof.

§ 138-15. Severability.

Each of the paragraphs within this article shall be construed as separate to the end that if any sentence, clause, or phrase thereof shall be held invalid for any reason the remainder of that paragraph and all other paragraphs of this article shall continue in force.

STORMWATER MANAGEMENT

Chapter 140

STORMWATER MANAGEMENT

[HISTORY: Adopted by the Town Meeting of the Town of Abington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Construction and Post-Construction Requirements**[Adopted 10-19-2020ATM by Art. 15]****§ 140-1. Purpose.**

- A. The purpose of this Bylaw is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.
- B. This Bylaw seeks to meet that purpose through the following objectives:
- (1) Establish the Town of Abington as the legal authority to ensure compliance with the provisions of this Bylaw and its accompanying Rules and Regulations through a review process, inspections, monitoring, and enforcement;
 - (2) Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post-construction monitoring;
 - (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserve and/or restore the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater; and
 - (4) Ensure compliance with requirements of the United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable state and federal mandates.

§ 140-2. Definitions.

For the purposes of this Bylaw, the following shall mean:

AGRICULTURAL USE — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations.

APPLICANT — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.

CERTIFICATE OF COMPLETION — Document issued by the Stormwater Permitting Authority upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC) — A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with

evidence of professional qualifications.

ENFORCEMENT ORDER — A written order issued by the Stormwater Permitting Authority to enforce the provisions of this Bylaw.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Abington, MA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the EPA or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.

NEW DEVELOPMENT — Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in a total disturbance of land equal to or greater than one acre (or activities that are part of a larger common plan of development disturbing greater than one acre) that does not meet the definition of redevelopment.

OWNER — A person with a legal or equitable interest in property.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

PROFESSIONAL ENGINEER (P.E.) — A registered Professional Engineer within the Commonwealth of Massachusetts in good standing.

REDEVELOPMENT — Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in total disturbance of land equal to or greater than one acre (or activities that are part of a larger common plan of redevelopment disturbing greater than one acre) that does not meet the definition of New Development.

STORMWATER — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PERMIT — The written approval granted by the Stormwater Permitting Authority to undertake a construction activity pursuant to a Stormwater Management Permit Application. A valid Stormwater Management Permit must be signed by the Stormwater Permitting Authority participating at a duly noted public hearing, and such permit must be recorded at the Plymouth Registry of Deeds, prior to the start of any work.

STORMWATER PERMITTING AUTHORITY — Organization designated by the Board of Selectmen as responsible for enforcing this Bylaw.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.

WETLAND RESOURCE AREAS — Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in the Town of Abington Wetland Bylaw, as amended.³²

32. Editor's Note: See Ch. 171, Wetlands Protection.

§ 140-3. Applicability.

No person may undertake a construction activity, including clearing, grading, or excavation that results in a land disturbance to an area equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one acre of land within the Town of Abington without first obtaining a Stormwater Management Permit issued by the Stormwater Permitting Authority (SWPA).

§ 140-4. Authority.

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, G.L. c. 83, §§ 1, 10, and 16, as amended by St. 2004, c. 149, §§ 135-140, and pursuant to the Regulations of the federal Clean Water Act found at 40 CFR 122.34.

§ 140-5. Responsibility for administration.

- A. The Board of Selectmen shall be the appointing authority for the SWPA. The SWPA is responsible for the administration, implementation, and enforcement of this Bylaw. The SWPA shall consist of five members, whom shall permanently be the Director of Public Works, the Planning Board Chairman, the Conservation Commission Chairman, the Health Agent, and the Building Commissioner. The SWPA shall administer, implement, and enforce this Bylaw. Any powers granted to or duties imposed upon the SWPA may be delegated, in writing, by the SWPA to any Town employee, board, or agent.
- B. The SWPA shall take any of the following actions as a result of an application for a Stormwater Management Permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval.

§ 140-6. Regulations.

The Planning Board may adopt, and periodically amend, the Stormwater Management Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Bylaw by majority vote of the Planning Board, after conducting one advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Abington no less than 14 days prior to the date of the public hearing. Failure by the Planning Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

§ 140-7. Consultants.

At the applicant's expense, the SWPA may retain independent consultants as needed to review applications for Stormwater Management Permit and to advise the Board on any and all aspects of a specific project. Independent consultants may include but are not limited to registered professional engineers and environmental site monitors.

§ 140-8. Exemptions.

- A. The following activities are exempt from requirements under this Bylaw:
 - (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands

Protection Act regulation 310 CMR 10.04, as amended;

- (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;
- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (4) Normal maintenance and improvements of the Town of Abington publicly owned roadways and associated drainage infrastructure;
- (5) Construction or maintenance and repair of utility service lines (gas, water, electric, telephone, fire alarms, etc.) other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns;
- (6) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board.
- (7) Repair or upgrade of septic systems when required by the Board of Health for the protection of public health;
- (8) Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw;
- (9) Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and/or the Abington Wetlands Protection Bylaw and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions issued by the Conservation Commission. A notice of such approval and conditions and a complete copy of the approved stormwater plan and provisions shall be filed with the SWPA before construction begins; and
- (10) Any construction activity or project requiring approval under the Subdivision Rules and Regulations where the Planning Board has approved a Definitive Subdivision Application and any construction activity requiring site plan review and/or a special permit, provided that the plans include stormwater management provisions and that the activity is in compliance with any additional performance standards contained in the regulations promulgated to implement this Bylaw. A notice of such approval and conditions shall be filed with the SWPA before construction begins.

§ 140-9. Enforcement.

- A. The Planning Board or SWPA shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil relief. If a person violates the provisions of this Bylaw, permit, notices, or order issued thereunder, the Planning Board or SWPA may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Planning Board or SWPA may issue a written order to enforce the provisions of this Bylaw, which may include requirements to:
 - (1) Cease and desist from construction or land disturbing activity until there is compliance with this Bylaw and the Stormwater Management Permit;

- (2) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
 - (3) Maintain, install, or perform additional erosion and sediment control measures;
 - (4) Perform monitoring, analyses, and reporting;
 - (5) Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system;
 - (6) Cease and desist from unlawful discharges, practices, or operations; and/or
 - (7) Remediate contamination in connection therewith.
- D. If the Planning Board or SWPA determines that abatement or remediation of adverse impacts is required, the Enforcement Order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Abington may, at its option, undertake such work, and the property owner shall reimburse the Town's expense.
- E. Within 30 days after completing all measures necessary to abate the violation, the violator and the property owner shall be notified of the costs incurred by the Town of Abington, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board or SWPA within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Planning Board or SWPA affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the 31st day at which the costs first become due.
- F. Criminal Penalty. Any person who violates any provision of this Bylaw, order, or permit issued thereunder, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Noncriminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in G.L. Ch. 40, section 21D, in which case the Planning Board or SWPA shall be the Authorized Enforcing Agent. The penalty for the first violation shall be \$100. The penalty for the second violation shall be \$200. The penalty for the third and subsequent violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to Perform Duties under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the SWPA or its Reviewing Agent, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the SWPA deems reasonably necessary.
- I. Appeals. A decision of the SWPA shall be final. Further relief of a decision by the SWPA made under this Bylaw shall be appealed to the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.
- J. Remedies Not Exclusive. The remedies listed in this Bylaw are not exclusive of any other remedies

available under any applicable federal, state, or local law.

§ 140-10. Waivers and provisions for relief.

- A. The SWPA may waive strict compliance with any requirement of this Bylaw promulgated hereunder, where:
- (1) Such action is allowed by federal, state, and local statutes and/or regulations;
 - (2) It is in the public interest;
 - (3) A public safety issue exists; and/or
 - (4) It is consistent with the purpose and intent of this Bylaw.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Bylaw does not further the purposes or objectives of this Bylaw. The SWPA may require documentation to be submitted and stamped by a qualified P.E. registered in Massachusetts or a Certified Professional in Erosion and Sediment Control (CPESC).

§ 140-11. Surety.

The SWPA may require the permittee to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town counsel and be in an amount deemed sufficient by the SWPA to ensure that the work will be completed in accordance with the permit. If the project is phased, the SWPA may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit but the bond may not be fully released until the SWPA has received the final inspection report as required by the Stormwater Management Rules and Regulations and issued a Certificate of Completion.

§ 140-12. Severability.

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

STREETS AND SIDEWALKS

Chapter 142

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³³ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art. I.

Subdivision of land — See Ch. 200.

Discharge of offensive matter into streets — See Ch. 122, Art. I.

33. Editor's Note: This Article also superseded former Ch. 142, Streets and Sidewalks, comprised of Art. I, Permits to Build Sidewalks, derived from Ch. 2, Sec. 3, of the 1992 Town of Abington Bylaws; Art. II, Obstructions, derived from Ch. 2, Sec. 4, of the 1992 Town of Abington Bylaws; Art. III, Discharge of Water Onto Streets, derived from Ch. 8, Sec. 10, of the 1992 Town of Abington Bylaws; and Art. IV, Openings and Excavations, derived from Ch. 8, Sec. 13, of the 1992 Town of Abington Bylaws, amended by Art. 21 of 1998 ATM.

ARTICLE I

Permits to Build Sidewalks

§ 142-1. Granting permits.

The Selectmen may, with the approval of the Planning Board, grant permits to any persons to build sidewalks in front of their own land, or on any of the streets or ways in the Town, wherever the public safety will permit.

ARTICLE II
Obstruction

§ 142-2. Permit required.

No person shall obstruct in any manner any sidewalk or ways of the Town without a permit from the Selectmen.

ARTICLE III

Discharge of Water onto Streets

§ 142-3. Emergency permits.

No person shall pump or otherwise discharge water or other liquids onto any street, public way or public place so as to create a dangerous condition unless the Police Department, Fire Department or Highway Department permits same in an emergency.

ARTICLE IV
Openings and Excavations

§ 142-4. Road and sidewalk opening permit required.

No person shall excavate, remove material or open any Town-owned property without first obtaining a road and sidewalk opening permit from the Board of Selectmen or its designee.

§ 142-5. Fee.

The fee for a road and sidewalk opening permit shall be established pursuant to MGL Ch. 40 § 22F, and a schedule of said fees shall be kept on file at the Highway Department and with the Town Clerk.

§ 142-6. Regulations.

The Selectmen may adopt said regulations as deemed necessary to carry out the intent of this Bylaw.

§ 142-7. Violations and penalties.

Penalty for breach of this article of this Bylaw shall be a fine of \$200.

STRETCH ENERGY CODE

Chapter 145

STRETCH ENERGY CODE

[HISTORY: Adopted by the Town of Abington 5-22-2017 ATM by Art. 14. Amendments noted where applicable.]

§ 145-1. Definitions.

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) — The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the Massachusetts State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Ninth Edition Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

§ 145-2. Purpose.

The purpose of 780 CMR Appendix 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the Building Code for both new construction and existing buildings.

§ 145-3. Applicability.

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

§ 145-4. Authority.

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix. 780 CMR Appendix 115.AA may be adopted or rescinded by any municipality in the Commonwealth in the manner prescribed by law.

§ 145-5. Stretch Code.

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Abington General Bylaws.

§ 145-6. Enforcement.

The Stretch Code is enforceable by the Building Commissioner.

Chapter 152**TOWN MEETINGS**

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.]³⁴

GENERAL REFERENCES

Elections — See Ch. 53.

Town offices — See Ch. 155.

Finance Committee — See Ch. 67.

§ 152-1. Date of Annual Town Meeting and election of officers. [Amended 6-6-2016 ATM by Art. 9]

The Annual Town Meeting shall be held on the first Monday of April of each year. The election of such officers as are required by law to be elected by ballot and determination of such matters as are required by law to be determined by ballot shall be considered part of the Annual Town Meeting and shall be held on the last Saturday in April of each year. This section shall not otherwise alter the existing statutory authority of the Board of Selectmen to delay the date of Town Meeting pursuant to M.G.L. c. 39, § 9.

§ 152-2. Warrants for Special and Annual Town Meetings. [Amended 4-2-2012 ATM by Art. 15L]

- A. Posting. A copy of the warrant for every Annual and Special Town Meeting shall be posted at the post offices and two or more other public places in Town in accordance with the requirements of MGL c. 39, § 10.
- B. Availability of warrants and notice thereof. Forthwith following execution of the warrant, the Town shall post a printable version of the warrant on the Town's website, make copies available at the Town Offices and Public Library, and, to the extent feasible, at two additional publicly accessible locations in Town.
- C. Notice. No later than one week prior to the date of Town Meeting, a notice shall be delivered to the post office for mailing to each residence of one or more registered voters in the Town setting forth, at a minimum, the date, time and place of the Town Meeting, as well as language similar to the following: **[Amended 10-29-2012 STM by Art. 6]**

The warrant and Finance Committee recommendations may be viewed at the Town Clerk's office at 500 Gliniewicz Way or on the Town's website at www.abingtonma.gov. Contact the Town Clerk at (781) 982-2112 to request a paper copy of the warrant.

- D. Validity of meeting. While it is the intent of this bylaw that every effort shall be made to file, post, and comply with the mailing and copying requirements set forth in § 152-2B and C, failure to do so shall not invalidate the action of the meeting.

34. Editor's Note: This Article also superseded former Ch. 152, Town Meetings, derived from Ch. 1 of the 1992 Town of Abington Bylaws, as amended.

§ 152-3. Use of checklist for admission to meetings.

At all Town Meetings, the Board of Selectmen shall be directed to use a checklist of registered voters for admission of all persons to said meeting.

§ 152-4. Quorum.

The quorum of any Annual or Special Town Meeting shall be 150 registered voters of the Town.

§ 152-5. Voting on amendments involving money.

In conducting Town Meeting, on the proposed amendments involving sums of money the larger of the largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller amount.

§ 152-6. Reconsideration of motions.

In conducting Town Meeting, when a motion for reconsideration is decided, that decision shall not be reconsidered and no question shall twice be reconsidered. No motion to reconsider a vote shall be in order after the meeting has been adjourned for any period of time subsequent to the passing of the vote which is sought to be reconsidered.

§ 152-7. Secret written ballot and two-thirds votes.

- A. Except on a motion on parliamentary procedure and except on a question involving an appropriation of money less than \$5,000, in conducting all town meetings, when a vote on a motion or question is doubted by seven voters or more, a count or a secret written ballot shall be taken.
- B. Whenever a two-thirds vote is required by statute, such vote may be declared as such by the Moderator without a count and shall be recorded as such by the Town Clerk upon such declaration; provided, however, that seven voters or more may challenge such declaration, at which time a count shall be taken.

§ 152-8. Order of articles in Warrant.

Articles for the Annual Town Meeting Warrant, except for Articles I (wage classification) and II (budgets), shall be inserted in the Warrant in the order in which said articles are received by the Board of Selectmen. Articles for any Special Town Meeting Warrant shall be inserted in the Warrant in the order in which said articles are received by the Board of Selectmen. All petition articles, when received by the Board of Selectmen, shall be referred to the Town Clerk and Registrars of Voters for checking as to the correctness of signatures.

§ 152-9. Order of consideration of articles.

In conducting Town Meeting, articles shall be considered in numerical order unless voted otherwise by a four-fifths majority of the voters present and voting at the meeting, or unless two or more articles are related in the opinion of the Moderator, in which event, the articles may be considered together.

§ 152-10. Voting on salary increases.

All proposed salary and wage increases for Town employees and officials other than employees of the School Department and increases previously approved shall be presented in a special article in the Town

Warrant. Such salaries shall be itemized by department and job classification. On a motion duly seconded, a majority of voters present and voting at Town Meeting may require the Moderator to order a separate secret ballot on any position or classification included in a special article for proposed salary increases.

§ 152-11. Location of Town Meetings. [Added 4-2-2012 ATM by Art. 15C]

When the Board of Selectmen determines by separate vote that it is necessary or appropriate, the Town may hold its annual or special Town meetings outside the geographic boundaries of the Town. Reasons for holding a Town meeting outside of the Town shall include, but not be limited to: anticipated voter turnout; emergencies relating to commonly used Town Meeting locations, or handicapped accessibility.

TOWN OFFICES

Chapter 155

TOWN OFFICES

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³⁵ Amendments noted where applicable.]

GENERAL REFERENCES

Town Meetings — See Ch. 152.

§ 155-1. Office hours. [Amended 4-2-2012 ATM by Art. 15D]

The Board of Selectmen, in consultation with the Town Manager, and subject to any applicable collective bargaining agreements, shall fix the time when all Town offices and Town departments (other than those under the jurisdiction of the School Committee, Police and Fire Department, and Board of Library Trustees), having one or more full time employee to whom the Classification and Salary Plan is applicable, shall be open and the Town employees present. The School Committee, Fire and Police Chiefs, and Board of Library Trustees shall inform the Town Manager of the hours that buildings or departments over which they have jurisdiction, respectively, shall be open and Town employees present.

§ 155-2. Extra duty. [Amended 6-6-2016 ATM by Art. 9]

This shall not preclude, however, the authority of a department head to assign employees to extra duty above and beyond their regular hours as set forth by the Town Manager, provided such assignment conforms with the governing statutes.

§ 155-3. Authority of Town Manager to close offices. [Amended 4-2-2012 ATM by Art. 15D; 6-6-2016 ATM by Art. 9]

The Town Manager or his/her designee shall have the exclusive authority to close any Town office or department (with the exception of the public schools and the public library) for a day or a portion thereof other than regular scheduled holidays. The permanent full time employees of the Town shall be paid for such period as the offices or departments are closed by order of the Town Manager or his/her designee. The School Committee and Board of Library Trustees shall inform the Town Manager when they close any office or department over which they have jurisdiction for a day or portion thereof other than regular scheduled holidays.

35. Editor's Note: This Article also superseded former Ch. 155, Town Offices, derived from Ch. 2, Sec. 8, of the 1992 Town of Abington Bylaws.

ABINGTON CODE

Chapter 159

VEHICLES AND TRAFFIC

HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³⁶ Amendments noted where applicable.]

GENERAL REFERENCES

General penalty — See Ch. 1, Art I.

36. Editor's Note: This Article also superseded former Ch. 159, Vehicles and Traffic, comprised of Art. I, Interference With Snow Plowing, derived from Ch. 8, Sec. 3, of the 1992 Town of Abington Bylaws; Art. II, Obstruction of Fire Lanes, derived from Ch. 8, Sec. 12, of the 1992 Town of Abington Bylaws; and Art. III, All-Night Parking, derived from Ch. 8, Sec. 15, of the 1992 Town of Abington Bylaws.

ARTICLE I

Interference With Snow Plowing**§ 159-1. Removal of offending vehicles; liability for costs.**

No person shall place or cause to be placed any vehicle on the public ways and public sidewalks in the Town of Abington which shall interfere with the removing or plowing of snow or the removal of ice. The Superintendent of Streets and the Chief of Police and those acting under the orders of either in the lawful performance of their duties for the purpose of removing snow or ice from any way may remove or cause to be removed to some convenient place (including a public or private garage) any vehicle interfering with such work and the owner of such vehicle shall thereupon be liable for the cost of such removal and of the storage charged, if any, resulting therefrom.

§ 159-2. Unsafe conditions caused by ice and snow.

No person shall plow, shovel, discharge or block a sidewalk, street or public way, place or cause to be placed, snow or ice which could cause an unsafe condition.

§ 159-3. Violations and penalties.

Whoever violates any provisions of this Bylaw shall be liable to a penalty of not more than \$50 for each violation.

ARTICLE II
Obstruction of Fire Lanes

§ 159-4. Obstruction of access of fire equipment.

No person or persons shall obstruct by any means a private way so as to prevent access by fire apparatus or equipment to any multiple family building, stores, shopping centers, schools and places of public assembly.

§ 159-5. Parking in fire lanes; measurement.

No person or persons shall park a vehicle in a fire lane designated by the Fire Chief and so posted. Said fire lanes shall be a distance of 18 feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk or curbing exists, the distance and location shall be established by the Fire Chief.

§ 159-6. Removal of offending vehicles or objects.

Any object or vehicle obstructing or blocking a fire lane or private way may be removed or towed by the Town, under the direction of a police officer, at the expense of the owner and without liability to the Town.

§ 159-7. Signs and road markings.

The owner of record of any building required to maintain a fire lane shall provide and install signs and road markings as required by 527 CMR 10.00. Said signs shall be no less than 12 inches by 18 inches and shall read "Fire Lane — No Parking — Tow Zone - \$250 Fine".

§ 159-8. Violations and penalties.

Any persons found in violation of the foregoing provisions shall, for each offense, be punished by a fine of up to \$250. Each day that such violation continues shall constitute a separate offense.

ARTICLE III
All-Night Parking

§ 159-9. Parking restricted.

No person shall allow, permit or suffer any vehicle registered in his or her name, other than one acting in an emergency, to be parked on any street for a period of time longer than one hour between the hours of 1:00 a.m. and 6:00 a.m. of any day from November 15th to April 15th.

VEHICLES, JUNKED

Chapter 163

VEHICLES, JUNKED

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³⁷ Amendments noted where applicable.]

GENERAL REFERENCES

Junk dealers — See Ch. 94.

Vehicles and traffic — See Ch 159.

Property maintenance — See Ch. 122.

§ 163-1. Time limit; written complaint.

No junked and dilapidated motor vehicle may be allowed to stand for a period of more than 30 days on any premises unlicensed under Chapter 140, Section 57 of the General Laws, if the Selectmen have received a written complaint on same. The Selectmen's judgment shall be final as to determining whether or not a motor vehicle is junked and dilapidated.

§ 163-2. Violations and penalties.

Penalty for a breach hereof shall be in an amount not in excess of \$200 for each offense which may be removed by indictment or on complaint before a District Court.

37. Editor's Note: This Article also superseded former Ch. 163, Vehicles, Junked, derived from Ch. 9, Sec. 4, of the 1992 Town of Abington Bylaws.

Chapter 164
VEHICLES, SALE OF

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.³⁸ Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 159.

§ 164-1. License required. [Amended 4-2-2012 ATM by Art. 15N; 6-6-2016 ATM by Art. 9]

No person, except on whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells secondhand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells secondhand vehicles, shall engage in the business of buying, selling or exchange of secondhand motor vehicles or allow any property under his control to be used as a place of sale or display of such motor vehicles without first securing a Class II license as provided in MGL c. 140 § 59.

§ 164-2. Issuance of licenses. [Amended 4-2-2012 ATM by Art. 15N]

A Class II license shall be defined in MGL c. 140, § 58 and may be issued to any person whose principal business is the buying and selling of secondhand motor vehicles.

§ 164-3. Licensing authority; procedure.

The licensing authority in the Town of Abington shall be the Board of Selectmen, and in issuing Class II licenses it shall follow the procedures set forth in MGL c. 140, Section 59.

§ 164-4. Application criteria. [Amended 4-2-2012 ATM by Art. 15H; 6-6-2016 ATM by Art. 9]

- A. No license will be granted to any applicant or renewed for any application with outstanding unpaid taxes or fees owed to the Town of Abington, or on any property for which such outstanding unpaid taxes or fees are owed, all in accordance with the provisions of MGL c. 40, § 57 and Chapter 102 of the General Bylaws.
- B. The sale of motor vehicles shall be the principal business of the applicant. Further, the applicant must be actively involved in the sale of used motor vehicles in the Town of Abington. No "pocket" licenses will be issued. (MGL c. 140, Section 58)
- C. The license holder must maintain or demonstrate access to repair facilities sufficient to enable him or her to satisfy the warranty repair obligations imposed by MGL c. 90, Section 7N 1/4. (MGL c. 140, Section 58)
- D. The Board of Selectmen shall cause an investigation of the facts stated in the application, that the applicant is a proper person to engage in the business of selling motor vehicles in the Town of

38. Editor's Note: This Article also superseded former Ch. 164, Vehicles, Sale of, adopted 4-7-2003 ATM by Art. 11.

Abington. (MGL c. 140, Section 59)

- E. A plot plan shall be submitted to the Board of Selectmen in addition to any plot plan that may be required by other boards.
- F. If the applicant had not held a Class 2 license in the year prior to making of the application, the application must be completed in duplicate, with one copy being filed with the licensing authority (Board of Selectmen), and the other copy filed with the Registry of Motor Vehicles. (MGL c. 140, Section 59)
- G. No Class 2 license shall be granted unless the licensing authority is satisfied from its investigation of the facts stated in the application, or other available information, that the applicant is a "proper person." (MGL c. 140, Section 59)
- H. Any Class 2 license that is issued by the licensing authority shall specify all of the premises to be occupied and used by the licensee for the purpose of carrying on the licensed business. (MGL c. 140, Section 59)
- I. Permits for a change of situation of the licensed premises or any lawfully permitted additions thereto may be granted at any time by the licensing authority, in its discretion, in writing with a copy of any such permit to be attached to the license.
- J. The rules and regulations promulgated by the Registry of Motor Vehicles defining sufficient repair facilities for holders of used car dealer's licenses (Class 2) represent minimum standards that must be complied with by the holders of such licenses. (MGL c. 140, Section 58)
- K. An applicant for a Class 2 license must demonstrate compliance with all requirements of the Abington Zoning Bylaws, or the approval of any required zoning relief from the Zoning Board of Appeals and shall also submit to the Board of Selectmen any plans required for such zoning relief or approval; otherwise such license will not be issued by the licensing authority. If not required in connection with the approvals listed in the preceding sentence, there shall be submitted a plot plan that, at a minimum, integrates green space to enhance the aesthetics of the licensed premises, unless the Board of Selectmen determines that the same is not reasonably feasible. A determination of reasonable feasibility shall be based upon topographical limitations of the premises and may not be predicated solely on financial hardship to the applicant.
- L. All licenses granted under MGL c. 140, Section 59, and this Bylaw shall be revoked by the licensing authority if it appears after a hearing that the licensee is not complying with all laws applicable to the licensed business and property, including but not limited to MGL c. 140, Sections 57 to 69, inclusive, this Bylaw, or the rules and regulations made thereunder.
- M. All applicants for a Class 2 license shall undergo a criminal history background check by a criminal offender record information certified individual through the Department of Criminal Justice Information Services and in compliance with MGL c. 6, § 172. If the Board of Selectmen or its authorized designee is inclined to make an adverse decision based on the results of this check, in accordance with MGL c. 6, § 171A, the applicant shall be notified, provided with a copy of the criminal record and the Town's Criminal Offender Record Information ("CORI") policy, advised of the part(s) of the record that make the applicant unsuitable for the license, and given the opportunity to dispute the accuracy and relevance of the CORI record.

§ 164-5. Operations criteria.

§ 164-5

ABINGTON CODE

- A. No dismantled, incomplete, or damaged motor vehicles or parts thereof shall be visible from the street or to abutters.
- B. All repairs and maintenance of motor vehicles on the premises are to be done inside of a building or buildings.
- C. Appropriate fencing may be required if, in the opinion of the Board of Selectmen, it is deemed necessary to control access to the property, or to maintain the aesthetic value of the neighborhood.
- D. The number of motor vehicles on the premises shall be limited to the available space as shown on the submitted plot plan. The spaces shall be regulated by the Abington planning and zoning regulations.³⁹
- E. Sufficient customer parking must be available on the premises to meet the requirements of the Zoning Bylaws of the Town of Abington. Additionally, one parking space for every 1,000 square feet of lot area used for the display of used motor vehicles must also be available on the premises.
- F. The premises and abutting property must be kept free of debris emanating from the licensed area.
- G. Violation of any of the foregoing provisions shall be cause for suspension or revocation by the licensing authority of the license granted. (MGL c. 140, Section 59)

§ 164-6. New license application criteria.

- A. The specific site must be an appropriate location for such use.
- B. The use of property for the sale of motor vehicles will not be substantially detrimental to the established or future character of the neighborhood or of the Town of Abington.
- C. The applicant must show that there will be no nuisance or serious hazard to vehicles or pedestrians.
- D. The applicant must show that adequate and appropriate facilities will be provided for the proper operation of the motor vehicle dealership, as specified by state and Town regulations.
- E. The applicant must show that the public convenience and welfare will be substantially served.
- F. The applicant must show evidence at the time of the public hearing that he or she has notified in writing all abutters seven days prior to the hearing of his or her application. Such notice shall be at the sole expense of the applicant. **[Amended 4-2-2012 ATM by Art. 15I]**

39. Editor's Note: See Ch. 175, Zoning, and Ch. 200, Subdivision Rules and Regulations.

WATER

Chapter 167

WATER

[HISTORY: Adopted by the Town of Abington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Water Use Restrictions
[Adopted 4-3-2006 ATM by Art. 8⁴⁰]

§ 167-1. Authority.

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c. 40 § 21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41 § 69B. This Bylaw also implements the Town's authority under M.G.L. c. 40 § 41A, conditioned upon a declaration of "Water Supply Emergency" issued by the Department of Environmental Protection.

§ 167-2. Purpose.

The purpose of this Bylaw is to protect and preserve the public health, safety and welfare whenever there is in force a state of water supply conservation or a state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection. This Bylaw is also intended to protect and preserve the public health, safety and welfare, by restricting and prohibiting unauthorized water use and/or unregistered water use by water users.

§ 167-3. Definitions.

PERSONS — Any individual, corporation, trust, partnership, association, or other entity which uses or is serviced by the Town's public water supply.

STATE OF WATER EMERGENCY — A state of water emergency declared by the Department of Environmental Protection under M.G.L. c. 21G §§ 15-17.

STATE OF WATER SUPPLY CONSERVATION — A state of water supply conservation declared by the Town pursuant to § 167-4 of this Bylaw.

UNAUTHORIZED WATER USE — All activations of water services, fire hydrants (excluding Fire Department personnel during fire emergencies), or other segments of the public water system by any person not authorized by the Water Department.

UNREGISTERED WATER USE — Any water utilized or taken from the public water system without a means of calculating actual consumption.

WATER USERS or WATER CONSUMERS — Any public or private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular residence or facility.

§ 167-4. Declaration of a state of water supply conservation.

The Town, through its Board of Water Commissioners, may declare a state of water supply conservation upon determination by a majority vote of the Board, at a public meeting, that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply and adequate water pressure to all water customers. Upon notification to the public that a state of water supply conservation has been declared, no person shall violate any provisions, restrictions, or requirements intended to bring about an end to the state of water supply conservation.

40. Editor's Note: This Article also superseded former Art. I, Water Use Restrictions, adopted 4-30-2001 ATM by Art. 22, as amended.

§ 167-5. Restricted water uses.

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the public water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 167-7.

- A. Step One: Odd/even day outdoor watering restrictions. All outdoor water uses by water users with odd numbered addresses is restricted to odd numbered calendar days. All outdoor water uses by water users with even numbered addresses is restricted to even numbered calendar days.
- B. Step Two: Hand held hoses only. All outdoor water uses are restricted to hand held hoses only. The odd/even outdoor watering restrictions shall also be observed.
- C. Step Three: Outdoor watering hours. All outdoor water uses are restricted to hand held hoses only between the hours of 7:00 a.m. and 8:00 a.m. or between the hours of 8:00 p.m. and 9:00 p.m. The odd/even day outdoor watering restrictions shall also be observed.
- D. Step Four: Outdoor watering ban. All outdoor water use is prohibited for all uses.

§ 167-6. State of water supply emergency; compliance with DEP orders.

Upon notification to the public that a declaration of a state of water supply emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.

§ 167-7. Public notification.

Notification of any provisions, restrictions, requirements or conditions imposed by the Town as part of a state of water supply conservation, or by the Department of Environmental Protection as part of a state of water supply emergency, shall be given by the publication of at least one display advertisement in a newspaper of general circulation within the Town, by the posting of removable signs where any state highway crosses the Town line, and by such other means reasonably calculated to reach and inform all water users of the declaration of a state of water supply conservation and/or emergency. Any restrictions imposed shall not be effective until such notification is provided. Notification of the declaration of a state of water supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection in writing by the Board of Water Commissioners.

§ 167-8. Termination of state of water supply conservation and/or emergency.

A state of water supply conservation may be terminated by a majority vote of the Water Commissioners, at a public meeting, upon a determination that the water supply shortage no longer exists. A state of water supply emergency shall be terminated by the Department of Environmental Protection upon a determination that the emergency no longer exists. Public notification of the termination of a state of water supply conservation and/or emergency shall be given by the publication of at least one display advertisement in a newspaper of general circulation within the Town, by the removal of all erected water supply conservation and/or emergency signs, and by such other means reasonably calculated to reach and inform all water users of the termination of the state of water conservation and/or emergency.

§ 167-9. Unauthorized water usage.

No person, water user or water commissioner shall activate, or cause to be activated, any water main and/or appurtenances to the public water system without prior authorization of the Water Department.

§ 167-10. Unregistered water usage.

No person, water user, or water consumer shall activate, or cause to be activated, water main and/or appurtenances to the public water system without first having a Water Department-approved metering device installed to calculate the amount of water utilized. No person, water user, or water consumer shall remove and/or alter any metering device.

§ 167-11. Violations and penalties. [Amended 6-6-2016 ATM by Art. 9]

Any person found to have violated § 167-5 and/or § 167-6 of this Bylaw will receive a written warning for the first offense and shall be liable to the Town in the amount of \$100 for each subsequent offense within the same calendar year. Any person found to have violated § 167-9 of this Bylaw shall be liable to the Town in the amount of \$300 for each offense. Any person found to have violated § 167-10 of this Bylaw shall be liable to the Town in the amount of up to \$300 for each offense. Fines shall be levied and assessed by employees of the Water Department and/or authorized agents of the Board of Water Commissioners upon witnessing any violation, or after investigating and verifying that a violation in fact occurred. Violators shall be entitled to appeal the assessment of any fines with the Board of Water Commissioners, and said appeal shall be held at a public meeting of the Board. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with M.G.L. c. 40 § 21D. Each day on which a violation of § 167-5 and/or § 167-6 occurred shall constitute a separate offense.

§ 167-12. Severability.

The invalidity of any portion or provision of this Bylaw shall not invalidate any other portion or provision hereof.

Chapter 171**WETLANDS PROTECTION**

[HISTORY: Adopted by the Town of Abington 4-3-2006 ATM by Art. 8.⁴¹ Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 175.

Subdivision rules and regulations — See Ch. 200.

§ 171-1. Purpose.

The purpose of this Bylaw is to protect the wetlands, water resources, and adjoining land areas in Abington by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention including water quality, water pollution controls, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this Bylaw"). This Bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetland Protection Act (M.G.L. c. 131 § 40) and Regulations thereunder (310 CMR 10.00).

§ 171-2. Jurisdiction.

Except as permitted by the Conservation Commission or as provided in this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, rivers, streams, creeks, beaches, dunes, estuaries, lands under water bodies, lands subject to flooding or inundation by groundwater or surface water, or flooding, and lands abutting any of the aforesaid resource areas as set out in § 171-7 (collectively the "resource area protected by this Bylaw"). Said resource areas shall be protected whether or not they border surface waters.

§ 171-3. Applications for permits and requests for determination.

- A. Written application shall be filed with the Commission to perform activities affecting resource areas protected by this Bylaw. The notice of intent permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activity shall commence without receiving and complying with a permit issued pursuant to this Bylaw.
- B. The Commission will accept as the permit application and plans under this Bylaw the notice of intent and plans filed under the Wetlands Protection Act (M.G.L. c. 131 § 40) and Regulations (310 CMR 10.00).
- C. Any person desiring to know whether or not a proposed activity or an area is subject to this Bylaw

41. Editor's Note: This Article also superseded former Ch. 171, Wetlands Protection, adopted 4-9-2003 by Art. 27.

may in writing request a determination from the Commission. Such a request for determination (RFD) shall include information and plans as are deemed necessary by the Commission.

- D. At the time of the permit application or RFD, or application for certificate of compliance, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (M.G.L. c. 131 § 40) and Regulations (310 CMR 10.00).
- E. Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydro geologic and drainage analysis; and researching environmental or land use law.
- F. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a revolving fund for consultant expenses and fees is authorized by the Town Meeting, or by the general or special law, the applicant's fee shall be put into such revolving fund, and the Commission may draw upon that fund for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.
- G. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
- H. The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or RFD filed by a government agency.
- I. The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to industry standard fees.
- J. The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this Bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

§ 171-4. Notice and hearings.

- A. Any person filing a notice of intent ("permit application") with the Commission shall give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within 100 feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water. Said notification shall be at the applicant's expense, and shall state where copies of the notice of intent may be examined and obtained and the date, time and place of the public hearing. Notices to abutters shall be postmarked or hand delivered no less than 10 days

prior to the public hearing. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the Conservation Commission.

- B. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.
- C. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.
- D. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized by the applicant.
- E. The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act (M.G.L. c. 131 § 40) and Regulations (310 CMR 10.00).
- F. The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion.

§ 171-5. Permits and conditions.

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and unforeseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. Land within 200 feet of rivers, ponds, and lakes and lands within 100 feet of other resource areas are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitations, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within two-hundred-foot or one-hundred-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the Bylaw.

- D. To prevent the wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetland alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands, but only with adequate security, professional design, and monitoring to assure success.
- E. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for an additional period of up to three years, provided that a request for a renewal is received in writing by the Commission at least 30 days prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.
- F. For good cause the Commission may revoke or modify a permit or determination issued under this Bylaw after notice to the holder of the permit or determination.
- G. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

§ 171-6. Regulations.

- A. After public notice and public hearing, the Commission shall promulgate rules and regulations relative to effectuate the purposes of this Bylaw effective when voted and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.
- B. At a minimum these regulations shall define key terms in this Bylaw not inconsistent with the Bylaw and procedures governing the amount and filing of fees.

§ 171-7. Definitions.

The following definitions shall apply in the interpretation and implementation of this Bylaw.

- A. The term "bank" shall include the land area which normally abuts and confines a water body, the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.
- B. The term "vernal pool" shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.
- C. The term "rare species" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

- D. The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representative, agents, or assigns.
- E. The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this Bylaw:
- (1) Removal, excavation, or dredging of soil, sand, gravel or aggregate materials of any kind.
 - (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
 - (3) Drainage, or other disturbance of water level or water table.
 - (4) Dumping, discharging, or filling with any material which may degrade water quality.
 - (5) Placing of fill, or removal of materials, which would alter elevation.
 - (6) Driving of piles, erection, or repair of building, or structures of any kind.
 - (7) Placing of obstructions or objects in water.
 - (8) Destruction of plant life including cutting trees.
 - (9) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any water.
 - (10) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
 - (11) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this Bylaw.
- F. Except as otherwise provided in this Bylaw or in regulations of the Commission, the definitions of terms in this Bylaw shall be set forth in the Wetlands Protection Act (M.G.L. c. 131 § 40) and Regulations (310 CMR 10.00).

§ 171-8. Security.

As part of a permit issued under this Bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observation of the conditions imposed there under (including conditions required mitigation work) be secured wholly or in part by one or more of the methods described below:

- A. By proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit.
- B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the

applicant.

§ 171-9. Enforcement.

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this Bylaw, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this Bylaw.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this Bylaw and may make or cause to make such examinations, surveys, or sampling as the Commission deems necessary, subject to the Constitution and laws of the United States and the Commonwealth.
- C. Upon request of the Commission, the Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- D. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- E. Any person who violates any provision of this Bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine if not more than \$300 each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

§ 171-10. Burden of proof.

The applicant for a permit shall have the burden of providing by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 171-11. Appeals.

A decision of the Commission shall be reviewable by the Superior Court in accordance with M.G.L. c. 249 § 4.

§ 171-12. Relation to Wetlands Protection Act.

This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. c. 131 § 49) and Regulations (310 CMR 10.0) thereunder.

§ 171-13. Severability.

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

ABINGTON CODE

Chapter 175

ZONING

[HISTORY: Adopted by Town Meeting of the Town of Abington 3-1-1954 ATM by Art. 8; revised 3-5-1962 ATM by Art. 57; 5-3-1976 ATM by Art. 22; 10-23-2000 STM. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Fences — See Ch. 63.

Investigation of land use complaints — See Ch. 98, Art. I.

Historical Commission — See Ch. 89.

Wetlands protection — See Ch. 171.

ARTICLE I

Title, Authority and Purpose**§ 175-1. Adoption; statutory authority.**

The "Abington Zoning Bylaw and Map" adopted October 2, 1962 and all subsequent amendments thereto is hereby amended in total and a revised "Abington Zoning Bylaw and Map" hereinafter called "this bylaw" is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto, herein called the "Zoning Enabling Act" and the powers granted to the Town under the Home Rule amendment to the Massachusetts Constitution.

§ 175-2. Purposes.

The purposes of this Zoning Bylaw are to promote the health, safety, morals, convenience and general welfare of the inhabitants of Abington; to lessen the danger from fire and congestion and from the hazards of flood water inundation; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to protect and conserve the value of property; to prevent overcrowding of land; to avoid undue concentration of population; to preserve and increase the amenities of the Town; to conserve natural conditions; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other requirements; and to improve and beautify the Town by encouraging the most appropriate uses of land within the Town under the provisions of Chapter 40A of the General Laws as amended.

§ 175-3. Regulations in accordance with purposes.

In accordance with these purposes, the use, construction, erection, establishment, movement, repair, alteration, enlargement, height, appearance, location, and occupancy of buildings and structures and the uses and occupancy of premises in the Town of Abington are hereby regulated and restricted as hereinafter provided.

ARTICLE II

Definitions

§ 175-4. Definitions and word usage.

For the purpose of this bylaw certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural; the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the Abington Subdivision Rules and Regulations⁴² shall have the meanings given therein unless a contrary intention clearly appears.

ABANDONMENT — The visible or otherwise apparent intention of an owner to discontinue a use of a building, structure or lot, whether conforming or nonconforming or the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use without its replacement by similar equipment or furnishings or the replacement of the nonconforming use or building for a period of two years or more.

ABUTTING — Having a common property line with; contiguous, fronting upon.

ACCESSORY APARTMENT — See § 175-32I.[Added 5-24-2021ATM by Art. 22]

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

ADULT ENTERTAINMENT ESTABLISHMENTS —

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock; or 25% of the subject premises' gross floor area, or 200 SF, whichever is greater.

ADULT MOTION PICTURE THEATRE — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock; or 25% of the subject premises' gross floor area, or 200 SF, whichever is greater.

ADULT LIVE NUDDITY ESTABLISHMENTS — Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in Section 31 of Chapter 272 of the Massachusetts General Laws.

ADULT USE — For the purposes of this bylaw, adult use shall be defined as any of the following: adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store, and live nudity establishment or any other business or establishment characterized by an emphasis depicting, describing

42. Editor's Note: See Ch. 200, Subdivision Rules and Regulations.

or related to sexual conduct or excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws. For the purposes of this definition an adult use is any use or combination of uses which either have greater than 25% of the subject establishment's inventory stock; or 25% of the subject premises' gross floor area, or 200 SF, whichever is greater devoted to materials for sale or rent distinguished by or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws.

ADULT VIDEO STORE — An establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws. For the purposes of this definition "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock; or 25% of the subject premises' gross floor area, or 200 SF, whichever is greater.

ALTERATION — Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

APARTMENT — One or more rooms forming a habitable unit, containing complete and independent living facilities.**[Amended 5-22-2017 ATM by Art. 20]**

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This shall include any area designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V on the FIRM and FIS.**[Added 5-21-2012 STM by Art. 1]**

BASE FLOOD — The flood having a one percent chance of being equaled or exceeded in any given year.**[Added 5-21-2012 STM by Art. 1]**

BASEMENT — A portion of a building partly below grade which has more than 1/2 of its height measured from finished floor to finished ceiling above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is 4.5 feet or more above the finished grade or one half of the total height above finished grade, whichever is greater.

BUILDING — A combination of any materials whether portable or fixed having a roof built to form a structure that is safe and stable supported by columns or walls resting on its own foundation for the shelter, housing or enclosure of persons, animals, chattels of property of any kind. For the purposes of this definition "roof" shall include an awning or any similar covering whether or not permanent in nature.**[Amended 5-21-2018 ATM by Art. 22]**

BUILDING, ACCESSORY — A detached building the use of which is customarily incidental and subordinate to that of the principal building and which is located on the same lot as that occupied by the principal building to which it is accessory.

BUILDING, ATTACHED — A building having any portion of one or more walls in common with adjoining buildings.

BUILDING, DETACHED — A building having open space on all sides.

BUILDING LINE — The closest location on a lot that any portion of a foundation may be situated from the front lot (street) line, parallel to the street. See front setback requirements of Article VI. On a lot with an existing principal structure, this line exists at the closest point of the foundation to the front lot (street) line, parallel to the street.

BUILDING, PRINCIPAL — A building in which is conducted the principal use on the lot on which it is located.

CELLAR — A portion of a building partly or entirely below grade which has more than 1/2 of its height

measured from finished floor to finished ceiling below the average established finished grade of the ground adjoining the building. A cellar is not deemed a story.

CERTIFICATE OF OCCUPANCY — The final permit required from the Town before any use of structure may be occupied; issued by the Building Inspector; a means of assuring that all work has been completed in accordance with plans approved for building permits and that all work conforms to the requirements of all building, zoning and health regulations of the Town.

COASTAL HIGH HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V, V1-30, or VE.**[Added 5-21-2012 STM by Art. 1]**

CONDOMINIUM COMPLEX — An area of land designed for joint ownership of property, or property so owned, such as an apartment complex with each unit bought and sold, without the approval of other owners, and where common facilities are maintained by a service fee.

DEVELOPMENT — For floodplain management purposes any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.**[Added 5-21-2012 STM by Art. 1]**

DISTRICT — A zoning district as established by Article III of this bylaw.

DRIVEWAY — A private access for vehicles to required parking, and for vehicles to move between the required frontage and a location within a lot provided that a "driveway" shall not be used to connect a lot through any portion of another lot.

DUPLEX DWELLING — A two-family building designed with separated dwelling units side-by-side separated by a fire wall.

DWELLING — A privately or publicly owned permanent structure containing a dwelling unit or dwelling units. The terms "one-family," "two-family" or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, trailer, however mounted, or dormitory, or structure solely for transient or overnight occupancy.

DWELLING UNIT — One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with permanent provisions for cooking, living, sanitary, eating, and sleeping facilities.

DWELLING, MULTIFAMILY — A building containing three or more dwelling units constructed on a single lot.

FAMILY — One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.**[Added 5-21-2012 STM by Art. 1]**

FLOOD BOUNDARY AND FLOODWAY MAP — Shall include an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway.**[Added 5-21-2012 STM by Art. 1]**

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as

Zone A or E.[Added 5-21-2012 STM by Art. 1]

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.[Added 5-21-2012 STM by Art. 1]

FLOOD INSURANCE STUDY (FIS) — An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.[Added 5-21-2012 STM by Art. 1]

FLOODPLAIN — Any area that is subject to periodic flooding and that is shown as an area mapped as flood plain on the Zoning Map or shown as a special flood hazard area on the FIRM and FIS incorporated by reference into the Zoning Map.[Amended 5-21-2012 STM by Art. 1]

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.[Added 5-21-2012 STM by Art. 1]

FLOOR AREA — The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this bylaw, or any such floor space intended and designed for accessory heating and ventilating equipment.

FRONTAGE — That portion of a lot contiguous with a street or street right-of-way line and providing access thereto.[Amended 4-7-2008 by Art. 15]

HEIGHT — The vertical distance from the average finished grade of the adjacent ground to the top of the structure or the highest roof beams of a flat roof or the mean level of the highest gable or the slope of a hip roof.

HISTORICAL NEW ENGLAND CHARACTER — The general use of architectural details and designs which conform to the traditional building styles of New England, including but not limited to Colonial/Cape, Georgian, Federal, Greek Revival and Victorian styles, and the use of traditional exterior surfaces and accents on facades facing the street or nearby public property, such as clapboard or siding, peaked roof lines, attractive light fixtures, appropriate window sizes and styles, and the like, without, however, prohibiting the use of modern building materials which may replicate or mimic traditional styles but with longer lasting, more durable or more energy efficient materials. The use of photovoltaic systems (solar panels), satellite dishes or other exterior communication hardware shall not be prohibited, but shall be encouraged to be screened from street view wherever reasonably possible.[Added 5-22-2017 ATM by Art. 18]

HOME OCCUPATION — An accessory use which by custom has been carried on entirely within a dwelling unit and is incidental and subordinate to the dwelling use and which shall not occupy more than 25% of the floor area or 400 square feet whichever is less of the dwelling unit so used. No commodities except those processed on the premises shall be sold. Permitted uses shall be carried on by the occupants of the dwelling unit with no more than one non-resident employee, and shall not in any manner change the residential character of the building.

HOSPITAL — A building providing twenty-four-hour in-patient services for the diagnosis, treatment or other care of human ailments including, where appropriate, a sanitarium, clinic, rest home, sanatorium, nursing homes, and convalescent home.

HOTEL — A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances including an inn, motel,

motor inn, and tourist court, but not including a boarding house, lodging house, or rooming house.

LODGING UNIT — One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boarding houses, tourist houses or rooming houses.

LOT — A single or contiguous tract of land held in the same ownership throughout and defined by bounds or lot lines ascertainable by recorded deed or plan.

LOT AREA — For all lots created after April 2, 2001, the horizontal area exclusive of any area in a street or recorded way open to public use. At least 50% of the area required to meet the minimum lot area requirement in the zoning district in which the lot is located must be contiguous upland as defined in this Bylaw and not part of a detention and/or retention basin or easement for drainage purposes, land under water, or land subject to flooding.

LOT, CORNER — A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in the case of a curved street, extended lot lines, being not more than 135 degrees.

LOT DEPTH — The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE — The horizontal distance measured continuously along the front lot line between the points of intersection of the side lot lines with the front lot line. The street frontage for a lot on a cul-de-sac shall be the measured frontage of the lot along the outside radius of the street right-of-way line between the side lot lines. **[Amended 4-7-2008 by Art. 15]**

LOT LINE, FRONT — The property line dividing a lot from a street (right-of-way).

LOT LINE, REAR — The lot line or lines opposite from the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT, NONCONFORMING — A lot lawfully existing at the effective date of this bylaw or any subsequent amendment thereto which is not in accordance with all provisions of this bylaw.

LOT, WIDTH — The horizontal distance between the side lot lines as measured at the minimum front yard depth (required setback distance) required by this bylaw.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3. **[Added 5-21-2012 STM by Art. 1]**

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. **[Added 5-21-2012 STM by Art. 1]**

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. **[Added 5-21-2012 STM by Art. 1]**

MEMBERSHIP CLUB — A social, sports or fraternal association or organization which is used exclusively by members and their guests which may contain bar facilities.

MOBILE HOME — A large trailer outfitted as a home meant to be parked more or less permanently at a location. See "trailer."

MULTI-UNIT DWELLING — A building exclusively for residential use with three or more dwelling units. **[Added 4-7-2003 ATM by Art. 25]**

NEW CONSTRUCTION — For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. **[Added 5-21-2012 STM by Art. 1]**

ONE-HUNDRED-YEAR FLOOD — See "base flood." **[Added 5-21-2012 STM by Art. 1]**

OWNER (REAL ESTATE) — Any person or entity of record, holding fee simple title to a lot of land.

OPEN SPACE — The space on a lot unoccupied by buildings, unobstructed to the sky, not devoted to streets, driveways, or off-street parking or loading spaces and expressed as a percentage of total lot area.

PARKING SPACE — An off-street space, whether inside or outside a structure for exclusive use as a parking space for one motor vehicle as required elsewhere in these bylaws.

PLANNED COMMERCIAL DEVELOPMENT — A business complex excluding apartments which is planned, designed, and developed as a unit.

PLANNED CLUSTER DEVELOPMENT — An area of land, designed and developed as a unit, with common open space as an integral characteristic which departs from the zoning regulations conventionally required in the district concerning lot size and dimensional requirements.

PREMISES — A lot together with all buildings, structures, and uses thereon.

REGULATORY FLOODWAY — See "floodway." **[Added 5-21-2012 STM by Art. 1]**

SIGN — Any permanent or temporary representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination, provided however that the following shall not be included in the application of the regulations herein.

- A. Flags and insignia of any government except when displayed in connection with commercial promotion.
- B. Legal notices, identification, informational or directional signs erected or required by government bodies.
- C. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGN, SURFACE AREA OF —

- A. For a sign the area shall be considered to include all lettering, wording, and accompanying designs and symbols together with the background, whether open or enclosed, on which they are displayed. Frames and structural members not bearing advertising matter shall not be included in computation of sign area.
- B. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface building wall or window the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.

SPECIAL FLOOD HAZARD AREA — An area having special flood and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or FIRM or FIS as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, or VE. **[Added 5-21-2012 STM by Art. 1]**

SPECIAL PERMIT —

- A. A permit which may be issued by the special permit granting authority (SPGA) as designated within this Bylaw or Chapter 40A of the Massachusetts General Laws, to authorize a use which would not be allowed generally or without restriction throughout any particular zoning district; but which, if controlled as to the number, area, location, relation to the neighborhood and other characteristics would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare; a special permit is not a "variance" but may include a variance of dimensional and similar requirements incidental to the special permit. Special permits may also impose conditions, safeguards, and limitations on time and use.
- B. In granting a special permit, the SPGA shall give due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located. The SPGA shall also take into consideration the fulfillment of the following general conditions in addition to other appropriate safeguards as determined by the SPGA:
- (1) The use requested is listed in the Table of Use Regulations as a special permit in the District for which application is made.
 - (2) The requested use will not overload any public water, sewer, or drainage system, or any other municipal system; create undue traffic congestion, or unduly impair sight lines for traffic or hinder pedestrian safety to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
 - (3) Any special regulations for the use, set forth in this Bylaw are met.
 - (4) The requested use is desirable to the public convenience or welfare.
 - (5) Any special permit granted by the SPGA shall lapse if substantial use or construction has not commenced within two years of the expiration date of the appeal period, or within two years after such time required to pursue or await the determination of an appeal, whichever is later.

STREET — A way that is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the Subdivision Rules and Regulations in Abington, Massachusetts,⁴³ and a way having in the opinion of the Abington Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. The Planning Board shall not deem a way adequate for the purposes of the Subdivision Control Law whether approval is required or not required and this Zoning Bylaw unless said way meets the following minimum standards.

- A. A right-of-way width of 40 feet.
- B. A traveled way of 16 feet exclusive of berms or curbs.
- C. An all-weather surface of bituminous concrete which is in suitable condition to allow access for emergency vehicles.
- D. The way shall be properly graded so as to allow for drainage of surface water runoff as determined

43. Editor's Note: See Ch. 200, Subdivision Rules and Regulations.

by the Board or its agent.

STREET LINE — The right-of-way line of a street.

STRUCTURE —

- A. A combination of materials assembled at a fixed location that is safe and stable to give support or shelter such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, sign, fence, flagpole, swimming pool, shelters, sheds, or the like.
- B. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises. **[Added 5-21-2012 STM by Art. 1]**

STRUCTURE, NONCONFORMING — A structure lawfully existing at the effective date of this bylaw or any subsequent amendment thereto which does not conform to one or more provisions of this bylaw.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. **[Added 5-21-2012 STM by Art. 1]**

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. **[Added 5-21-2012 STM by Art. 1]**

TOXIC OR HAZARDOUS WASTES AND MATERIALS — Toxic or hazardous materials include, without limitation organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkali's, and include products such as pesticides, herbicides, solvents and thinners.

TRAILER — Any vehicle which is designed primarily to be portable and is arranged, intended, designed, or used temporarily for sleeping, eating, or business use in conjunction with construction, or is a place in which persons may congregate including a tent trailer, travel trailer, motor home, or camper.

TWO-FAMILY/THREE-FAMILY DWELLING — A building designed to accommodate two- or three-family households, each with separate units on each floor within the structure. **[Added 4-7-2003 ATM by Art. 25]**

UPLAND — Non-wetland as defined by the Wetlands Protection Act and/or the Town of Abington Wetlands Bylaw.⁴⁴

USE — The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

USE, ACCESSORY — A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure.

44. Editor's Note: See MGL c. 131, §§ 40 and 40A, and Ch. 171, Wetlands Protection, of the Code of the Town of Abington

USE, NONCONFORMING — A use lawfully existing at the time of adoption of this bylaw or any subsequent amendment thereto, which does not conform to one or more provisions of this bylaw including an existing use permissible on special permit from the Board of Appeals but which has not been so authorized.

USE, PRINCIPAL — The main or primary purpose for which a structure, building, or lot is designed, arranged, constructed, or intended, or for which it may be used, occupied or maintained under this bylaw. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this bylaw shall be considered an accessory use.

USE, SUBSTANTIALLY DIFFERENT — A use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics from the use to which it is being compared.

VARIANCE — See § 175-82D(3).

WIRELESS COMMUNICATIONS FACILITY — A structure, including a tower, antenna, monopole, satellite dish, or other similar devices and accessory structures, built for the providing of wireless communications services. A wireless communications facility may include accessory mechanical, electronic or telephone equipment and/or building(s) necessary to operate such facility.

WIRELESS COMMUNICATIONS SERVICES — The communications services provided for radio, television, cellular telephone, personal communications, and enhanced specialized mobile radio via wireless communications facilities.

YARD — A portion of a lot upon which the principal building is situated, unobstructed from the ground to the sky except as otherwise provided herein.

YARD, FRONT — A yard extending for the width of the lot between the front line of the nearest building wall and the front lot line.

YARD, REAR — A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE — A yard extending for the full length of the lot between the nearest building wall and the side lot line.

ZONE A — The 100-year floodplain area where the base flood elevation (BFE) has not been determined.**[Added 5-21-2012 STM by Art. 1]**

ZONE A1-30 and ZONE AE — The 100-year floodplain where the base flood elevation has been determined.**[Added 5-21-2012 STM by Art. 1]**

ZONE AH and ZONE AO — The 100-year floodplain with flood depths of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.**[Added 5-21-2012 STM by Art. 1]**

ZONE A99 — Areas to be protected from the 100-year flood by federal flood protection system under construction.**[Added 5-21-2012 STM by Art. 1]**

ZONES B, C, AND X — Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X shall replace Zones B and C on the revised maps.**[Added 5-21-2012 STM by Art. 1]**

ZONE V — A special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. **[Added 5-21-2012 STM by Art. 1]**

ZONE X — An Area identified in the Flood Insurance Study as an area of moderate minimal flood hazard. **[Added 5-21-2012 STM by Art. 1]**

ZONING ENABLING ACT — Chapter 40A of the Massachusetts General Laws and subsequent amendments thereto.

ARTICLE III
Establishment of Zoning Districts

§ 175-5. Division into districts.⁴⁵ [Amended 4-7-2003 ATM by Art. 25; 5-21-2018 ATM by Art. 31]

The Town of Abington, Massachusetts, is hereby divided into the following Zoning Districts.

Full Title	Short Name
High Density Residential	R-20
Medium Density Residential	R-30
Low Density Residential	R-40
General Commercial	GC
Highway Commercial	HC
Industrial	I
Flood Plain and Wetlands Protection	FW
Watershed Protection District	WPD
Business Development	BD
Transit Oriented Development District	TOD
Central Business District	CBD
Multiple Use Planned Development District	MUPDD
Transitional Commercial District	TCD

§ 175-6. Zoning Map. [Amended 4-7-2003 ATM by Art. 25; 5-21-2012 STM by Art. 1; 4-1-2024ATM by Art. 14]

The Zoning Map for the Town of Abington shall include the following maps. The location and boundaries of the Zoning Districts shall be and are as shown on a map entitled “Town of Abington, Massachusetts, Zoning Map,” dated February 3, 2003 and as revised through May 21, 2018, which is incorporated into this Bylaw by reference. The locations and boundaries of the Flood Plain and Wetlands Protection District shall be and are shown on a map entitled “Town of Abington, Massachusetts Zoning Map” as adopted in 1976 and revised through 2000 (the “Abington Flood Plain Zoning Map”) and as shown on the Flood Insurance Rate Map prepared for FEMA, dated and effective on July 3, 2024 (FIRM). Furthermore, the exact boundaries of the Floodplain and Wetlands Protection District shall be defined as the floodplain areas shown on the Abington Flood Plain Zoning Map and shall include the 100-year base flood elevations and all of the special flood hazard areas within the Town of Abington as shown on the FIRM and as further defined by the Plymouth County Flood Insurance Study report dated July 3, 2024 (FIS). The enumerated FIRM panels and the FIS report are hereby incorporated by reference and are on file with the Town Clerk, Planning Department and Building Department. The authenticity of the Zoning Map shall be identified by the signature of the Town Clerk, and said Bylaw and Map shall be on file with the Town Clerk.⁴⁶

45. Editor's Note: Zoning and Land Use Bylaws for the NAS South Weymouth District are on file with the Town Clerk.

46. Editor's Note: Said Zoning Map is also included in the online version of the Code of the Town of Abington (eCode360®).

§ 175-7. Changes to Zoning Map.

Any change in the location of boundaries of a Zoning District hereafter made through the amendment of this bylaw shall be indicated by the alteration of such map and the map thus altered as declared to be part of the bylaw thus amended. It shall be the responsibility of the Planning Board to direct such alterations.

§ 175-8. Boundaries of districts.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map the following rules apply:

- A. Where a boundary is indicated as a street, railroad, watercourse or other body of water it shall be construed to be the centerline of middle thereof, or where such boundary approximates a Town boundary, then to the limits of the Town boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street sideline, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance there from, as dimensioned on the Zoning Map. If no dimension is given such distance shall be determined by the use of the scale shown on the Zoning Map.
- C. Where a dimensioned boundary coincides with a lot line, the boundary established by Tax Assessor records as of 1975 shall be construed to be the lot line.
- D. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angle to the tangent to the curve at the point of intersection.
- E. The Flood Plain and Wetlands Protection District shall be and hereby is established as an overlay district which shall include the floodplain areas shown on the 1976 Flood Plain Zoning Map and the 100-year base flood elevations and all of the special flood hazard areas within the Town of Abington that are shown on the FIRM and the FIS that are incorporated by reference into the Zoning Map and this Zoning Bylaw. The Flood Plain and Wetlands Protection District boundary lines shown on the 1976 Flood Plain Zoning Map shall be determined by the use of the scale appearing on that map. If a conflict between the boundary illustrated on the 1976 Flood Plain Zoning Map and actual field conditions, the affected party may request a special permit to allow an exception according to the procedures set forth under Zoning Bylaw § 175-35G. **[Amended 5-21-2012 STM by Art. 1]**

§ 175-9. District boundary interpretation.

The Building Inspector in consultation with the Planning Board shall have the authority to interpret district boundaries where there is some question in the interpretation of the rules in this article or where boundaries on the ground are unclear or at variance with those on the Zoning Map.

ARTICLE IV
Interpretation and Application

§ 175-10. Interpretation.

The provisions of this bylaw shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, or the general welfare of the Town of Abington, Massachusetts and except for the Zoning Bylaw of the Town of Abington dated 10/2/62 and any amendments thereto, the provisions of this bylaw are not intended to repeal, or in any way impair or interfere with any lawfully adopted bylaw, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any bylaw or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

§ 175-11. Application.

Except as herein provided, or as specifically exempted by the Zoning Enabling Act, the provisions of this bylaw shall apply to the erection, construction, reconstruction, alteration, or use of buildings and structures or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become nonconforming, and any existing nonconforming use, structure, or lot shall not become further nonconforming.

§ 175-12. Portions of lots situated in adjacent municipalities.

When a lot is situated in part in the Town of Abington and in part in an adjacent municipality, the provisions of the bylaw shall be applied to the portion of such lot in the Town of Abington in the same manner as if the entire lot were situated in the Town of Abington

§ 175-13. Lots transected by district boundary line. [Amended 5-24-2021ATM by Art. 24]

When a lot is transected by a zoning district boundary line, the regulations of the bylaw applicable to the larger part (50% or greater) of such lot may also at the option of the lot owner be deemed to govern in the smaller part up to a maximum distance of 100 feet beyond such zoning district boundary line, provided that the buffer areas required in § 175-66 of this bylaw are met.

§ 175-14. Location of and driveway access to principal building [Amended 4-7-2003 ATM by Art. 25]

No principal building shall be built except on a lot fronting on a street. There shall be not more than one principal building on a lot except for attached dwellings, apartments, and condominium developments in accordance with §§ 175-31 and 175-32 of this bylaw or for commercial development in accordance with §§ 175-33, 175-37, 175-38 or 75-39 of this bylaw. For any residential dwelling unit, the driveway access to all principal buildings shall be from the same location on which the required lot frontage is located.

§ 175-15. Land within street lines.

Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purposes of meeting the area requirements of the bylaw even though the fee to such land may be in the owner's abutting lots.

§ 175-16. Existing structures and uses; applicability to alterations and reconstruction.

This bylaw shall not apply to existing buildings, structures, or recorded lots, nor to the existing use of any building, structure, or land to the extent to which it is used at the adoption of this bylaw. It shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration or for its use for the same purpose to a substantially greater extent.

§ 175-17. Mixed occupancy.

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used.

ARTICLE V
Use Regulations

§ 175-18. Applicability of Table of Use Regulations.

Except as provided by law or in this bylaw, in each district no building, structure, or land shall be used or occupied except for the purposes permitted as set forth in the accompanying Table of Use Regulations, § 175-21.

§ 175-19. Key to Table of Use Regulations.

A use listed in § 175-21 is permitted as of right in any district under which it is denoted by the letter "Y" subject to such requirements as may be specified elsewhere in this bylaw. If designated in the table by the letters "SP" the use may be permitted as an exception only if the Board of Appeals so determines and grants a special permit therefore as provided in Article XII subject to such restrictions as set forth elsewhere in this bylaw and such further restrictions as said Board of Appeals may establish. The letter "N" shall designate that the use is not permitted, except by a variance from the Board of Appeals.

§ 175-20. Districts' intent.

- A. High Density Residential, R-20 - To encourage compact residential development.
- B. Medium Density Residential, R-30 - To provide areas for a reasonably spacious residential environment.
- C. Low Density Residential, R-40 - To provide areas for a particularly spacious residential environment.
- D. General Commercial, GC - To primarily establish compact business centers which do not include noxious or land expansive uses and which are centrally located, have adequate vehicular access, and are designed for pedestrian shoppers as much as possible.
- E. Highway commercial, HC - To primarily provide locations for businesses which cater to a traffic-oriented market or which need large expanses of land and would not be appropriate in compact general commercial centers.
- F. Industrial, I - To reserve areas for the development of industry that will be compatible with the Town and the immediate area.
- G. Flood Plain and Wetlands Protection, FW - To protect and preserve the marshes, bogs, ponds, water courses and their adjoining wetlands; to reduce the hazards of floods upon the public health, safety and general welfare; to protect flood plain occupants from a flood that is or may be caused by their own land use and that is or may be undertaken without full realization of the dangers therein; to protect the public from the burden of extraordinary financial expenditure for flood control and relief; to protect the capacity of flood plain and wetland areas to absorb, transmit and store runoff; to assure retention of sufficient floodway area to convey flows which can reasonably be expected to occur.
- H. Business Development, BD – To primarily establish general commercial and business uses which require or cater to traffic-oriented business, pass-by visibility and/or adequate large vehicle or large volume access as provided by the state highway, but also prohibiting the future development of residential uses. **[Amended 5-21-2018 ATM by Art. 31]**
- I. Watershed Protection District, WPD - To protect existing and future water resources.

- J. Transit Oriented Development, TOD - To encourage the development of land uses that compliment both the existing commuter rail line and the established residential areas surrounding the station, by providing for a mix of small uses on well buffered sites to support commuters and adjacent residential development, encourage the continued use of rail service, increase the number of pedestrian and bicycle trips, while decreasing the number of automobile trips within the Town. (See § 175-37.) **[Added 4-7-2003 ATM by Art. 25]**
- K. Central Business District, CBD - To allow for the reasonable use, enhancement, expansion and redevelopment of those areas of the Town that are currently developed in a building intensive manner where parking is available on-street as well as in common lots. (See § 175-38.) **[Added 4-7-2003 ATM by Art. 25]**
- L. Multiple Use Planned Development District, MUPDD - To establish areas and standards for the overall planned development of land with mixed-uses. The District attempts to accommodate low-impact activities in an overall low density but with intensive use clusters, making use of natural features and vegetation, screening and setbacks to have minimal impact on surrounding land uses. (See § 175-39.) **[Added 4-7-2003 ATM by Art. 25]**
- M. Transitional Commercial District, TCD - To preserve the residential character of existing development along thoroughfares that are undergoing pressure for commercial development by providing for the transition to more intensive but compatible uses. (See § 175-40.) **[Added 4-7-2003 ATM by Art. 25]**

§ 175-21. Table of Use Regulations. [Amended 4-7-2003 ATM by Art. 25]

(Editor's Note: The Table of Use Regulations is included at the end of this chapter.)

§ 175-22. Adult entertainment establishments.

All adult entertainment establishments as defined in Article II of this Zoning Bylaw are allowed in the Industrial District (I) upon the granting of a special permit by the Zoning Board of Appeals. All adult entertainment uses shall comply with the following requirements:

- A. No adult entertainment establishment shall be located within the following designated areas:
- (1) Within 500 feet from the nearest boundary line of any residential zoning district or from the nearest property line of any residential use;
 - (2) Within 500 from the nearest property line of any public or private school, or municipal building open to the general public;
 - (3) Within 500 feet from the nearest property line of any church or other religious facility;
 - (4) Within 500 feet from the nearest property line of any public park or recreation area and any principal or accessory private recreational facility use;
 - (5) Within 500 feet from the nearest property line of any group day care center, family day care center, nursing home and hospital;
 - (6) Within 1,000 feet from the nearest property line of any other adult entertainment establishment.
 - (7) Within 500 feet from any establishment licensed under the provisions of Section 12 of Massachusetts General Laws Chapter 138.

The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the adult entertainment establishment is to be located to the nearest boundary line of a residential zoning district, or to the nearest property line of any residential use, public or private school, church or other religious facility, public park or recreational area, group day care center, family day care center, nursing home, hospital or any other adult entertainment use, as the case may be.

(8) Within 50 feet of a public or private way or 50 feet from all other property lines.

B. Additional siting requirements.

- (1) The maximum lot coverage, including building, parking and driveways shall be 50% of the upland lot area.
- (2) A fifty-foot vegetated buffer containing adequate screening appropriate to the character of the area and the intensity of the use shall be provided between an adult entertainment establishment and other abutting commercial uses.
- (3) An adult entertainment use shall not be allowed within a building containing other retail, consumer or residential uses, or within a shopping center, shopping plaza, or mall.
- (4) The appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically "adult") use, and not employ unusual color or building design which would attract attention to the premises.
- (5) There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right-of-way or abutting property.

C. Sign requirements.

- (1) Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one identification sign to be mounted on the building wall face shall be allowed for an adult use. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited.
- (2) No adult entertainment establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate, or contain reflective or fluorescent elements.
- (3) No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult bookstore, adult cabaret, adult motion picture theater, adult paraphernalia store or adult video store shall be displayed in the windows of, or on the building of, any adult entertainment establishment.

D. Special permit submission and approval.

- (1) A site plan shall be submitted by the applicant in order that the special permit granting authority may determine that the above standards have been met. The site plan shall be prepared and

submitted in accordance with § 175-3, Site Plan Review, of this bylaw. The site plan shall also show when appropriate the distances between the proposed adult entertainment establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day care center, family day care center, nursing home and hospital, municipal building, and any other adult entertainment establishment(s).

- (2) All applications for a special permit must include the following information:
 - (a) Names and addresses of the legal owner(s) of the adult entertainment establishment.
 - (b) Name and address of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or beneficial interest in the entity must be listed in order that the special permit granting authority will know who are the persons who will actually own and control the establishment. The applicant and/or owner must disclose if they have been convicted of violating the provisions of Massachusetts General Laws Section 63 of Chapter 119 or Section 28 of Chapter 272.
 - (c) Name and address of the manager.
 - (d) The number of employees, or proposed number of employees, as the case may be.
 - (e) Proposed security precautions.
- (3) Special permits shall be granted for adult entertainment establishments only upon determination by the special permit granting authority that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.
- (4) In approving a special permit, the special permit granting authority may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. No special permit shall take effect until such decision has been recorded in the Registry of Deeds. Conditions of approval may include but are not limited to the following:
 - (a) Street, side or rear setbacks greater than the minimum required by this bylaw.
 - (b) Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.
 - (c) Modification of the exterior features or appearances of the structure.
 - (d) Limitation of size, number of occupants, method or time of operation, or extent of facilities.
 - (e) Regulation of number, design and location of access drives or other traffic features.
 - (f) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.
 - (g) The special permit shall be issued to the owner of the establishment and shall not transfer with a change in ownership of the business and/or property.

- (h) Where the adult use is not governed by other state or local licensing boards, the following conditions shall apply:

[1] A manager responsible for the operation of the establishment shall be designated by the owner, if the owner is not the manager. The manager shall register with the Board of Selectmen. No manager shall be designated who has been convicted of violating MGL Ch. 119, Section 63, (Inducing or abetting delinquency of a child) or MGL Ch. 272, Section 28, (Matter harmful to minors, etc.) or similar laws in other states.

[2] The special permit granting authority may limit the hours of operation.

- (5) Special permits for adult entertainment establishments shall not be granted to any person or persons convicted of violating the provisions of Massachusetts General Laws Chapter 119, Section 63, nor Massachusetts General Laws Chapter 272, Section 28, similar laws in other states.

E. Lapse of permit.

- (1) Any special permit granted hereunder for an adult entertainment establishment shall lapse after one year, including such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or if in the case of a permit for construction, if construction has not begun by such date except for good cause, including such time to pursue or await the determination of an appeal referred to in Massachusetts General Laws Chapter 40A, Section 17, from the grant thereof.
- (2) The special permit shall lapse after two years, unless a shorter term is specified by the special permit granting authority. Upon receipt of a valid application, the special permit granting authority may grant another special permit provided that the Board finds that all conditions of this section and of approval have been complied with.
- (3) The special permit shall not be renewed if any of the following has taken place on or in proximity to and associated with the premises:
- (a) Unlawful sexual activity;
 - (b) Gambling;
 - (c) Drug use;
 - (d) Violent crimes;
 - (e) Offenses against children;
 - (f) Repeated public disturbances requiring intervention by the police; and
 - (g) Any other illegal activities.
- (4) Violation of any of the conditions of approval of the special permit shall be grounds for non-renewal of the special permit as provided for above.

- F. Existing adult entertainment establishments. Any adult entertainment establishment that was in existence as of the first date of the publication of the notice of public hearing on the this zoning amendment regulating adult uses may continue to operate in the same location, without material change in scale or content of the business but shall apply for such special permit within 90 days

following the adoption of this bylaw.

- G. Prohibited uses. Nothing in this ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violated any Town ordinance or statute of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or public display thereof.

§ 175-23. Wireless communications facilities.

- A. Purpose. This section as been created to protect the general public from hazards associated with wireless communications facilities and to minimize visual impacts from wireless communications facilities on residential districts. This section does not apply to satellite dishes and antennas with a diameter of less than five feet.
- B. General requirements.
- (1) Free-standing monopoles, with associated antenna and/or panels are the only wireless communications facilities allowed. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.
 - (2) To the extent feasible, all service providers shall co-locate on a single facility. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practicable. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
 - (3) Any proposed extension in the height, addition of cells, antennas or panels, construction or alteration of a facility shall be subject to an application for an amendment to an existing special permit.
 - (4) New facilities shall be permitted by the special permit granting authority only upon a finding by the Board that existing or approved facilities cannot accommodate the wireless communications equipment planned for the proposed facility.
 - (5) In no event shall any facility be located closer than one mile to any other such facility.
 - (6) No facility or attached accessory antenna shall exceed 100 feet in height as measured from ground level at the base of the facility. All facilities shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. Greater heights shall require a variance from the Zoning Board of Appeals in accordance with § 175-82 of this Zoning Bylaw.
 - (7) A facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished grade of the facility base. Provided however that a facility shall not be erected nearer to a lot line for residential use than 500 feet.
 - (8) Siting of the facility shall be such that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible. All facilities shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the facility with the landscape below and above the tree or building line.
 - (9) Wireless communications facilities shall be suitably screened from abutters and residential

neighborhoods. Existing on-site vegetation shall be preserved to the maximum extent practicable.

- (10) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the adjacent land uses.
- (11) There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall comply with Article IX of this Bylaw.
- (12) Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
- (13) There shall be a minimum of one parking space and one off-street loading space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.
- (14) To the extent technologically feasible, all network interconnections from the facility shall be via land lines.
- (15) Satellite dishes and/or antenna may be located on structures or may be free-standing. Satellite dishes and/or antenna shall be situated on a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free-standing dishes or antenna shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.
- (16) Antennas or dishes located on a structure shall not exceed 10 feet in height above the level of its attachment to the structure.
- (17) Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Building Inspector by the special permit holder.
- (18) All unused facilities or parts thereof, or accessory facilities and structures, which have not been used for two years shall be dismantled and removed at the owner's expense. The Town shall require a surety bond at the time of application for the dismantling and removal of the facility.

C. Procedure for a special permit.

- (1) All applications for wireless communications facilities, antennas or satellite dishes shall be made and filed on the applicable application forms for a special permit in compliance with the Abington Zoning Board of Appeals. In addition, site plan review by the Planning Board under § 175-77 of this bylaw shall be required. The following additional information shall be included in the application for a special permit.
 - (a) A locus plan at a scale of one inch equals 200 feet which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within 500 feet of the facility.
 - (b) The following information must be prepared by a registered professional engineer.

- [1] A description of the facility and the technical, economic and other reasons for the proposed location, height and design.
 - [2] Confirmation that the facility complies with all applicable federal and state standards.
 - [3] A description of the capacity of the facility including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
 - [4] If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
- (c) Applicants proposing to erect facilities on municipally owned land or structures shall provide evidence of contractual authorization from the Town of Abington to conduct wireless communications services on municipally owned property.
- D. Exemptions. The following types of wireless communication facilities are exempt from the requirements of this section.
- (1) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commissions, provided that the tower is not used or licensed for any commercial purpose.
 - (2) Facilities used for the purposes set forth in M.G.L. c. 40A, Sec. 3.
 - (3) Wireless communication facilities which are ground mounted with a height of no more than six feet, provided the Building Inspector determines that the facility is designed to blend in with its surroundings or is adequately screened from adjacent areas.

§ 175-24. Watershed Protection District.

- A. The Watershed Protection District (WPD) is an overlay district whose limits are as shown on the Abington Zoning Map. The requirements of the WPD shall be superimposed upon the underlying districts established in this bylaw. Regulations pertaining to the WPD District shall be in addition to the regulations of the underlying districts and other Town bylaws. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses.
- B. Purpose: The purpose of the WPD is to protect the public health by preventing contamination of the ground and surface water resources both existing and future which provide drinking water to the Town. Because pollution of groundwater resources can occur as a result of the cumulative effect of many insignificant uses, there is a need to establish parameters for land use in these specific areas to avoid pollutants which would affect the water supplies.
- C. Watershed Protection District boundary disputes. If a landowner disputes the location of the district boundary in relation to a particular parcel the resolution of the boundary shall be through a determination by the Board of Appeals.
- D. Use regulations. The Watershed Protection District shall be considered to be superimposed over any other district established in this Bylaw. Land in the Watershed Protection District may be used for any use otherwise permitted in the underlying district, subject to the following limitations:

- (1) Prohibited uses. The following are prohibited on any lot or portion of a lot within a Watershed Protection District:
- (a) Manufacture, storage or disposal of toxic or hazardous materials, as that term is defined by state and local laws. (See definitions.)
 - (b) Sanitary landfill and open dump as defined in 310 CMR 19.006, junkyard, salvage yard or road salt stockpile.
 - (c) Motor vehicle service or repair and automobile graveyards and junkyards, as defined in M.G.L. C. 140B.
 - (d) Storage of hazardous materials (as that term is defined by state and local laws), fuel oil or gasoline either aboveground or underground except as follows:
 - [1] Five hundred fifty gallons of aboveground fuel oil storage per lot unless fully contained within a building.
 - [2] For normal household use.
 - [3] Aboveground waste oil retention facilities required by statute, rule or regulation.
 - [4] Emergency generators required by statute, rule or regulation.
 - [5] Treatment works approved pursuant to 314 CMR 5.00, including privately owned sewage treatment facilities for treatment of groundwater and surface-waters.
 - [6] Storage of chemicals used for the treatment of potable water in accordance with 310 CMR 22 and the Department of Environmental Protection's Guidelines and Policies for Public Water Systems, as amended.
- The exceptions [1], [3], [4], [5] and [6] under Subsection D(1)(d) are permitted only to the extent that the materials are stored in double-lined containers within buildings or above ground with secondary containment adequate to contain a spill 125% of the size of the total storage capacity of the container, as approved by the Department of Environmental Protection and in accordance with state law.
- (e) Except in areas serviced by public sewers, individual on-site sewage disposal systems having an estimated sewage flow exceeding 110 gallons per day per 10,000 square feet of lot area, provided that the replacement or repair of a system which will not result in an increase in the design capacity over the original design, or the design capacity of 310 CMR 15.00, whichever is greater, shall be exempted.
 - (f) Disposal and stockpiling of snow and ice that contain deicing chemicals and that have been brought in from outside the district.
 - (g) Removal, excavation or grading of vegetation, soil and/or other geological material solely

for commercial earth removal purposes.

- (h) Hazardous waste generation, treatment, storage and disposal, as defined by MGL C. 21C and 310 CMR 30.00 and which require the obtaining of an Environmental Protection Agency identification number, except for the following:
 - [1] Very small quantity generators as defined under 310 CMR 30.000.
 - [2] Household hazardous waste centers and events under 310 CMR 30.390.
 - [3] Waste oil retention facilities required by MGL C. 21, Section 52A.
 - [4] Water remediation treatment works approved by the Department of Environmental Protection for the treatment of contaminated groundwater or surface waters.
- (i) Any use having on-site disposal of industrial waste as defined in Title V of the State Environmental Code.
- (j) On-site sewage disposal having an estimated sewage flow greater than 10,000 gallons per day, regardless of composition or lot size. On-site sewage disposal having an estimated sewage flow greater than 2,500 gallons per day, but less than 10,000 gallons per day, shall be permitted by special permit by the Board of Appeals only upon the approval of the design by a hydrogeologist retained by the Town of Abington at the expense of the applicant. Exempt from this subsection shall be water treatment works approved by the Massachusetts Department of Environmental Protection for treatment of contaminated groundwater found on site.
- (k) Rendering impervious more than 15% or 2,500 square feet of the lot area, whichever is greater, of a lot located within the Watershed Protection District. However, rendering impervious more than 15% but no more than 50% of the lot area of a lot located within the Watershed Protection District is permitted in industrial and commercial districts upon the issuance of a special permit by the Board of Appeals. An applicant for a special permit must provide artificial recharge that does not degrade groundwater quality. The proposed water recharge efforts shall be permitted by the Board of Appeals only upon the approval of the design by a hydrogeologist retained by the Town of Abington at the expense of the applicant, under the provisions of MGL C. 44.
- (l) Landfilling of sludge and septage as defined in 310 CMR 32.05.
- (m) Storage of sludge and septage, unless in compliance with 310 CMR 32.30 and 310 CMR 32.31.
- (n) Storage of animal manure unless covered or contained.
- (o) Storage of commercial fertilizers, as defined in MGL C. 128, Section 64, and soil conditioners, unless within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (p) The use of septic system cleaners which contain toxic or hazardous chemicals.
- (q) Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (r) Storage of liquid petroleum except for normal household use, outdoor maintenance,

heating of a structure, waste oil retention facilities, emergency generators or treatment works for contaminated groundwater or surface water, provided that such storage is indoors or above ground with adequate spill containment as determined by the Fire Department and the Water Department.

- (s) Industrial and commercial uses which discharge process wastewater on site.
- (2) Change of use. A change in activity on premises developed prior to the adoption of this bylaw, if resulting in exceeding any limitations established in a special permit or thresholds of Subsection D(1), shall constitute a change of use. Such change of use may be allowed upon application to and approval of a special permit by the Board of Appeals, subject to conditions as may be required by the Board.
- (3) Uses permitted only by special permit. The following uses are permitted only by special permit by the Board of Appeals:
 - (a) Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. Artificial recharge must be provided that does not degrade groundwater quality.
 - (b) Activities involving the handling of toxic or hazardous materials in quantities greater than those associated with normal household use.
 - (c) The construction of dams or other water control devices or water bodies or courses created for recreational or agricultural uses or drainage improvements.
 - (d) The application of pesticides or fertilizers for non-domestic or non-agricultural uses.
- E. Design and operation guidelines. Within the Watershed Protection District, the following design and operation guidelines shall be observed in all new construction except for single-family dwellings:
 - (1) Safeguards. Provisions shall be made to protect against hazardous materials discharge or loss through corrosion, accidental damage, spillage or vandalism. Measures such as spill control in the vicinity of chemical or fuel delivery points, secure storage areas for hazardous materials and indoor storage provisions for corrodible or dissolvable materials shall be provided.
 - (2) Location. Where the premises are partially outside of the Watershed Protection District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the district.
 - (3) Disposal. Provisions shall be made to assure that any waste disposed on the site shall contain no hazardous materials in quantities substantially greater than associated with normal household use.
 - (4) Drainage. Provision shall be made for on-site recharge of all stormwater runoff from impervious surfaces unless, following consultation with, and written approval from, the Conservation Commission, the Building Inspector determines that either recharge is not feasible because of site conditions or is undesirable because of uncontrollable risk to water quality from such recharge. Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Building Inspector following consultation with the Conservation Commission. Dry wells shall be used only where other methods are infeasible and shall employ oil, grease and sediment traps. Drainage from loading areas for hazardous materials shall be separately collected for safe disposal. Floor drainage systems are specially prohibited.

- (5) Placement of fill. Prior to the placement of any construction fill in a Watershed Protection District, a certification shall be presented to the Building Inspector from a Department of Environmental Protection (DEP) licensed site professional (LSP) that the fill material does not exceed the standards for oil and hazardous material set forth in the most recently published Massachusetts Contingency Plan (MCP). For the purposes of this bylaw only, the term "construction fill" shall include the following materials: ordinary and special borrow, gravel, processed gravel for sub-base, sand borrow, sand borrow for subdrains, loam, peat, processed planting material and topsoil.

F. Installation of new public sewers.

- (1) New public sewers within the Watershed Protection District shall be designed and constructed in a manner such that groundwater levels, flows and/or recharge will not be significantly lowered, diverted or otherwise altered by such construction.
- (2) Review by the Sewer Department and Water Department. Within the Watershed Protection District, all plans and specifications for new public or private sewers must meet Sewer Department standards and shall also be submitted to the Water Department for review and approval.
- (3) Proximity to municipal wells. Where possible, no sewer line shall be placed within 600 feet of a municipal well or within the zone of influence of a municipal well, whichever is the greater distance. In addition, no private septic system shall be located closer than the distance required pursuant to 310 CMR 15.00, as amended.
- (4) Cleaning and inspection. A schedule of regular periodic cleaning and inspection of all sewers within the Watershed Protection District shall be maintained and reports filed with the Sewer Department until such time as the street has been accepted by the Town.
- (5) Alternatives. Design and construction proposals differing from Sewer Department standards may be approved by special permit by the Board of Appeals after consultation with the Water Department, the Conservation Commission and the Board of Health, if the Board of Appeals determines, based on reports of subsurface investigations, that the alternative design affords groundwater protection as great as or greater than the requirements of this section.

G. Special permits.

- (1) Authority and procedure. For purposes of this section, the special permit granting authority shall be the Board of Appeals. Upon receipt of the special permit application, the Board of Appeals shall transmit one copy each to the Planning Board, Conservation Commission, Board of Health and Building Inspector for their written recommendations. Failure to respond within 35 days of transmittal shall indicate approval by said agencies.
- (2) Submittals. In applying for a special permit under this section, the information listed below shall be submitted:
 - (a) A complete list of all chemicals, pesticides, herbicides, fertilizers, fuels or other hazardous or potentially hazardous materials to be used or stored on the premises in containers each holding more than 55 gallons' liquid volume or 25 pounds' dry weight, accompanied by a detailed description of:

- [1] The measures proposed to protect all storage containers or facilities from vandalism, corrosion and leakage.

- [2] The methods of containment.
 - [3] Spill prevention and control measures.
 - [4] Emergency cleanup procedures.
 - [5] On-site personnel training program.
 - [6] Evidence of compliance with the regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30, including obtaining an Environmental Protection Agency identification number from the Department of Environmental Protection, and compliance with Chapter 99, Hazardous Materials.
- (b) A description of potentially hazardous wastes to be generated, including storage and disposal methods as in Subsection G(2)(a) above.
 - (c) For aboveground storage of hazardous materials or wastes, evidence of qualified professional supervision of design and installation of such storage facilities or containers and the information required by Subsection G(2)(a).
 - (d) For disposal on site of domestic wastewater with an estimated sewage flow greater than 2,500 gallons per day and less than 10,000 gallons per day, evidence of qualified professional supervision of design and installation, including an assessment of nitrate or coliform bacteria impact on groundwater quality.
 - (e) Results of water quality testing for groundwater located beneath the site.
 - (f) Proposed location(s) for groundwater monitoring well(s),
- (3) Special permit criteria.
 - (a) Special permits under this subsection shall be granted only if the Board of Appeals determines that:
 - [1] Groundwater quality resulting from on-site waste disposal, other operations on site and natural recharge will not fall below federal or state standards for drinking water or that, if existing groundwater quality is already below those standards, on-site disposal or operations will result in no further deterioration.
 - [2] Proposed control and response measures adequately and reliably mitigate risk to groundwater quality resulting from accident or system failure.
 - [3] The proposed use is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
 - (b) In its decision, the Board of Appeals shall explain any departures from the recommendations of other Town agencies in its decision. The Board of Appeals shall retain qualified experts, upon notice to and at the reasonable expense of the applicant, if necessary in order to evaluate the application. If necessary, the Board of Appeals may attach reasonable conditions to its approval as necessary to protect the public health, safety and welfare.
- (4) Conditions. Special permits shall be granted only subject to such conditions as necessary to

assure adequate protection of the public health and safety and the safeguarding of water quality and shall include the following, among others:

- (a) Potential pollution sources shall have monitoring wells, with periodic sampling to be provided to the Board of Health annually, or as directed by the Board of Health, at the owner's expense.
- (b) Pollutant source reduction, including limitations on use of parking area deicing materials and periodic cleaning or renovation of pollution control devices such as catch basin sumps.

§ 175-24.1. Special requirements for medical marijuana treatment centers. [Added 6-9-2014 ATM by Art. 25; amended 5-24-2021ATM by Art. 31]

A. Purposes.

- (1) To provide for the establishment of medical marijuana treatment centers (MTCs), as defined by Massachusetts Cannabis Control Commission regulations, 935 CMR 501.000 et seq., in appropriate places and under strict conditions and in accordance with the Humanitarian Medical Use of Marijuana Act, MGL c. 94C, App. 1-I, as approved by the voters on the November 2012 state ballot (the Act).
- (2) To minimize the adverse impacts of MTCs on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said dispensaries.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of MTCs.

B. Applicability.

- (1) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless a special permit for the MTC is issued under this section.
- (2) No MTC shall be permitted except in compliance with the provisions of this section.
- (3) Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- (4) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

C. Definitions.

MARIJUANA — The same substance defined as "marijuana" under MGL c. 94C.

MARIJUANA FOR MEDICAL USE — Marijuana that is designated and restricted for use by, and for the benefit of, Registered Qualifying Patients in accordance with in compliance with MGL c. 94I, and 935 CMR 501.000.

MIPS - MARIJUANA INFUSED PRODUCT — A Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, Edibles, ointments, aerosols, oils, and

Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in MGL c. 94, § 1. MIPs are a type of Marijuana Product.

MEDICAL MARIJUANA TREATMENT CENTER — Medical Marijuana Treatment Center (MTC), formerly known as a Registered Marijuana Dispensary, means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use.

D. Eligible locations for medical marijuana treatment centers. **[Amended 4-4-2022ATM by Art. 13]**

(1) MTCs may be allowed in the HC, 1, and TB Zoning Districts by special permit from the Abington Planning Board provided the MMTC meets the requirements of this section.

E. General requirements and conditions for all MTCs.

- (1) All MTCs shall be contained wholly within a building or structure.
- (2) No MTC shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
- (3) An MTC shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of marijuana for medical use.
- (4) The hours of operation of MTCs shall be set by the special permit granting authority, but in no event shall an MTC be open for retail business between the hours of 8:00 p.m. and 8:00 a.m.
- (5) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of an MTC.
- (6) No MTC shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van, truck or mobile home.
- (7) MTCs shall provide the Abington Police Department, Building Commissioner and the special permit granting authority with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the MTC.
- (8) All MTCs shall be located 500 feet away from the nearest boundary line of any residential zoning district or from the nearest property line of any residential use and 1,000 feet away from places where children congregate, including but not limited to: schools, day cares, dance schools, private home housing day care, Town parks, any areas that children commonly congregate in a structured, scheduled manner or any principal or accessory private recreational facility use.
- (9) No MTC shall be located within 500 feet of the nearest property line of any public or municipal building.
- (10) No MTC shall be located within 500 feet of the nearest property line of any church or other

religious facility.

- (11) No MTC shall be located within 500 feet from the nearest property line of any family day care center, nursing home or hospital.
- (12) No MTC shall be located within 1,000 feet from another MTC.
- (13) The distances under this section shall be measured in a straight line from the geometric center of the Marijuana Establishment Entrance to the geometric center of the above mentioned uses, unless there is an Impassable Barrier, as defined by 935 CMR 500.002, within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly accessible pedestrian travel path from the geometric center of the Marijuana Establishment Entrance to the geometric center of the above uses.
- (14) Annual reporting. Each MTC permitted under this Bylaw shall, as a condition of its special permit, file an annual report to and appear before the special permit granting authority and the Town Clerk no later than January 31, providing a copy of all current applicable state licenses for the dispensary MTC and/or its owners and demonstrate continued compliance with the conditions of the special permit.

F. Special permit requirements.

- (1) An MTC shall only be allowed by special permit from the Abington Planning Board in accordance with MGL c. 40A, § 9, subject to the following additional requirements, conditions and limitations.
- (2) In addition to the application requirements set forth in Subsections E and F of this Bylaw, a special permit application for an MTC shall include the following:
 - (a) The name and address of each owner, operator, manager, proprietor or person in charge of the MTC;
 - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the MTC;
 - (c) Evidence of the applicant's right to use the site of the MTC for the MTC, such as a deed, or lease;
- (3) If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals.
 - (a) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
 - (b) Proposed security measures for the MTC, including lighting, fencing, gates and alarms, and the like, to ensure the safety of persons and to protect the premises from theft.

G. Mandatory findings. The special permit authority shall not issue a special permit for an MTC unless it finds that:

- (1) The MTC is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11;
 - (2) The MTC demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- H. A special permit granted under this section shall have a term limited to the duration of the applicant's ownership of the premises as an MTC. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this section.
- I. Abandonment or discontinuance of use.
- (1) A special permit shall lapse if not exercised within one year of issuance.
 - (2) An MTC shall be required to remove all material, plants equipment and other paraphernalia:
 - (a) Within two months of surrendering its state issued licenses or permits; or
 - (b) Within six months of ceasing operations, whichever comes first.
- For purposes of this Bylaw ceasing operations shall mean a Marijuana Establishment that closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The special permit granting authority may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.
- (3) The Board shall require the applicant to post a bond or other form of security acceptable to the special permit granting authority prior to obtaining a building permit. The purpose of the bond or other security is to cover costs for the removal of the MTC in the event the Town must remove the MTC. The value of the bond shall be based upon the ability to completely remove all the items and properly clean the MTC at prevailing wages. The value of the bond or other security shall be developed based upon the applicant providing the Planning Board with three written bids to meet the noted requirements. The bond shall be reviewed yearly when the MTC appears before the special permit granting authority to ensure that adequate funds are still being held. The MTC is responsible for providing updated bids that meet the noted requirements.
- J. Signs, marketing and advertising requirements: Signage, marketing and advertising shall be compliant with the Town of Abington Zoning Bylaw, and DPH regulations found in 935 CMR 501.105 and the following:
- (1) An MTC may develop a logo to be used in labeling, signage, and other materials; provided, however, that use of medical symbols, images of marijuana or marijuana products, or related paraphernalia images, that are appealing to persons younger than 21 years old, and colloquial references to cannabis and marijuana are prohibited from use in the brand name.
 - (2) MTC external signage shall not be illuminated except for a period of 30 minutes before sundown until closing and shall comply with local requirements regarding signage. Neon signage is prohibited at all times.
 - (3) An MTC shall not display on the exterior of the facility signs or other printed material advertisements for marijuana or any brand name.

- (4) An MTC shall not utilize graphics related to marijuana or paraphernalia on the exterior of the MTC or the building in which the MTC is located.
 - (5) An MTC shall not advertise the price of marijuana, MIPs, and associated products, except as permitted pursuant to 935 CMR 501.105(4)(a)5.
 - (6) Marijuana, MIPs, and associated products shall not be displayed or clearly visible from the exterior of a MTC.
 - (7) An MTC shall not advertise solely for the promotion of marijuana or marijuana products on MTC Branded Goods, including, but not limited to, clothing, cups, drink holders, apparel, accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items. An MTC may not give away any marijuana except as required pursuant to 935 CMR 501.050(1)(g).
 - (8) All marijuana at the MTC shall be kept in a limited access area inaccessible to any persons other than dispensary agents and shall be stored in a locked access-controlled space in a limited access area during nonbusiness hours, in accordance with 935 CMR 501.000 et seq.
 - (9) An MTC may display, in secure locked cases, samples of each product offered for sale, subject to the requirements of 935 CMR 501.110. These display cases may be transparent.
- K. Signage for the medical marijuana treatment center shall include the following language: "Entrance shall be limited to Qualifying Patients, Caregivers and persons 21 years of age or older." The required text shall be a minimum of two inches in height. **[Amended 4-4-2022ATM by Art. 13]**

§ 175-24.2. (Reserved)⁴⁷

§ 175-24.3. Marijuana Overlay District. [Added 5-21-2018 ATM by Art. 17]

- A. Purpose. To provide for the placement of adult use marijuana establishments, in accordance with An Act To Ensure Safe Access to Marijuana, c. 55 of the Acts of 2017, and all regulations which have or may be issued by the Cannabis Control Commission, including, but not limited to 935 CMR 500.00, in locations suitable for such uses, which will minimize adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools, playgrounds, public beaches and other locations where minors congregate by regulating the siting, design, placement, security, and removal of marijuana establishments.

B. Establishment.

The Recreational Marijuana Overlay District ("MOD") is established as an overlay district. The boundaries of the MOD are shown on the Zoning Map on file with the Town Clerk⁴⁸ and shall comprise the property within the Technology Business and Industrial zoning districts as set forth on the Marijuana Overlay District ("MOD") map.

Within the MOD, all requirements of the underlying zoning district remain in effect, except where these regulations provide an alternative to such requirements. Land within the MOD may be used for (1) any state-licensed adult use marijuana establishment, including cultivation, processing,

47. Editor's Note: Former § 175-24.2, Temporary moratorium on the sale and distribution of recreational marijuana, added 5-22-2017 ATM by Art. 19, as amended, was removed from the Code as the Attorney General of Massachusetts determined that with the adoption of § 175-24.3, Marijuana Overlay District, the moratorium set forth expired.

48. Editor's Note: The Zoning Map is included in the online version of the Code of the Town of Abington (eCode 360®).

independent testing laboratory, product manufacturing, and retail sales, in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD conflict with the requirements of the underlying district, the requirements of the MOD shall control.

- C. Definitions. Where not expressly defined in the Zoning Bylaws, terms used in the MOD Bylaw shall be interpreted as defined in MGL c. 94I and MGL c. 94G and any regulations issued by the Cannabis Control Commission implementing these laws, and otherwise by their plain language.

INDEPENDENT TESTING LABORATORY — Means a laboratory that is licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the adult use of marijuana that is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, § 34.

MARIJUANA CULTIVATOR — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the adult use of marijuana to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA DELIVERY-ONLY RETAILER — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the adult use of marijuana that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, craft marijuana cultivator cooperative facility, marijuana product manufacturer facility, or micro-business.

MARIJUANA ESTABLISHMENT — Means a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana-related business licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the adult use of marijuana.

MARIJUANA PRODUCT MANUFACTURER — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the adult use of marijuana to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA RETAILER — Means an entity licensed by the Cannabis Control Commission pursuant to 935 CMR 500.000 with respect to the regulation of the adult use of marijuana to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

MEDICAL MARIJUANA TREATMENT CENTER — Means an entity licensed by the Department of Public Health or the Cannabis Control Commission under a medical use marijuana license that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials for the benefit of registered qualifying patients or their personal caregivers in the treatment of debilitating medical conditions or the symptoms thereof.

D. Number of licenses. The number of recreational marijuana retailers and/or recreational marijuana delivery-only retailers permissible to be located in the MOD shall be limited to 50% of the number of licenses issued within the Town for the retail sale of alcoholic beverages and not to be drunk on the premises where sold pursuant to MGL c. 138 § 15. In the event that the 50% of said issued licenses shall not be in a whole number, the limit shall be rounded up to the nearest whole number. **[Amended 10-19-2020 ATM by Art. 27]**

E. Location and dimensional controls.

- (1) Marijuana establishments may be permitted in the MOD pursuant to a special permit and site plan approval by the Planning Board.
- (2) Marijuana establishments may not be located within 500 feet of the following pre-existing uses:
 - (a) Public or private school providing education in kindergarten or grades 1 through 12;
 - (b) State-licensed child-care facility;
 - (c) Library, playground, public park, public beach, youth center; or similar facility in which minors commonly congregate.

The distance under this section shall be measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed marijuana establishment.

- (3) Cultivation and processing facilities located within the MOD shall be separated from adjacent uses by a fifty-foot buffer strip, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
- (4) Marijuana establishments shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
- (5) Unless explicitly stated otherwise, marijuana establishments shall conform to the dimensional requirements applicable to nonresidential uses within the underlying zoning district.
- (6) All marijuana establishments shall conform to the signage requirements of Article IX of the Zoning Bylaw. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.

F. Special permit.

- (1) Procedure. The Planning Board shall be the Special Permit Granting Authority (SPGA) and shall conduct site plan review for an applicant for a marijuana establishment.
 - (a) Application. In addition to the material submission requirements of §§ 175-82 and 175-77, the applicant shall also include:
 - [1] A detailed floor plan of the premises of the proposed marijuana establishment that identifies the square footage available and describes the functional areas of the facility;
 - [2] Detailed site plans that include the following information:

- [a] Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this Bylaw;
 - [b] Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
 - [c] Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
 - [d] Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 - [e] Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site;
 - [f] Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - [g] Adequacy of water supply, surface and subsurface drainage and light.
- [3] A description of the security measures, including employee security policies;
 - [4] A copy of the emergency procedures;
 - [5] A copy of proposed waste disposal procedures; and
 - [6] A copy of all licensing materials issued by the Cannabis Control Commission, and any materials submitted to the Cannabis Control Commission by the applicant for purposes of seeking licensing to confirm that all information provided to the Planning Board is consistent with information provided to the Cannabis Control Commission.
- (b) The SPGA shall refer copies of the application to all Town departments and boards/commissions, including but not limited to the Building Department, Fire Department, Police Department, Board of Health, and the Conservation Commission. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
 - (c) After notice and public hearing in accordance with §§ 175-82 and 175-77 of the Bylaw and consideration of application materials, consultant reviews, public comments, and the recommendations of other Town boards and departments, the SPGA may act upon such a permit and request for site plan approval.
- (2) Special permit conditions for marijuana establishments. The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's proposed marijuana establishment, the SPGA may include the

following conditions in any special permit granted under this Bylaw:

- (a) The use shall not generate outside odors from the cultivation or processing of marijuana and marijuana products.
 - (b) A security plan shall be required for all marijuana establishments, which shall be subject to approval by the Fire and Police Chiefs and submitted to the Planning Board.
 - (c) The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
 - (d) Marijuana establishments may not operate, and the special permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility.
 - (e) Marijuana establishments may not operate, and the special permit will not be valid, until the applicant has entered into a host community agreement with the Town relative to any facility permitted under this Bylaw.
 - (f) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership and use of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.
 - (g) The special permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.
 - (h) The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the marijuana establishment's expiration or termination of the permit holder's license with the Cannabis Control Commission.
- G. Prohibition against on-site consumption. No marijuana shall be smoked, eaten, or otherwise consumed or ingested in public or on the premises of a marijuana establishment absent a positive vote by ballot question presented to the voters of the city or town at a biennial state election pursuant to MGL c. 94G, § 3(b).
- H. Prohibition against nuisances. No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
- I. Severability. The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

ARTICLE VI
Dimensional and Density Regulations

§ 175-25. Conformity to regulations required.

No principal building or structure shall be built nor shall any existing building or structure be enlarged except in conformance with the regulations of the Abington Zoning Bylaw as to lot coverage, lot area per dwelling unit, lot width, front, side and rear yards, and maximum height of structures, in the districts as set forth below except as may otherwise be provided elsewhere in the Abington Zoning Bylaw.

§ 175-25.1. Nonconforming area, frontage or setback. [Added 6-8-2015 ATM by Art. 21]

No lot shall be reduced in area or frontage if it already has or will be caused to have less area or frontage than required by this section, except by a taking by eminent domain or a conveyance for a public purpose. Such lots reduced in the area or frontage by a taking by eminent domain or a conveyance for a public purpose shall be entitled to the protections afforded by statute and in this Bylaw to lawfully preexisting nonconforming lots. Further, if an existing structure is rendered nonconforming as to setback (or more nonconforming as to setback) by a taking by eminent domain or conveyance for a public way or accessway or by the approval of a subdivision way for a third party, said structure shall be entitled to the protections afforded by statute and in this Bylaw to lawfully preexisting nonconforming structures. Notwithstanding the foregoing, the protections afforded by this section shall not apply to vacant lots existing prior to the effective date of this section which are less than 5,000 square feet and/or with less than 50 feet of frontage.

§ 175-26. Accessory uses and accessory buildings.

- A. A detached accessory building may be erected in the side or rear yard area no closer than 10 feet from any side or rear lot line, no closer than 10 feet from the principal building, and in conformance with the front yard requirement of the district in which it is located. An accessory building attached to its principal building (excluding pools) shall be considered an integral part thereof and as such shall be subject to the front, side and rear yard requirements applicable to the principal building. **[Amended 5-21-2018 ATM by Art. 23]**
- B. A detached accessory building shall cover no more than 25% of the rear yard area required for the principal building.
- C. One garage for private motor vehicles, attached or detached, of not more than 875 square feet of floor area shall be considered as an accessory building and may provide for as many as three cars in residence districts and for dwellings in a commercial district subject to the provisions of Subsections A and B (above) in this section, unless a special permit is otherwise granted by the Zoning Board of Appeals. This subsection creates a limit of one garage or vehicular storage structure to be built upon a lot except by a special permit granted by the Zoning Board of Appeals. **[Amended 4-6-2005 ATM by Art. 18; 4-2-2007 ATM by Art. 11; 5-21-2018 ATM by Art. 18]**
- D. One storage pod/container for the storage of personal property, provided such storage container does not exceed 1,700 cubic feet and is not maintained for more than 90 days in any twelve-consecutive-month period; or one storage pod/container, not to exceed 1,700 cubic feet, for the storage of personal property and construction materials and equipment, provided such storage pod/container is required as a result of ongoing construction at the property which is being undertaken in accordance with a lawfully issued building permit; provided, however, such storage pod/container shall be removed from the property upon the earlier of (i) cessation of construction work on the property for any ten-consecutive-day period, (ii) final sign-off of the building permit; and (iii) 150 days following issuance

of the building permit, or by extension from the Building Inspector, permitting such construction.
[Added 5-21-2018 ATM by Art. 18]

§ 175-27. Visibility at intersections.

On a corner lot, to provide unobstructed visibility at intersections, no sign, fence, wall, tree, hedge or other vegetation, and no building or other structure between three feet and eight feet above the established street grades shall be erected, placed, or maintained within the area formed by the intersecting street lines and a straight line joining said street lines at points which are 20 feet from the point of intersection of ways or tangents of curves of rounded curbs, measured along said street lines.

§ 175-28. Minimum floor area requirements for apartment units.

The primary apartment unit within an apartment building shall have a minimum interior floor area of 600 square feet; each additional apartment unit shall have a minimum interior floor area of 400 square feet.

§ 175-29. Dimensional and Density Regulations Table. [Amended 4-7-2003 ATM by Art. 25]

(Editor's Note: The Dimensional and Density Regulations Table is included at the end of this chapter.)

ARTICLE VII
Special Provisions

§ 175-30. Permitted uses.

The uses outlined in this article may be permitted as designated in § 175-21, Table of Use Regulations provided they meet the requirements detailed in this article, in addition to any other applicable requirements of this bylaw.

§ 175-31. Requirements.

- A. Applicants seeking a special permit for an apartment, condominium, attached dwelling (§ 175-32), planned commercial development (§ 175-33), or the excavation of sand and gravel (§ 175-34) shall submit a site plan in accordance with the requirements of § 175-77 with the Planning Board. Furthermore, no removal of sand and gravel shall be made without the approval of the Board of Selectmen.
- B. Where a proposed development will also fall under subdivision control, the applicant shall submit the information required for a definitive plan according to the latest Rules and Regulations Governing the Subdivision of Land⁴⁹ and the Procedures of the Abington Planning Board, Abington, Massachusetts in addition to the site plan required in this article. Planning Board endorsement of the information submitted under this bylaw, however, shall not constitute approval under the Subdivision Control Law.⁵⁰ The site plan shall bear the stamp of a registered professional engineer (civil) and a registered land surveyor in the Commonwealth of Massachusetts.

§ 175-32. Multi-unit dwellings, apartments or condominium complexes of 12 residential units or more. [Amended 4-6-2005 ATM by Art. 20; 4-2-2007 ATM by Art. 11]**A. Administration:**

- (1) The applicant shall file a request for a special permit under this section of the Zoning Bylaw for multi-unit dwellings, apartments, or condominium complexes of 12 residential units or more with the Board of Appeals. The Zoning Board of Appeals may grant, only after a public hearing with due notice, a special permit for the construction of such multi-unit dwellings, apartments or condominium complexes, only in the districts indicated in § 175-21 Table of Use Regulations A(4).
- (2) The applicant shall also simultaneously file a copy of the application with the Planning Board and the Town Clerk.
- (3) The applicant shall file with the Planning Board and the Zoning Board of Appeals a site plan of the proposed development in accordance with § 175-77, Site plan review.
- (4) Within 45 days of filing said application, the Planning Board shall evaluate the application and site plan with regard to the conditions and standards set forth in the bylaw and shall submit an advisory report to the Board of Appeals. The Board of Appeals shall not render a decision without considering the report of the Planning Board unless 45 days expire without receipt of such report.

49. Editor's Note: See Ch. 200, Subdivision Rules and Regulations.

50. Editor's Note: See MGL c. 41, § 81K et seq.

- B. Minimum lot size. The lot shall have not less than 200 feet of frontage nor contain less than 40,000 square feet of land area.
- C. Density. For each dwelling unit constructed on a lot/premises, the following minimum land space requirements are required:
 - (1) First eight units: 10,000 sq. ft./unit.
 - (2) Each additional unit: 5,000 sq. ft./unit.
- D. Dimensional requirements. The dimensional requirements for developments of 12 housing units or more in any zoning district within the Town of Abington require that any building shall be at least:
 - (1) Sixty feet from any lot line that abuts the proposed development;
 - (2) Sixty feet from any street line;
 - (3) Fifteen feet from any parking area;
 - (4) Fifty feet from any other residential building granted for the site; and **[Amended 5-24-2021ATM by Art. 27]**
 - (5) Not more than 35 feet in height.
- E. Building design/placement. Any building shall insure maximum compatibility with surrounding land uses and structures. Where the site adjoins single family residential areas, the Board of Appeals may adjust building heights and side yard requirements in certain portions of the development. There shall be no more than 12 units per building. The SPGA may take into consideration the proposed exterior architectural appearance to ensure it generally conforms with the Historical New England character of the Town. **[Amended 5-22-2017 ATM by Art. 18]**
- F. Screening and buffers. See § 175-66.
- G. Parking. See Article VIII.
- H. Drainage. See § 175-63.
- I. Accessory apartments in residence districts. Notwithstanding the foregoing Subsections A through H, it is the intent of this section to allow accessory apartments, including kitchens, within single-family properties in Residence Districts for the purpose of meeting the special housing needs of grandparents, parents, brothers and sisters, children and their respective spouses of families of owner-occupants and their spouses of properties in the Town of Abington. To achieve this goal and to promote the other objectives of this bylaw one accessory apartment per single-family residence may be allowed by special permit from the Zoning Board of Appeals in accordance with the specific standards set forth below for such accessory apartment uses.
 - (1) Owner occupancy required. The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises. Only a family member of the homeowner or the homeowner's spouse shall occupy the other dwelling unit. For the purposes of this section, a family member shall be defined as mother, father, sister, brother, son, daughter, uncle, aunt, grandmother, grandfather, grandchild and/or their spouse. The special permit shall be issued to the owner of the dwelling units on the property.
 - (2) Not more than two persons shall occupy the accessory apartment. At least three off-street

parking spaces must be provided or created on the property.

- (3) Apartment size. The maximum floor size for an accessory apartment shall not exceed the lesser of 900 square feet or 50% of the floor area of the principal dwelling, as determined at the time of the special permit request.
- (4) Code compliance. The accessory apartment must comply with current safety, health and construction requirements before occupancy and at every change in ownership.
- (5) Preservation of single-family characteristics. The accessory apartment shall not change the single-family characteristic of the dwelling, except for the provision of an additional access or egress. The space designated as the accessory apartment shall have at least one access to the main unit if attached.
- (6) Existing detached dwellings may continue to be used for the same purposes subject to special conditions imposed by the Board of Appeals.
- (7) There shall be no more than one accessory apartment for a total of two dwelling units permitted per lot.
- (8) The special permit for the accessory apartment shall become null and void upon the sale of the property to a non-family member or upon the vacancy of the residence by the owner-occupant and his/her family members.
- (9) Upon receiving a special permit from the Zoning Board of Appeals, the owner(s) shall record a Declaration of Covenants at the Plymouth County Registry of Deeds, which Declaration of Covenants shall be made available from the Building Inspector. A time stamped copy of this recorded Declaration and a recorded copy of current deed to the property shall be provided to the Building Inspector prior to applying for a certificate of occupancy. The recorded Declaration shall include the following requirements which shall appear as conditions of all special permits issued under this section:
 - (a) That the owner(s) shall occupy one of the units on said premises and that only family members shall occupy the other unit defined by this section of the Bylaw.
 - (b) At the beginning of each calendar year, the owner(s) shall file a notarized statement (an annual in-law affidavit) with the Building Inspector listing the name and family relationship of all occupants residing on the premises. **[Amended 5-24-2021ATM by Art. 23]**
- (10) Any accessory apartment existing as of this Bylaw amendment (02/07/05) shall be required to comply with the annual statement filing date provisions of this Bylaw subsequent to this date.

§ 175-33. Planned commercial development.

A. Administration.

- (1) The applicant shall file a request for a special permit with the Board of Appeals. The Board of Appeals may grant, only after a public hearing with due notice, a special permit for the development.
- (2) The applicant shall also simultaneously file a copy of the application with the Planning Board and the Town Clerk.

- (3) The applicant shall also file with the Planning Board and the Board of Appeals a site plan of the proposed development in accordance with § 175-77.
 - (4) Within 45 days of filing said application, the Planning Board shall evaluate the application and site plan with regard to the conditions and standards set forth in this bylaw and shall submit an advisory report to the Board of Appeals. The Board of Appeals shall not render a decision without considering the report of the Planning Board unless said 45 days has expired without receipt of such report.
- B. Purpose. To establish compact business areas for planned commercial development of land subject to maximum building coverage more than the maximum permitted in the Table of Density and Dimensional Regulations, § 175-29, and less than the parking requirements contained in the Table of Off-Street Parking Regulations, § 175-52.
- C. Tract area. The tract shall be in single or consolidated ownership at the time of application and shall be at least five acres in size.
- D. Parking. The development shall be served by common parking areas and by preferably a common exit and entrance. Reduction in parking space requirements shall generally not exceed more than 15% of those required under normal application of requirements for the particular uses proposed in § 175-52, unless a special permit is granted by the Board of Appeals in accordance with § 175-53.
- Applicants should note in particular the visual relief requirements in § 175-50.
- E. Drainage. See § 175-63.
- F. Building design. Uses may be contained in one continuous building or groupings of buildings where such groupings are consistent with the safety of the users of the development and the intent of this section. The SPGA may take into consideration the proposed exterior architectural appearance to ensure it generally conforms with the Historical New England character of the Town. **[Amended 5-22-2017 ATM by Art. 18]**
- G. Floor area. The total gross floor area of all buildings shall not exceed 50% of the total parcel area.
- H. Dimensional requirements. Buildings shall be at least:
- (1) Fifty feet from any lot line;
 - (2) Fifty feet from any street line;
 - (3) Twenty-five feet from any parking area; and
 - (4) Not more than 35 feet in height.

§ 175-34. Excavation of sand and gravel or other earth materials.

- A. Except when incidental to and reasonably required in connection with the construction of an approved use of structure or an approved subdivision on the same site as prescribed previously, no removal for sale, trade, or other considerations, or for other use on a separate site, of sand and gravel or other earth materials in excess of 30 cubic yards shall be allowed except by special permit from the Board of Selectmen. Applicants shall follow the procedure set forth below.

B. Administration:

- (1) The applicant shall file a request for a special permit with the Board of Selectmen. The Board of Selectmen may grant, only after a public hearing with due notice, a special permit.
- (2) The applicant shall also simultaneously file a copy of the application with the Planning Board and the Town Clerk.
- (3) The applicant shall also file with the Planning Board and the Board of Selectmen a site plan in accordance with § 175-77 of the proposed operation.
- (4) Within 45 days of filing said application, the Planning Board shall evaluate the application and site plan with regard to the conditions and standards set forth in the bylaw and shall submit an advisory report to the Board of Selectmen. The Board of Selectmen shall not render a decision without considering the report of the Planning Board unless 45 days expire without receipt of such report.

C. The following conditions shall govern:

- (1) Removal and processing operations shall not be conducted closer than 100 feet to a public street or an abutting lot line.
- (2) All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than 100 feet from any public street or from any adjoining lot line.
- (3) Off-street parking as required in Article VIII shall be provided.
- (4) Any access to excavated areas or areas in the process of excavation will be adequately posted with KEEP-OUT-DANGER signs.
- (5) Any work face or bank that slopes more than 30 degrees downward adjacent to a public street will be adequately fenced at the top.
- (6) Adequate provision is to be made for drainage during and after the completion of operations.
- (7) Lateral support shall be maintained for all adjacent properties.
- (8) The use of explosives shall be done in accordance with the regulations for storage or handling of an explosive as published by the Commonwealth of Massachusetts.
- (9) All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.
- (10) The work hours of operation shall be designated in the permit.
- (11) A plan for re-grading of all or parts of the slopes resulting from such excavation or fill shall be approved.
- (12) Topsoil and/or soils with high organic content suitable to support vegetation shall not be removed from the site unless approved through the special permit process. **[Added 4-3-2023ATM by Art. 19⁵¹**

51. Editor's Note: This article also redesignated former Subsection C(12) through (16) as Subsection C(15) through (19).

- (13) Topsoil shall be spread across all disturbed areas at a depth sufficient to sustain vigorous vegetation growth upon completion of site disturbance activities. **[Added 4-3-2023ATM by Art. 19]**
- (14) Where construction activities have compacted soils within vegetated or landscaped areas, measures shall be taken to restore natural soil permeability, such as rototilling of soils. **[Added 4-3-2023ATM by Art. 19]**
- (15) A plan for replacement of at least six inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization shall be approved.
- (16) A plan for lighting shall be provided.
- (17) Proper provision for vehicular traffic, service roads, control of entrances and exits to adjacent roads shall be made.
- (18) Provision for a fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more or create a slope of more than one foot in two feet. Such fence shall be located a minimum of 10 feet or more from the edge of the excavation or quarry, and shall be six feet in height.
- (19) A plan for the ongoing cleanup of the site and adjacent streets.

§ 175-35. Flood Plain and Wetlands Protection District. [Amended 4-6-2005 ATM by Art. 18; 4-3-2006 ATM by Art. 13; 5-21-2012 STM by Art. 1; 5-21-2018 ATM by Art. 21; 5-24-2021ATM by Art. 20]

A. Purpose.

- (1) The Flood Plain and Wetland Protection District (also herein referred to as the "Floodplain Overlay District") and the regulations herein have been established with the following purposes intended.
- (2) The purpose of the Floodplain Overlay District is to:
 - (a) Ensure public safety through reducing the threats to life and personal injury.
 - (b) Eliminate new hazards to emergency response officials.
 - (c) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
 - (d) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
 - (e) Eliminate costs associated with the response and cleanup of flooding conditions.
 - (f) Reduce damage to public and private property resulting from flooding waters.
- (3) For purposes of this Bylaw, in cases of a building permit involving a one-family or a two-family dwelling, the word "Board" as found throughout this Bylaw § 175-35 shall be deemed to refer to the Board of Appeals. For building permits involving all other structures or uses (multi-family, commercial, definitive subdivision, mixed use, etc.), the word "Board" as found in this

Bylaw § 175-35 shall be deemed to refer to the Planning Board.

- B. Definitions. For the purposes of this section of the Zoning Bylaw the following definitions shall be applied:

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials (US Code of Federal Regulations, Title 44, Part 59).

FLOODWAY — The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height (Base Massachusetts Code, Chapter 2, Section 202).

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities (US Code of Federal Regulations, Title 44, Part 59, also Referenced Standard ASCE 24-14).

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure (US Code of Federal Regulations, Title 44, Part 59).

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs (US Code of Federal Regulations, Title 44, Part 59).

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined by the Building Commissioner to be substantial improvement (Reference Standard ASCE 24-14).

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;

- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use (US Code of Federal Regulations, Title 44, Part 59).

REGULATORY FLOODWAY — See "floodway."

SPECIAL FLOOD HAZARD AREA — The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30 (Base Massachusetts Code, Chapter 2, Section 202).

START OF CONSTRUCTION — The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building (Base Code, Chapter 2, Section 202).

STRUCTURE — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home (US Code of Federal Regulations, Title 44, Part 59).

SUBSTANTIAL REPAIR OF A FOUNDATION — When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR (as amended by MA in 9th Edition BC).

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation (US Code of Federal Regulations, Title 44, Part 59).

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in US Code of Federal Regulations, Title 44, Part 60, § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided (US Code of Federal Regulations, Title 44, Part 59).

C. Scope and authority and delineation of district.

- (1) The Floodplain Overlay District is herein established as an overlay district. The District includes all special flood hazard areas designated within Abington on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated July 6, 2021. The exact

boundaries of the District shall be defined by the 1% chance base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021, and any amendments thereto. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

- (2) Any use, structure or development permitted in the portions of the District so overlaid shall be permitted subject to the provisions of this District, as well as those of the Massachusetts State Building Code (780 CMR), the State Wetland Protection Act (MGL c. 131, § 40) and its implementing regulations (310 CMR 10.00 et seq.) dealing with construction in floodplains. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances, or codes.
- D. Determination of applicability. Whenever an application is made for a building permit on land which the Building Inspector believes a proposed development may be situated partially or completely in the Flood Plain and Wetlands Protection District, he shall require that the applicant provide as part of his permit application a plan of the lot on which such development is intended to be built. The plan shall show elevations above mean sea level at two-foot contour levels, indicating the bench marks used and certified by a registered land surveyor or registered engineer. The Inspector shall transmit one copy of this plan to the Conservation Commission who shall review said plan and provide written interpretation within 14 days of receipt of said plan to the applicant, Building Inspector, and Board. If the Building Inspector determines that the proposed construction or alteration of the land is not in the Flood Plain and Wetlands Protection District, he shall so advise the applicant who may then apply for a building permit as set forth in § 175-76. If the Building Inspector determines that the proposed construction or alteration of the land is in the Flood Plain and Wetlands District, the Inspector shall notify the applicant who may then seek a special permit for the proposed use as set forth below.
- E. District administration.
- (1) Floodplain administrator. The Town of Abington hereby designates the position of the Building Commissioner to be the official floodplain administrator for the Town.
 - (2) Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA mapped special flood hazard areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114
- F. Permitted uses. See § 175-21.
- G. Prohibited uses. See § 175-21.
- H. Floodplain requirements. The following requirements shall be satisfied in the Flood Plain and Wetlands Protection District:
- (1) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the

best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- (2) In Zone AE, along watercourses within the Town of Abington that have a regulatory floodway designated on the Plymouth County FIRM, encroachments shall be and are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (3) Within Zones A and AE, no new construction, substantial improvement to an existing structure, filing, or other land development shall be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood.
- (4) Floodway encroachment. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.
- (5) Recreational vehicles. In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- (6) All subdivision proposals shall be designed to assure that:
 - (a) Each such proposal shall minimize potential flood damage;
 - (b) All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage; and
 - (c) Adequate stormwater drainage controls shall be provided to reduce exposure to flood hazards.
- (7) Base flood elevation data shall be required and provided for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones.
- (8) In a riverine situation, the applicant and Chairperson of the Conservation Commission and/or his/her designee shall notify the following of any alteration or relocation of a watercourse:
 - (a) Planning Board for each adjacent community.
 - (b) NFIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

(c) NFIP Program Specialist.

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

I. Special permits.

- (1) For any land that is not within a Special Flood Hazard Area as shown under the FIRM and the FIS, but that is shown on the Town's 1976 Flood Plain Zoning Map to be within the floodplain, a landowner may apply to the Board for a special permit exception from inclusion in the Flood Plain and Wetland District and shall be eligible for such a special permit if the Board finds that the subject land is not in fact subject to seasonal or periodic flooding and if the proposed development is consistent with the purpose of this Bylaw, the Board may grant, after a public hearing with due notice, a special permit for the use of such land and for the construction and erection of a building or structure for any purpose permitted in the underlying district subject to reasonable conditions and safeguards.
- (2) The application for a special permit exception shall include a site plan which shall include the items set forth in § 175-77B(5) and other engineering and hydrological data that the Board finds necessary.
- (3) The application for a special permit exception shall include an environmental impact statement prepared by an environmentally qualified registered professional engineer. This statement shall describe the impact of the proposed use with respect to drainage, sewage, groundwater, surface water pollution, and other parameters as specified by the Board.
- (4) The Board may waive some of the requirements of the site plan and/or the environmental impact statement where it determines that the probable impact upon the physical environment of the proposed use is to be minimal and that the technical data or a plan and/or environmental impact statement is not necessary to its consideration of the application. Because of the substantial scope, substance and impact of such projects, a waiver will not generally be granted where the proposed use involves a subdivision of land pursuant to MGL c. 41, §§ 81K through 81GG, a proposed site plan for construction of multiple family housing, or a proposed business, industrial, transportation or institutional use.
- (5) The applicant shall provide the Board with an original and 10 copies of the application and any plan and/or environmental impact statement required by the Board. The Board will forward one copy of each to the Building Inspector, Conservation Commission, Board of Health, Department of Public Works, and other Town board or department deemed appropriate by the Board. These agencies may file written advisory reports with the Board within 30 days. The Board shall not grant approval of an application for an exception until these advisory reports have been received or until expiration of the said thirty-day period.

J. Requirements for all projects in the flood plain and wetlands protection district.

- (1) Building permits. The following uses are permitted by right since they create a minimal risk of

damage due to flooding and will not constitute obstructions to flood flow, provided that they are permitted in the underlying district and that they do not require structures, fill or storage of materials or equipment:

- (a) Agricultural uses such as farming, grazing, truck farming, and horticulture.
 - (b) Forestry and nursery uses.
 - (c) Outdoor recreational uses, including fishing, boating and play areas.
 - (d) Conservation of water, plants and wildlife.
 - (e) Wildlife management areas; foot, bicycle, and horse paths.
 - (f) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
 - (g) Buildings lawfully existing prior to the adoption of these provisions, namely May 24, 2021.
- (2) The Floodplain Overlay District is established as an overlay district to all other districts. All development in the District, including structural and non-structural activities, whether permitted by right or by special permit, must be in full compliance with all applicable state laws and regulations, including, but not limited to, the following:
- (a) MGL c. 131, § 40;
 - (b) 780 CMR (Massachusetts State Building Code), in its entirety, including the portions that address floodplain and coastal high hazard areas;
 - (c) 310 CMR 10.00 [Wetlands Protection Regulations, Department of Environmental Protection (DEP)];
 - (d) 310 CMR 13.00 (Inland Wetlands Restriction, DEP); and
 - (e) 310 CMR 15 (Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP).
- (3) Commonwealth of Massachusetts variances to building code. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the Floodplain Overlay District.
- (4) Abington Zoning Bylaw variances. A variance from these floodplain bylaws must meet the requirements set out in § 175-82D(3) and in addition, may only be granted if: 1) good and sufficient cause and exceptional demonstrated non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

- K. Permits are required for all proposed development in the Floodplain Overlay District. The Town of Abington requires a permit for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- L. Assure that all necessary permits are obtained. The Town of Abington's permit review process includes the use of a checklist of all local, state, and federal permits that will be necessary in order to carry out the proposed development in the Floodplain Overlay District. The proponent must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired.
- M. Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- N. Enforcement. See §§ 175-80 and 175-81.
- O. Disclaimer of liability. The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- P. Severability. If any section, provision, or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

§ 175-36. Large-scale ground-mounted solar photovoltaic installations.⁵² [Added 6-8-2015 ATM by Art. 26]

- A. Purpose.
 - (1) The purpose of this Bylaw shall be to promote the creation of new large-scale ground-mounted solar photovoltaic installations in the appropriate locations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.
 - (2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.
- B. Applicability. This section shall apply to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type configuration or size of these installations or related equipment.
- C. Definitions.

52. Editor's Note: Former § 175-36, Phased development, added 11-26-2001 STM by Art. 8, as amended, was repealed 6-8-2015 ATM by Art. 19.

AS-OF-RIGHT SITING — That development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Inspector of Buildings, Building Commissioner or local inspector, or if there is none in a town, the Board of Selectmen, or person or board designated by local ordinance or bylaw.

BUILDING INSPECTOR — The Inspector of Buildings, Building Commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

BUILDING PERMIT — A construction permit issued by an authorized building inspector that evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing large-scale ground-mounted solar photovoltaic installations.

DESIGNATED LOCATION — The locations designated by the Town, in accordance with MGL c. 40A, § 5, where large ground-mounted scale solar photovoltaic installations may be sited are limited to the locations indicated in § 175-21 of the Zoning Bylaws. Said locations are shown on a Zoning Map pursuant to MGL c. § 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250kW DC, or requires an area larger than one acre for installation.

ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

SITE PLAN REVIEW AUTHORITY — For purposes of this Bylaw, Site Plan Review Authority refers to the body of local government designated as such by the municipality.

SMALL-SCALE ROOF-MOUNTED SOLAR ENERGY EQUIPMENT — Roof-mounted solar equipment that shall be located so as not to increase the total height of the structure more than one foot above the applicable zoning regulations related to height in the district in which it is located or such other height as determined by the Building Inspector to be essential for proper operation, but in no case more than four feet above the applicable zoning regulations related to height in the district in which it is located.

SOLAR PHOTOVOLTAIC ARRAY — An arrangement of solar photovoltaic panels.

SPECIAL PERMIT — A special permit review by the Site Plan Review Authority to determine conformance with local zoning ordinances or bylaws shall be obtained before the development proceeds.

ZONING ENFORCEMENT AUTHORITY — The person or board charged with enforcing the zoning ordinances or bylaws.

- D. General requirements for all large-scale ground-mounted solar power generation installations. The following requirements are common to all solar photovoltaic installations to be sited in designated locations.
- E. Compliance with laws, ordinances and regulations. The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and

federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

- F. Building permits and building inspections. No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit and only in accordance with the requirements of the Table of Uses and this section. Smaller scale ground-mounted or small-scale roof-mounted solar equipment installations which are an accessory structure to an existing residential or nonresidential use do not need to comply with this Section, but shall conform to the Table of Uses and shall require a building permit and shall comply with the other provisions of this Zoning Bylaw as applicable.
- G. Fees. The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit.
- H. Site plan review. Large-scale ground-mounted solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.
 - (1) General. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts, except in accordance with any exemption provided for under MGL c. 112, § 81R.
 - (2) Required documents. Pursuant to the site plan review process, the project proponent shall provide a site plan in conformance with § 175-77, Site plan review, of the Town of Abington Zoning Bylaws in addition to the following:
 - (a) Property lines and physical features, including roads, for the project site;
 - (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - (c) Blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures. The proponent may not take any actions to modify any existing structures or vegetation on adjacent properties which may shade the installation without express written consent of the property owner.
 - (d) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
 - (e) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - (f) Name, address, and contact information for proposed system installer;
 - (g) Name, address, phone number and signature of the project proponent, as well as all coproponents or property owners, if any;
 - (h) The name, contact information signature of any agents representing the project proponent; and

- (i) Documentation of actual or prospective access and control of the project site;
 - (j) An operation and maintenance plan;
 - (k) District designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
 - (l) Proof of liability insurance; and
 - (m) Description of financial surety that satisfies § 175-36Q.
- (3) The Site Plan Review Authority may waive documentary requirements as it deems appropriate.
- I. Site control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
- J. Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- K. Utility notification. No proposed large-scale ground-mounted solar photovoltaic installation shall be submitted for review until evidence has been given to the Site Plan Review Authority that the utility company that operated the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator, and that the electrical grid can safely transmit the proposed power output of the installation. Off-grid systems shall be exempt from this requirement.
- L. Dimension and density requirements.
- (1) Setbacks.
- (a) For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be at least 50 feet; provided, however, that where the lot abuts a residential district or residential use or is in a residential district, the setbacks shall not be less than 100 feet. Every abutting property shall be visually screened from the installation through either existing vegetation or new plantings of not less than six feet in height at the time of planting throughout the required setback dimension, or alternately shall provide a minimum setback of 2,000 feet. The provided screening shall obscure from view at least 75% of the project from adjacent properties, including upper levels of existing structures, within five years of the issuance of the permit. Security fences, roadways, and equipment shall not be placed within the required setback, except for that which is required to access the site from an adjacent roadway, or to transmit the generated power to the grid.
 - (b) The provided setbacks shall be suitable to limit the noise generated by the installation to no more than 40 decibels at the property lines.
- (2) Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other.

Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

M. Design standards.

- (1) Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- (2) Signage. Signs on large-scale ground-mounted solar photovoltaic installations shall comply with the Town's sign requirements. A sign consistent with the Town's sign requirements shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the operator of the solar photovoltaic installation.
- (3) Utility connections. Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be aboveground if required by the utility provider.
- (4) Hazardous materials. Hazardous materials stored, used, or generated on site shall not exceed the amount for a very small quantity generator of hazardous waste as defined by the DEP pursuant to Mass DEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar equipment, including the photovoltaic panels, then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

N. Safety and environmental standards.

- (1) Emergency services. The large-scale ground-mounted solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked, and training required to allow emergency response personnel to safely shut down the installation in event of an emergency provided at no cost to the Town as requested by the Town. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. All changes in the identity or contact information for the responsible person shall immediately be brought to the attention of the Town.
- (2) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.
- (3) Control of vegetation. Herbicides may not be used to control vegetation at the large-scale ground-mounted solar photovoltaic installation. Mowing or the use of pervious pavers or

geotextile materials underneath the solar array is a possible alternative.

O. Monitoring and maintenance.

- (1) Solar photovoltaic installation conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, snow removal, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.
- (2) Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.
- (3) Annual reporting. The owner or operator of the installation shall submit an annual report demonstrating and certifying compliance with the operation and maintenance plan and the requirements of this Bylaw and their approved site plan including control of vegetation, noise standards, and adequacy of road access. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The report shall be submitted to the Board of Selectmen, Town Manager, Planning Board, Fire Chief, Building Inspector, Board of Health and Conservation Commission (if wetlands permit was issued) no later than 45 days after the end of the calendar year.

P. Abandonment or decommissioning.

- (1) Removal requirements. Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned through intent or discontinuance for two years or more shall be removed. The owner or operator shall physically remove the installation no more than 120 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (2) Abandonment. Each site plan approval and special permit shall require that, absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more six months without the written consent of the Site Plan Review Authority or special permit granting authority. Each site plan approval and special permit shall provide that, if the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section and the site plan approval or special permit, within 120 days of abandonment or the proposed date of decommissioning, then the Town shall

be provided with all necessary permission to enter the property and physically remove the installation. As appropriate, cost of removal shall be charged to the property owner in accordance with the provisions of MGL c. 40, § 58.

- Q. Financial surety. Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, or other means mutually agreed upon with the Town, under MGL c. 44, § 53A, or by other lawful means, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority, but in no event to be less than 75% nor to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety shall not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
- R. Severability. If any provision herein is determined to be unlawful, it shall be severed from this section and all remaining provisions shall remain in force and effect.

§ 175-37. Transit Oriented Development District. [Added 4-7-2003 ATM by Art. 25]

- A. Purpose and intent. The purpose of this district is to encourage the development of land uses that compliment both the existing commuter rail line and the established residential areas surrounding the station, by providing for a mix of small uses on well buffered sites to support commuters and adjacent residential development, encourage the continued use of rail service, increase the number of pedestrian and bicycle trips, while decreasing the number of automobile trips within the Town.
- B. Design considerations.
- (1) Buildings shall be set close to the street to provide for convenient pedestrian access while also enhancing the visual aspects of the Town. Building facades and streetscapes shall be pedestrian oriented.
 - (2) Parking shall not be located in the front yard area. The number of parking spaces shall be provided according to the requirements contained herein that supersede Article VIII of this Zoning Bylaw.
 - (3) Common access driveways and shared parking facilities shall be provided where possible to minimize traffic problems.
 - (4) Pedestrian connections to adjacent properties and the rail station shall be provided where possible and appropriate as determined by the Planning Board as part of the site plan review process. When multiple uses exist on a lot covered walkways should be provided to protect pedestrians from the weather shall be incorporated into the building design. Benches for public seating should also be provided on the site plan.
 - (5) Landscaping for and architectural elements of the proposed development shall be of high quality and reflect the historical New England character of the Town's Central Business District. Use of street trees and ground level lighting are required.
 - (6) Existing residential development adjacent to uses under this bylaw shall be adequately buffered in accordance with Article X, §§ 175-66 and 175-67 of this Bylaw.
- C. Uses.

- (1) Mixed-use developments in accordance with the uses identified in § 175-21, Table of Use Regulations. Residential uses are allowed within the district only as part of a larger, mixed-use development and not as a stand-alone principal use except by special permit from the Planning Board. Residential components may not exceed 50% of the total gross floor area of a proposed development except where the residential use is located on the upper floors of commercial buildings in accordance with § 175-37C(2). **[Amended 4-3-2006 ATM by Art. 13]**
- (2) Residential units may be located on the upper floors of commercial buildings as part of a mixed-use development without limitation as to percentage of total gross floor area provided that:
 - (a) The building is connected to the public sewer system.
 - (b) One parking space is provided for each dwelling unit.
 - (c) No units are located on street level or within a basement.
 - (d) There shall be no more than two bedrooms per unit.
 - (e) Units must have a means of egress separate from the commercial use. No access to the units shall be through a commercial establishment.
 - (f) All units must meet the minimum requirements of the building and health codes for habitable space.
- (3) Residential uses within the TOD District are not subject to the requirements of Article VII, § 175-32A, B, C, D or E of this Zoning Bylaw. The following supersede those standards.
 - (a) For each dwelling unit constructed on a lot/premises, except those in accordance with § 175-37C(2), a minimum of 2,500 SF of lot area shall be provided for each unit in addition to the minimum lot area required by Article VI, § 175-29.
 - (b) All buildings shall be a minimum of 15 feet from any parking area.
 - (c) All buildings shall be a minimum of 25 feet from any lot line that abuts the proposed development including the street line.
- (4) No single retail use shall exceed 2,000 SF of total floor area [exclusive of any residential use in accordance with Subsection C(2) above], except by the issuance of a special permit from the Planning Board.
- (5) The maximum floor area for retail and/or commercial use on a single lot shall not exceed 20,000 SF unless approved as part of a master site development plan approved by special permit by the Planning Board.

D. Parking.

- (1) The number of parking spaces required by Article VIII, § 175-52 of this bylaw for commercial uses may be reduced by up to 50% without the requirement for a special permit provided that the requirements of § 175-53B and C are met.
- (2) One ten-unit bicycle rack shall be provided for each proposed use. The racks shall be sheltered from the weather and conveniently located.

§ 175-38. Central Business District. [Added 4-7-2003 ATM by Art. 25]

- A. Purpose and intent. The purpose of this district is to allow for the reasonable use, enhancement, expansion and redevelopment of those areas of the Town that are currently developed in a building intensive manner where parking is available on-street as well as in common lots.
- B. Design considerations.
- (1) New buildings shall be set close to the sidewalk or street line to encourage pedestrian access. Pedestrian connections to adjacent properties shall also be provided where appropriate.
 - (2) Parking shall not be allowed in the front or side yard areas and shall only be located in the rear yard area. The number of parking spaces shall be provided in accordance with the requirements of this section that supersede the requirements of Article VIII of this Zoning Bylaw.
 - (3) Common access driveways and shared parking shall be provided where possible.
 - (4) Landscaping, signage, and architectural elements of proposed uses shall be of high quality consistent with existing buildings that reflect the Historical New England character of the Town. Maximum consideration shall be given to building design and landscape elements that improve the streetscape of the district. **[Amended 5-22-2017 ATM by Art. 18]**
- C. Uses. The following are specifically allowed within the district in addition to those uses that are identified in § 175-21, Table of Use Regulations.
- (1) Mixed-use developments.
 - (2) Residential uses as part of a mixed-use development where the residential units or components may not exceed 50% of the total gross floor area of a proposed multi-use project except as provided in Subsection C(3). Strictly residential units on lots as stand-alone residential uses in the Central Business District may be permitted by Special Permit from the Planning Board where such uses are appropriate and where the minimum lot size is at least 5,000 square feet and meets the provisions of Subsection C(3)(a), C(3)(b), C.(3)(d) and C(3)(f). **[Amended 4-2-2007 by ATM by Art. 11]**
 - (3) Residential units may be located on the upper floors of commercial buildings as part of a mixed-use development without limitation as to percentage of total gross floor area provided that:
 - (a) The building is connected to the public sewer system.
 - (b) One parking space is provided for each dwelling unit.
 - (c) No units are located on street level or within a basement.
 - (d) There shall be no more than two bedrooms per unit.
 - (e) Units must have a means of egress separate from the commercial use. No access to the units shall be through a commercial establishment.
 - (f) All units must meet the minimum requirements of the building and health codes for habitable space.
- D. Parking requirements. The following specific parking requirements for the Central Business District modify and supersede the relevant requirements contained in Article VIII of this Bylaw.
- (1) Parking spaces shall be provided as follows:

- (a) One space for each employee on-site at any one time. The space(s) may be located on-site or be situated off-site provided a formal agreement exists for use of the space and such evidence is presented to the Building Inspector as part of the permitting process.
 - (b) One space for each residential unit located within the building, provided that no on-street parking space may be used to satisfy this requirement.
 - (c) One parking space for each 500 SF of net floor area devoted to commercial or retail use. One existing on-street parking space may be used to meet the requirements of this section for each 2,000 SF of net floor area.
 - (d) Off-premises parking in accordance with Article VIII, §§ 175-44, 175-45 and 175-46 may be located up to 1,000 feet from the proposed use.
 - (e) Loading spaces may coincide with areas used to satisfy the parking requirements of this section, provided delivery times are scheduled to allow non-conflicting multiple use of the space.
 - (f) One ten-unit bicycle rack shall be provided for each proposed use in lieu of one required parking space. These racks may be dispersed throughout the site or sites.
- (2) Where strict compliance with the standards for off-street parking are not feasible in the district, the Planning Board may reduce the parking requirements for business use by not more than 20% by special permit. Any such request for reduction shall be supported by the submission of credible evidence of adequate municipal parking, on-street parking or infeasibility of compliance due to site conditions, specific design considerations, or other such similar factors.
- E. Historic building reuse and new construction of high architectural quality within the Central Business District, projects which rehabilitate and reuse existing buildings of historical or architectural significance, or projects that propose new construction of high quality as to architectural design, materials, site planning, lighting and landscaping, as determined by the Planning Board as part of § 175-77, Site Plan Review, may:
- (1) Be exempt from Article VIII, § 175-41 of the parking requirements of this Zoning Bylaw, provided that there is no decrease in the number of parking spaces existing before redevelopment/reuse.
 - (2) Calculate the number of required parking spaces based upon net floor area.
 - (3) Reduce the landscaped buffer strip required in Article VIII, § 175-50 to a minimum of five feet and the buffer required in Article X, § 66A to a minimum of 10 feet provided suitable landscaping is provided in accordance with this Bylaw.
 - (4) Modify any other design requirement or setback of this Zoning Bylaw by special permit from the Board of Appeals.

§ 175-39. Multiple Use Planned Development District. [Added 4-7-2003 ATM by Art. 25]

- A. Purpose and intent. The purpose of the Multiple Use Planned Development District is to establish areas and standards for the overall planned development of land with mixed-uses. The District attempts to accommodate low-impact activities in an overall low density but with intensive use clusters, making use of natural features and vegetation, screening and setbacks to have minimal impact on surrounding land uses. The following regulations strive to allow a more flexible planned

development process than is possible through strict conventional zoning regulations. For the purpose of this district and section the Planning Board shall be the special permit granting authority for special permit uses identified in § 175-21, Table of Uses.

B. Design considerations.

- (1) Parking is prohibited in the front yard area and shall only be located in the side and/or rear yard. The number of parking spaces shall be provided according to the following requirements that supersede the requirements of Article VIII of this Zoning Bylaw.
- (2) Common access driveways and shared parking shall be provided where possible.
- (3) Pedestrian connection to adjacent building and properties shall be provided.
- (4) Bicycle racks shall be provided as part of the parking plan.
- (5) Landscaping and architectural elements of the proposed use(s) shall include features to minimize visual impacts on surrounding lands.
- (6) Landscaping, signage, and architectural elements of proposed uses shall be of high quality consistent with existing buildings that reflect the Historical New England character of the Town. Maximum consideration shall be given to building design and landscape elements that improve the streetscape of the district. **[Added 5-22-2017 ATM by Art. 18]**

C. Uses. Uses including mixed-uses consistent with the § 175-21 may be permitted provided that:

- (1) Residential uses (not including transient accommodations) may only allowed as part of a larger, mixed-use development and shall not exceed 20% of the gross floor area of the proposed development.
- (2) Not more than 10% of the gross floor area may be devoted to retail use and commercial services for supporting the overall development unless by special permit of the Planning Board.

D. Tract area and frontage. The tract shall be in single or consolidated ownership at the time of application and shall be at least 10 acres in size with a minimum of 200 feet of frontage. If proposed developments are to be subdivided under the Rules and Regulations Governing the Subdivision of Land each resulting lot shall comply with the requirements of this section. All internal driveways providing access to parking areas and buildings shall comply with the design and construction standards of the Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the driveway network constitutes a subdivision.⁵³

E. Parking. Developments shall be served by common parking areas with a common exit and entrance. A reduction in parking space requirements for common parking area shall not exceed more than 15% of those required under normal application of requirements for the particular uses proposed in Article VIII, § 175-52, unless a special permit is granted by the Planning Board in accordance with § 175-53. Applicants should note in particular the visual relief requirements in Article VII, § 175-50.

F. Drainage. See Article X, § 175-63.

G. Building design. Uses may be contained in one continuous building or groupings of buildings where such groupings are consistent with the safety of the users of the development and the intent of this section.

53. Editor's Note: See Ch. 200, Subdivision Rules and Regulations.

- H. Floor area and lot coverage. The total gross floor area of all buildings shall not exceed 50% of the total lot area except by special permit from the Planning Board. Gross floor area may be increased to 60% of the total lot area provided that a parking garage is provided for the use(s). Lot coverage shall not exceed 30% of the total lot area.
- I. Dimensional requirements. **[Amended 5-21-2018 ATM by Art. 28]**
 - (1) Buildings shall be located a minimum of:
 - (a) Fifty feet from any existing lot line or existing street line;
 - (b) Ten feet from any proposed parking area; and
 - (c) Be not more than forty 40 feet in height except by special permit from the Planning Board.
 - (2) Parking areas shall be located a minimum of 50 feet from any existing lot line or existing street line.

§ 175-40. Transitional Commercial District. [Added 4-7-2003 ATM by Art. 25]

- A. Purpose and intent. The purpose of this district is to preserve the residential character of existing development along thoroughfares that are undergoing pressure for commercial development by providing for the transition to more intensive but compatible uses. The district emphasizes the preservation and use of existing structures; provides for buffers and uses compatible with nearby residential areas; provides for property owners in such transitional areas an additional opportunity to use their land without severely diminishing the amenity and residential value of other properties within and in close proximity to the district; to minimize congestion on major streets, and protects the character and appearance of areas that are the key elements of the Town by allowing limited, low-traffic generating non-residential uses which can operate in adapted/expanded existing houses or compatible new small-scale office/retail buildings.
- B. Design considerations.
 - (1) Parking shall not be allowed in the front yard area. Parking may be permitted in the side yard if properly screened. The number of parking spaces shall be provided according to the requirements contained in Article VIII of this Zoning Bylaw.
 - (2) Common access driveways and shared parking facilities should be provided and are encouraged where possible to minimize traffic problems.
 - (3) Pedestrian access to adjacent properties shall be provided where possible and appropriate as determined by the Planning Board as part of the site plan review process.
 - (4) Existing residential development adjacent to uses under this bylaw shall be adequately buffered in accordance with Article X, §§ 175-66 and 175-67 of this Bylaw.
 - (5) Lighting and signs shall be carefully located and sized to minimize impacts on adjacent residential uses.
 - (6) Landscaping, signage, and architectural elements of proposed uses shall be of high quality consistent with existing buildings that reflect the Historical New England character of the Town. Maximum consideration shall be given to building design and landscape elements that improve the streetscape of the district. **[Added 5-22-2017 ATM by Art. 18]**

C. Uses.

- (1) One and/or two family dwellings on existing lots, or new lots that comply with the dimensional requirements of § 175-29. **[Amended 4-3-2006 ATM by Art. 13]**
- (2) One accessory residential dwelling unit as part of the principal use of the site.
- (3) Uses in the TC Zone as identified in § 175-21 (table) with a total gross square footage of less than 5,000 SF per lot.
- (4) Uses in the TC Zone as identified in § 175-21 (table) with a total gross square footage of between 5,000 SF and 10,000 SF per lot by special permit from the Zoning Board of Appeals.

§ 175-40A. Multifamily Overlay District. [Added 4-1-2024 ATM by Art. 16]

A. Purposes. The purpose of the Multifamily Overlay District (MFOD) is to provide for multifamily housing development in accordance with G.L. c. 40A, § 3A and the Section 3A Compliance Guidelines of the Executive Office of Housing and Livable Communities (HLC), as may be amended from time to time. In addition, § 175-40A is intended to achieve the following purposes:

- (1) Implement the Abington Housing Production Plan;
- (2) Encourage the production of a variety of housing sizes and types to provide access to new housing for people with a variety of needs, ages, household types, and income levels;
- (3) To increase the supply of housing in Abington that is permanently available to and affordable by low- and moderate-income households;
- (4) Locate housing within walking distance of public transportation services and in other walkable locations to promote public health, reduce greenhouse gases, and improve air quality; and
- (5) Increase the tax base through private investment in new housing development.

B. Establishment of District. The MFOD is shown on the map entitled "Multifamily Overlay District," and dated February 16, 2024, on file with the Town Clerk.

C. Applicability.

- (1) At the option of the Applicant, development of land within the MFOD may be undertaken subject to the requirements of this § 175-40A or by complying with all applicable requirements of the underlying district. Developments proceeding under this § 175-40A shall be governed solely by the provisions herein and the standards or procedures of the underlying districts shall not apply. Where the MFOD authorizes uses not otherwise allowed in the underlying district, the provisions of the MFOD shall control. Where the MFOD authorizes uses and dimensional controls not otherwise allowed in applicable overlay districts, the provisions of the MFOD shall control. Uses and dimensional controls of the MFOD are not subject to any special permit requirements of the underlying district and/or applicable overlay districts. Where the MFOD requires a special permit, the Planning Board shall be the special permit granting authority.
- (2) Multifamily development in the MFOD shall not be subject to §§ 175-28 and 175-32 of this Bylaw.

D. Use regulations. The following uses are permitted in the MFOD:

- (1) Multifamily dwelling. For purposes of this § 175-40A, "multifamily" shall include a building with three or more dwelling units or two or more residential buildings on a lot, each with two or more dwelling units.
- (2) Accessory home occupation.
- (3) Other accessory residential uses.

E. Density and dimensional regulations. Development in the MFOD shall comply with the following density and dimensional regulations.

Minimum lot area (square feet)	30,000
Maximum lot coverage (% lot)	50%
Maximum height	
Stories (maximum)	3
Feet (maximum)	35
Minimum frontage (feet)	35
Minimum setbacks (feet)	
Front	10
Side	10
Rear	20
Maximum units per acre	18
Minimum separation between two or more buildings on the same lot (feet)	25

F. Affordable housing. Residential development in the MFOD shall provide affordable dwelling units in accordance with this § 175-40A, Subsection F.

- (1) In any multifamily development under § 175-40A resulting in a net increase of 10 or more dwelling units on any parcel or contiguous parcels comprising a proposed development site, at least 10% of the dwelling units shall be affordable housing. Fractions shall be rounded down to the next whole number.
- (2) Developments shall not be segmented to avoid compliance with this § 175-40A. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of 10 or more lots or dwelling units above the number existing 36 months earlier on any parcel or set of contiguous parcels held in common ownership on or after the effective date of this § 175-40A.
- (3) All the affordable units required in a proposed development shall be located within the development site ("on-site units") unless the Planning Board grants a special permit to allow payment of a fee in lieu. In no event shall the total number of units provided through a fee in lieu be less than the number of affordable housing units required under this § 175-40A(F).
 - (a) The fee in lieu shall be paid as a housing contribution payment to the Abington Affordable Housing Trust, subject to a binding, written agreement with the Town of Abington.

- (b) The fee in lieu per unit shall be determined in accordance with the Planning Board's MFOD rules and regulations.
- (c) The total amount due shall be paid upon the issuance of the first building permit unless the Planning Board approves an alternative payment schedule by special permit.
- (4) All affordable units created under this § 175-40A shall be subject to an affordable housing restriction approved by the Planning Board, Town Counsel, and the Executive Office of Housing and Livable Communities (EOHLC). The restriction shall run with the land in perpetuity and shall be recorded with the Plymouth County Registry of Deeds or Registry District of the Land Court. All affordable units shall meet the criteria for inclusion in EOHLC's Subsidized Housing Inventory for the Town of Abington.
- (5) Comparability. All on-site affordable housing units shall be dispersed throughout the development site and shall be indistinguishable from market-rate units. The number of bedrooms in affordable units shall be comparable to the bedroom mix in market-rate units in the development.
- (6) The selection of qualified purchasers or qualified renters shall be carried out under an Affirmative Fair Housing Marketing Plan (AFHMP) submitted by the applicant and approved by the Planning Board. The AFHMP shall comply with the Executive Office of Housing and Livable Communities (EOHLC) Local Initiative Program (LIP) guidelines in effect on the date of the site plan review application to the Planning Board.

G. Site development standards.

- (1) Developments in the MFOD shall conform to the standards in this § 175-40A and the following:
 - (a) Article IX, Signs;
 - (b) Section 175-67.1, Outdoor Lighting.
 - (c) Section 175-65, Vegetation.
 - (d) Article VIII, Off-Street Parking and Loading Regulations, except § 175-52G;
- (2) Off-street parking. In the MFOD, residential uses shall provide a minimum of 1.5 parking spaces per dwelling unit. Development in the MFOD shall be exempt from § 175-52G.
- (3) The following design standards shall apply to off-street parking facilities in the MFOD. Any conflict between Article VIII and this § 175-40A shall be resolved in favor of this § 175-40A.
 - (a) Sidewalks of at least five feet in width shall be provided with a direct connection among building entrances, the sidewalk on the street or the principal access drive, bicycle storage, and parking.
 - (b) Screening for parking. Surface parking adjacent to a sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than 10 feet. The buffer may include a fence of no more than six feet in height unless there is a significant grade change between the parking and the sidewalk, in which case the fence or wall shall be a minimum of three feet and six inches.
 - (c) Parking and circulation on a development site shall be organized to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to

minimize curb cuts onto public rights-of-way.

- (d) Parking materials. The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
- (e) Parking shall be subordinate in design and location to the principal building facade.
 - [1] Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the street or internal access drive.
 - [2] For a parking structure integrated within or under a multifamily building, the principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
 - [3] A separate, free-standing parking garage on the same lot as one or more multi-family buildings shall be located behind or beside the multi-family building(s). No parking structure shall be located forward of the front building line of the multifamily building closest to the street.
- (f) Vehicular access. Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
- (4) Plantings. Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
- (5) Lighting. Light levels shall provide illumination necessary for safety and convenience, prevent glare and overspill onto adjoining properties, reduce the amount of skyglow, and conform to Dark Sky standards. Light trespass onto adjoining properties is not allowed.
- (6) Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened from view from the public realm.
- (7) Bicycle parking. For multifamily development, there shall be a minimum of one bicycle storage space per every two dwelling units.
- (8) Buildings.
 - (a) In developments with multiple buildings, a paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other. The minimum sidewalk width shall be five feet.
 - (b) The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building facade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
 - (c) Building(s) adjacent to a principal access drive shall have a pedestrian entry facing that access drive.
 - (d) To encourage clustering of buildings and preservation of open space, placement of buildings shall be subject to review and comment by the Fire Chief for fire safety purposes.

- (9) Shared outdoor space. Multi-family housing shall have common outdoor space that all residents can access. The common outdoor space may be located in any combination of ground floor, courtyard, rooftop, or terrace.
- (10) Dumpsters. Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
- (11) Stormwater management. The applicant shall propose strategies that demonstrate compliance with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, the Town of Abington Stormwater Bylaw and an Operations and Management Plan for both the construction activities and ongoing postconstruction maintenance and reporting requirements.
- (12) Any multi-family development within the MFOD shall comply with § 175-24, Watershed Protection District, to the maximum extent practicable. The Planning Board shall review for such compliance through site plan review. Multi-family development projects in the MFOD are exempt from any Special Permitting requirements of § 175-24.
- (13) Waivers. The Planning Board may waive by majority vote the requirements of this § 175-40A, Subsection G, in the interests of design flexibility and overall project quality, and upon a finding that the proposed variation is consistent with the overall purpose and objectives of the MFOD.

H. MFOD, development plan approval.

- (1) Development within the MFOD shall be subject to § 175-77 of this Bylaw to the maximum extent possible. Section 175-77C(2) shall not apply to multi-family development within the MFOD and no provision of § 175-77 shall allow a denial or unreasonable conditioning of a multi-family development in the MFOD. The following additional provisions shall also apply:
- (2) Rules and regulations. The Planning Board shall adopt administrative rules and regulations relative to MFOD Site Plan application requirements and contents and shall file the rules with the Town Clerk. The Board's rules and regulations may include filing fees and procedures for the Board to engage outside consultants under G.L. c. 44, § 53G.
- (3) Development phasing. As a condition of MFOD Development Plan Approval, the Planning Board may allow a Development to be constructed in multiple phases, so long as each phase will have an equal distribution of affordable units.
- (4) Modifications to approved site plans.
 - (a) Minor Change. After MFOD Development Plan Approval, an Applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout of the site, or provision of open space, number of housing units, or affordable housing. A change of up to 5% in the number of housing units in a Development shall constitute a minor change. Minor changes must be submitted to the Planning Board in accordance with the Planning Board's Multifamily Overlay District Rules and Regulations and shall include redlined prints of the Approved Plan. The Planning Board may authorize the proposed changes at any regularly scheduled meeting without the need to hold a public hearing. The Planning Board shall issue a written decision to approve or deny the minor changes and

provide a copy to the Applicant for filing with the Town Clerk.

- (b) Major change. Changes deemed by the Planning Board to constitute a major change in an Approved Development because of the nature of the change or because the change cannot be appropriately characterized as a minor change under Subsection H(4)(a) above shall be processed by the Planning Board as a new Site Plan Application.
- (5) Appeals. Any person aggrieved by the Planning Board's decision may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within 20 days after the MFOD Development Plan Approval decision has been filed with the Town Clerk.
- I. Design guidelines. The Planning Board may adopt Design Guidelines for Development in the MFOD and shall file a copy with the Town Clerk. In addition to the requirements and standards in this § 175-40A, building and site design within the districts shall comply with the Planning Board's Design Guidelines unless waived during Site Plan Review. Until such time as Design Guidelines can be defined by the Planning Board, § 175-4 "Historical New England Character" will be the defining guideline. In the event of any conflict between § 175-40A and the Design Guidelines, § 175-40A shall control.
- J. Definitions applicable to this bylaw. For purposes of this Multifamily Overlay District zoning bylaw, the following definitions shall apply:
 - AFFORDABLE HOUSING RESTRICTION — A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law, and be entered into and enforceable under the provisions of G.L. c. 184, §§ 31-33 or other equivalent state law.
 - AFFORDABLE HOUSING UNIT — A dwelling unit that is affordable to and occupied by a Low or Moderate Income Household and meets the requirements for inclusion on the Chapter 40B Subsidized Housing Inventory.
 - AREA MEDIAN INCOME (AMI) — The median income for households within the federally designated economic statistical area that includes the Town of Abington, as reported annually and adjusted for household size by the U.S. Department of Housing and Urban Development.
 - LOW OR MODERATE INCOME — Household income that does not exceed 80% of the Area Median Income (AMI), adjusted for household size, as determined by the U.S. Department of Housing and Urban Development, then in effect.

ARTICLE VIII
Off-Street Parking and Loading Regulations

§ 175-41. Compliance required.

In any district if any structure is constructed, enlarged or extended and any use of land established, or any existing use is changed, after the effective date of this bylaw, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations. An existing structure which is enlarged or an existing use which is extended after the effective date of this bylaw shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use, unless the increase in the number of dwelling units or building floor area amounts to less than 25% of that existing at the time of the adoption of this bylaw, whether such increases occur at one time or in successive stages. In this case only the additional parking spaces required by the increase in area shall be provided.

§ 175-42. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables in this article. This regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

§ 175-43. Space area requirement.

- A. Off-street parking spaces. All off-street parking area designs shall conform to the following dimensional requirements:
- (1) Space dimensions:
 - (a) Ten feet by 18 feet for perpendicular or angled spaces.
 - (b) Ten feet by 22 feet for parallel spaces.
 - (2) Aisle widths:
 - (a) Twenty-five feet for two-way traffic and/or with perpendicular parking.
 - (b) Twelve feet for one-way traffic with angled or parallel parking.
- B. Loading area.
- (1) Each space shall not be less than 12 feet in width and not less than 45 feet in length. Height clearance shall not be less than 14 feet. In all cases, required loading space shall not encroach on customer parking, employee parking, maneuvering space.
 - (2) Loading spaces shall be designed to provide adequate off-street maneuvering areas so that it will not be necessary for vehicles to use a public right-of-way in maneuvering into a loading space and so that egress from such areas will not require backing into public streets.

§ 175-44. Off-premises off-street parking.

- A. Required parking spaces shall be on the same lot as the principal use served, or if not reasonably

possible, on other property in the same district within 300 feet of the principal use.

- B. Such off-premises parking shall be in possession, by deed or lease, of the owner of the use served. Such required parking shall thereafter be associated with and maintained for the use established and shall not be reduced or encroached upon. The owner of any property to be used for any off-premises parking shall sign a recorded declaration of restrictions with the Town of Abington binding the property to prescribed use as parking until such time as said restriction shall be released by an instrument of the owner and the Town of Abington.

§ 175-45. Joint use of required parking.

Joint use may be made of required parking spaces by intermittent use establishments such as churches, assembly halls, or theaters whose peak parking demand is only at night or on Sundays and by other uses whose peak demand is only during the day. A formal agreement shall be made in writing by the owners of the uses involved concerning the number of spaces involved, substantiation of the fact that such joint use is not overlapping or in conflict, and the duration of the agreement. Required spaces shall be within 300 feet of churches and public assembly halls and 400 feet of other uses.

§ 175-46. Cooperative establishment and operation of parking areas.

Required spaces for any number of uses may be provided in a combined lot or lots, provided that the number of spaces in the combined facility shall not be less than the sum of those required of the individual uses. An allowance may be made, upon formal determination by the Planning Board for night use, or for separate and distinct working shifts, and further provided also that such lot or lots shall be within 300 feet of the principal buildings served.

§ 175-47. Entrance and exit points.

- A. Suitable provision shall be made along all property lines and along the borders of parking areas to prevent entrance upon any public right-of-way except at approved points. No existing curb shall be cut, broken out, or removed except in conformance with an approved site plan or as authorized by the Building Inspector under the terms of this bylaw. **[Amended 5-21-2018 ATM by Art. 29]**
- B. Driveways. **[Amended 5-21-2018 ATM by Art. 29]**
- (1) One- and two-family uses:
 - (a) No driveway or parking area shall be closer than three feet from a side lot line.
 - (b) For lots with 20,000 square feet or less of lot area, no driveway and parking area shall cover more than 40% of the required front yard setback area or existing front yard area, whichever is the smaller area.
 - (c) For lots with more than 20,000 square feet of lot area, no driveway and parking area shall cover more than 25% of the required front yard setback area or existing front yard area, whichever is the smaller area.
 - (2) All other uses. Unless otherwise authorized pursuant to a waiver voted by a majority of the Planning Board:
 - (a) No more than one driveway shall be allowed on any street frontage.
 - (b) A pair of one-way drives separated by a median may be considered one driveway.

- (c) Driveways shall be no closer than 75 feet to any intersection of street lines, which shall be measured from the midpoint on the radius of the street layout lines.
- (d) Multiple driveways on the same street frontage shall be not less than 75 feet apart.
- (e) No driveway shall be closer than 10 feet to any side or rear lot line.

C. Driveway width shall fall within the following limits:

	Min.	Max.
1-5 family residential	10	20
Multi-family (above 5 dwellings units)	20	30
Commercial and Industrial		
One-way	12	20
Two-way	24	30

§ 175-48. Surfacing requirements. [Amended 5-21-2018 ATM by Art. 29]

Off-street parking areas shall be paved with mix asphalt or other approved hard surface, unless otherwise authorized pursuant to a waiver voted by a majority of the Planning Board. One- and two-family dwellings not part of a larger complex are not subject to these surfacing requirements provided that areas shall be clearly defined.

§ 175-49. Lighting requirements.

All parking areas providing more than 10 spaces and providing access (e.g., walkways) to and from the principal building shall be suitably illuminated as prescribed by the Building Inspector. Lighting shall be so placed or hooded as to prevent direct light from becoming a nuisance to surrounding property.

§ 175-50. Visual relief for lots. [Amended 5-21-2018 ATM by Art. 29]

- A. Parking lots that abut public ways shall be separated there from by at least a ten-foot-wide buffer strip of suitable landscaping. For each buffer strip which is more than 30 feet long, a street tree having a diameter at breast height (4.5 feet) of at least 3" shall be planted at a ratio of at least 1 tree per 30 feet of buffer strip length. A street tree shall not be placed within 20 feet of any street corner or in any location which may create a hazard, conflict with utilities, or impair sight lines for drivers or pedestrians, or as the number and location of such trees may otherwise be approved. Parking lots that abut residential districts or existing residential uses shall also provide a minimum ten-foot landscaped buffer strip on the affected side yards. Landscaping areas may be required or allowed to incorporate stormwater treatment measures to treat runoff from the adjacent parking areas. **[Amended 4-3-2023ATM by Art. 21]**
- B. Parking lots shall contain visual relief from vast expanses of unbroken pavement and cars. In parking areas 10,000 square feet but less than 40,000 square feet in area, landscaping islands containing trees of greater than six feet in height shall be provided at a rate of at least six per 80 parking spaces. At least half of these shall be of a species expected to mature to a height greater than 30 feet. Landscaping in islands shall be protected from damage from parking cars and snow removal operations.

- C. When the total amount of parking on a lot or building site exceeds 40,000 square feet, the parking shall be separated into smaller lots or segments of not more than 20,000 square feet each with dividers at least five feet wide and containing vegetation. In lots of this size cut into a hillside or rolling topography with relief greater than 15 feet, these segments shall be terraced with the slope and the divider strips stabilized against erosion.

§ 175-51. Parking and storage.

- A. No vehicles of any type in inoperable condition or without current license plates shall be parked or stored on any lot in a residential district other than in carports or completely enclosed buildings; provided, however, that one such vehicle may be kept behind the building line of the principal structure in any side or rear yard not abutting a public street or publicly used area. No large trucks, trailers, or other major transportation equipment shall be parked in any yard between the building line and a public street in any residential zone. Excepting, however, an unregistered vehicle that is the property of an Abington resident on active military service that is parked or stored on his/her lot or the lot of an immediate relative in a residential district. **[Amended 4-3-2006 ATM by Art. 13]**
- B. Parking lots where large trucks, trailers, and other major transportation or construction equipment are stored in the front yard area and which are visible from the street shall be screened from the street view by a solid fence at least six feet in height and/or a suitable dense vegetated evergreen buffer, unless otherwise waived or approved by the Planning Board for aesthetic, security or other business reasons. Refer to Article VI, § 175-27. **[Amended 5-21-2018 ATM by Art. 29]**

§ 175-52. Table of off-street parking regulations.

When the computation of parking spaces results in the requirement for a fractional space, any fraction over 1/2 shall require one additional space.

	Uses	Number of Parking Spaces
A.	Automobile repair garage	One space for each two employees in maximum employment on a single shift, plus one space for each 150 square feet of floor space
B.	Bank	One parking space for each 175 square feet of gross floor area on the lobby floor. Office area not on the lobby floor shall be treated in the same manner as business and professional offices. Refer to D below.
C.	Bowling alley	Five spaces for each alley.
D.	Business, professional, and other offices	One space for each 300 square feet of gross floor area

	Uses	Number of Parking Spaces
E.	Church, or other place of worship, college, or other institutions of higher learning, business, trade, or other schools, libraries, accessory uses to such facilities, schools, stadiums, and places of public assembly or theater	1 space per each 3 seats of occupancy
F.	Dwellings (one-family detached)	Three spaces per dwelling unit
G.	Dwellings (single-family attached, multi-family and accessory apartments) [Amended 4-6-2005 ATM by Art. 31; 6-8-2015 ATM by Art. 22]	Each one-bedroom unit, 1.3 spaces, each two-bedroom unit, 2.0 spaces, each three-bedroom unit, 2.6 spaces, each four-bedroom unit, 3.0 spaces, plus 0.5 additional space for each dwelling unit
H.	Food and beverage establishment	One space for each three seats or one space for each 50 square feet of net floor area
I.	General business, commercial or personal services, service establishment catering to the retail trade, including stores, variety stores, or drugstores	One space for each 300 square feet of gross floor area
J.	Hospital	One space for each bed
K.	Hotel/motel	One space for each unit, plus additional spaces for any public eating or assembly spaces as required in H and E
L.	Manufacturing uses and processing plants excluding warehouse area	One parking space for each two employees during the shift of maximum employment or one space for each 600 square feet of open or enclosed area devoted to the compounding, manufacturing or processing of any goods or articles, whichever is less, plus one space for each vehicle used in conjunction with the business
M.	Medical and dental clinics and offices	One space for each 200 square feet of gross floor area

	Uses	Number of Parking Spaces
N.	Mortuary	One space for each three seats within the chapel or one space for each 20 square feet of floor space not containing fixed seats within the chapel plus one parking space for each 400 square feet of gross floor area within the building outside the chapel
O.	Rooming houses, lodging houses, and clubs and fraternities having sleeping rooms	Two spaces for each structure plus one space for each guest room or sleeping unit
P.	Sanitariums, rest homes, nursing homes	One space for each two beds
Q.	Service stations	Four spaces for each service bay or similar facility
R.	Warehouse and storage building	One space for each 4,000 square feet of gross floor area, plus one space for each 400 square feet of office area

§ 175-53. Reduction in parking requirements.

Less parking than required in this article may be permitted by the Planning Board by special permit subject to the following:

- A. The applicant shall demonstrate that lower requirements are appropriate as demonstrated by data from the latest edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual, or from actual trip generation counts from similar uses.
- B. The area which would otherwise be devoted to parking spaces shall be kept in open space use and shall not be built on.
- C. The Building Inspector shall require the unbuilt parking area to be constructed at a later date if parking space is found to be inadequate to accommodate customers, patron, patients and/or employees.

§ 175-54. Location of loading spaces.

The loading spaces required by the Table of Off-Street Loading Requirements shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this bylaw.

§ 175-55. Table of Off-Street Loading Regulations.

Uses	Loading Spaces Required Per 1,000 Square Feet of Floor Area				
	2-15	15-50	51-100	101-150	Over 150
Retail trade, wholesale and storage, industry, communication and utilities	1	2	3	4	1 space for each additional 150,000 SF
Consumer services, hotel and dormitory, institutional, educational	1	1	2	3	

ARTICLE IX

Signs

[Amended 6-8-2015 ATM by Art. 17; 5-21-2018 ATM by Art. 27]**§ 175-56. Purpose and intent.**

The purpose and intent of this Bylaw shall be to assure that all signs be appropriate to the land, building or use to which they are appurtenant; be protective of property values and the safety of the public; and not unnecessarily detract from the historic qualities and characteristics of the Town of Abington without unduly restricting the conduct of lawful enterprise or expression.

§ 175-57. Permit requirements.

- A. General. Except as required by law and as otherwise set forth below, no sign shall be erected, altered or relocated without a permit issued by the Building Department. Where multiple signs are to be attached to a building, the exact location of the signs on the building shall be subject to approval by the Building Department at the time the permit is issued, which approval shall only be withheld due to safety concerns or nonconformity with this Bylaw.
- B. Applications. The applicant must submit to the Building Department a completed sign permit application, together with all supporting materials specifying building and sign dimensions, colors, attachment methods, position and location of the sign, including the height of the bottom and the top of the sign, and any other such pertinent information the Building Department may require to ensure compliance with this Bylaw and any other applicable laws.
- C. Fees. Fees for sign permits shall be paid in accordance with the schedule of fees established by the Board of Selectmen.
- D. Nullification; extension. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of 12 months from the date of the permit. For all sign permits, the Building Department may, in its discretion, issue an extension to the permit expiration date not to exceed six months.
- E. Compatibility with neighborhood and building context. Signs shall be visually compatible with the building, neighboring buildings, and the character of the neighborhood or district in which they are located. Signs shall be carefully located to avoid obscuring important architectural building features, property sightlines, and views.

Sign material(s), scale, coloring, and details should be compatible with the structure or context with which they are associated.

Any sign mounted to a building shall be in a location suitable for that particular sign. The scale and proportions of the sign shall be compatible with the surrounding building elements, and the materials shall be compatible with surrounding materials. Sign attachment shall be accomplished in such a manner that when the sign is removed, there is no permanent damage to the building or important architectural features.

Relocation of an existing, authorized sign to a new location requires review and approval by the Building Department. A sign which may have been well integrated with its previous location may not necessarily fit as well in a new location.

If lighting is proposed, it shall be placed appropriately given the location with a minimum of wattage

and ambient light. All lighting shall comply with the International Dark Sky Association (IDA) "fixture seal of approval" program certification standards. Applicant is responsible for providing such certification to the Building Department.

- F. Inspection. Any sign may be inspected periodically by the Building Department for compliance with this Bylaw. All signs and other advertising structures, together with all their supports, braces, hooks, guys and anchors, shall be of substantial and sturdy construction, shall be kept in good repair and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe and orderly appearance which does not noticeably display any of the following or similar conditions, including but not limited to: peeling paint, visible rust, visible rot, damaged support structures, or missing letters.
- (1) Notice of noncompliance. Written notice shall be given via hand delivery or certified mail to the owner of any sign which violates any section of this Bylaw, and if different, to the property owner upon which the sign is situated. Said notice shall describe the violation and required remedial action to be undertaken in order to bring said sign into compliance and a reasonable deadline to commence said remedial action, which shall not be less than 14 days except in cases of emergency or public safety.
 - (2) Response required. If an effort to bring the sign into compliance is not undertaken and completed within 14 days from the date of notice of violation, the Building Department shall cause the sign to be repaired or removed at the property owner's expense, subject to constitutional limitations, and/or to otherwise enforce this bylaw through noncriminal disposition and fines as provided in the General Bylaws.⁵⁴
- G. Removal of existing signs and abandoned signs.
- (1) Conforming signs may remain until and unless they violate this Bylaw.
 - (2) Any existing nonconforming sign legally erected prior to the adoption of this Bylaw may continue to be used and maintained, provided, however, that no such sign shall be enlarged or altered except in accordance with the provisions of this Bylaw.
 - (3) Any existing or nonconforming sign associated with a nonseasonal use which has ceased operations for 180 or more days and/or contains or exhibits panels, visible rust, visible rot, damaged support structures, or missing letters or which is otherwise dilapidated, unsightly or unkempt shall be considered an abandoned sign. Such signs are prohibited and may be removed in accordance with this Bylaw.

§ 175-57.1. Administration and penalties.

- A. Enforcement. The Building Department is hereby authorized and directed to enforce all of the provisions of this Bylaw. The Building Department may issue regulations and guidelines as necessary to implement the provisions of this Bylaw.
- B. Removal of signs. The Building Department shall order the removal of any sign erected or maintained in violation of this Bylaw. Fourteen calendar days' notice, in writing, shall be given to the owner of such sign, or of the building, structure, or premises on which such sign is located, to remove the sign or to bring it into compliance with the Bylaw. If the owner fails to come into compliance, the Building Department shall enforce this Bylaw through noncriminal disposition as provided in the Town of Abington General Bylaws Chapter 1, § 1-2.

54. Editor's Note: See Ch. 1, General Provisions, Art. I, General Penalty, § 1-2, Enforcement through noncriminal disposition.

§ 175-58. General regulations.**A. Illumination.**

- (1) Internally illuminated signs are not permitted, with the exception that the following types of internally illuminated signs are permitted on properties being used for commercial or business purposes:
 - Directional signs, such as "Enter" or "Exit" or "Parking," which may also include the business logo and which do not exceed two square feet.
 - "Open" and "Closed" signs which do not exceed two square feet.
 - Barber poles on barbershops.
 - Wall signs on buildings which are more than 100 feet from a street or from a driveway which provides access to said building.
 - Internally illuminated freestanding signs are permitted for business and commercial purposes.
- (2) Exterior illumination of signs shall be so shaded, shielded or directed as to create minimum ambient light, and so as not to directly reflect or shine on or into neighboring premises or into any public street. Exterior illumination shall be of the "top down" variety only. All lighting shall comply with the International Dark Sky Association (IDA) "fixture seal of approval" program certification standards. Applicant is responsible for providing such certification to the Building Department.
- (3) Neon "Open" and "Closed" signs not exceeding two square feet are permitted. All other outdoor neon lighting is prohibited.
- (4) No sign or advertising device shall be illuminated between 11:00 p.m. and 6:00 a.m., unless the use associated with said sign is being operated, such as a business open to customers or where an institution or place of public assembly is conducting an activity, illumination shall be allowed during the activity and for not more than 1/2 hour after the activity ceases. This restriction shall not apply to any signs or advertising devices required or related to public properties or public safety such as police and fire departments, hospitals, or as a sign permit may otherwise specifically allow.

B. Location of signs.

- (1) A parallel sign shall project no more than 12 inches from the building facade or surface.
- (2) No awning, canopy or projecting sign shall project more than five feet from the building face or come within two feet of a curbline.
- (3) The bottom of a sign on any awning or canopy shall not be lower than the awning or canopy to which it is attached. The bottom of a projecting sign shall be at least 10 feet above ground level.

- (4) The top of a freestanding sign shall extend no higher than 20 feet above ground level, and the bottom shall not interfere with vehicular or pedestrian traffic. No portion of a freestanding sign shall be located within 10 feet of a lot line.
 - (5) On any building with more than three stories, no sign or any portion thereof shall be allowed above the bottom of the sills of third story windows of the building on which it is mounted. On all other buildings, no sign or support for a sign may extend above the cornice line or higher than six feet on any parapet wall of the building to which the sign is attached.
- C. Exempted signs. The provisions of this Bylaw shall not apply to the following signs and no sign permit shall be required:
- (1) Nonconforming signs which existed prior to the adoption of this Bylaw.
 - (2) Any sign which is required or authorized by any law, rule, regulation or permit of the federal or state government or any agency thereof or any public authority created thereby.
 - (3) Any sign erected or placed on Town land or on public ways under the provisions of any Town Bylaw, building or safety code, or by direction or approval of the Town Manager or board or committee having lawful jurisdiction or control over such premises.
 - (4) Signs containing the street name and/or number of the building as assigned by the Assessor's office, to be located on the building and/or property in accordance with Chapter 25 of the General Bylaws. Said sign shall not exceed two square feet in residential zones.
 - (5) A memorial sign or tablet denoting a historical event or place, or the name of a structure and/or date of its construction, not to exceed four square feet on residential properties or six square feet in other districts, provided that nothing shall limit the authority of the Historical Commission from further regulating signs on duly designated historical structures or within duly designated historical districts.
 - (6) Signs containing cautionary messages, such as "Beware of Dog" or "No Trespassing," provided they do not exceed two square feet.
 - (7) Any directional or traffic safety sign not exceeding two square feet intending to direct traffic or indicate parking areas or restrictions (such as "Enter," "Exit," "No Parking," etc.), and which may also include the business logo. Provided these signs are erected in compliance with Town Bylaws and state regulations, they shall not be counted in the maximum sign number and sign area requirements for the lot or business.
 - (8) Display or expressions of political, religious, ideological, civic or charitable ideas shall be exempt from the provisions of this Bylaw, provided that no such sign shall be affixed to a traffic sign, tree or utility pole in a public way. Signs of such nature shall not exceed the maximum dimensional limitations permitted under this Bylaw.
 - (9) One flag displaying the word "Open" of no more than 15 square feet will be allowed per business. Decorative flags are permitted on residences.
 - (10) Signs on gasoline pumps indicating in usual size and form the name, type of gasoline and price thereof as required by statute.
 - (11) One unlighted ground sign advertising the sale, rental or lease of the premises or any part thereof, provided that such sign shall not exceed six square feet and shall be removed upon

completion of the sale, rental or lease transaction.

- (12) One unlighted ground sign in a subdivision of six or more approved lots, or in a multi-unit residential or commercial project, which advertises the sale, rental or lease of individual lots, units or buildings under construction therein, provided that such sign shall not exceed 20 square feet and shall be removed no later than one year after the installation of such sign. A permit may be obtained for such sign after the expiration of said one-year period.
- (13) One unlighted ground sign on a property which advertises the name and contact information of a contractor, vendor or service provider while such project or work continues, provided that such sign shall not exceed six square feet and shall be removed within seven days after cessation or completion of such work.
- (14) An A-frame or "sandwich board" style sign which does not exceed six square feet of signage on each side, provided that one such sign per business is displayed only during business hours in a location which shall be located within 10 feet of a business entrance and does not impede pedestrian safety.

D. Prohibited signs. Unless otherwise permitted in this chapter, the following signs are prohibited:

- (1) Signs which contain or consist of banners, inflatables, feather-type pennants, ribbons, streamers, spinners, other moving devices, or other similar devices and string of lights.
- (2) Signs which have blinking, flashing or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color, but not to include digital signs or electronic signs.
- (3) Signs illuminated by other than a stationary white or off-white steady light.
- (4) Signs which are attached to utility poles, trees, fences, or structures such as overpasses and bridges. Signs attached to other signs are prohibited unless such subsidiary portions are an integral part of the total sign design and part of the permit received from the Building Department.
- (5) Mechanically activated signs, other than rotating barberpoles.
- (6) Signs mounted on a vehicle or trailer chassis with or without wheels whose primary function is a sign for commercial advertising and not for the transport of goods or merchandise.
- (7) Any sign installed at or near an intersection which obstructs free and clear vision, or which by reason of its position, shape, and color or otherwise may create confusion or a hazard to pedestrian or vehicular traffic.

E. All freestanding signs identifying the property are required to have the physical street address on them to aid public safety agents in time of an emergency. Said street address may be part of or separate from the sign and shall not be included in the calculation of the sign's area, and the sign cannot obstruct sight lines. **[Added 5-24-2021ATM by Art. 21]**

§ 175-58.1. Residential districts.

In a residential district which consists of R20, R30, R40 Districts, the following signs are permitted:

- A. One sign displaying the street address or name of the occupant on premises, or both, not exceeding two square feet in area.

- B. One bulletin or announcement board or identification sign for a permitted nonresidential building or use, not more than 10 square feet in area. For churches and institutions, membership clubs, funeral establishments, hospitals, schools, other places of public assembly, community facilities or public utilities one bulletin or announcement board or identification sign not more than 10 square feet in area is permitted on each building.
- C. One professional or home occupation sign (provided such professional use or home occupation is permitted), or one sign identifying a nonresidential building or use permitted in a residential district, not to exceed six square feet. When more than one business exists on a residential district site, the total area of signs on that site shall not exceed six square feet.
- D. In R-20, R-30 and R-40 zoning districts, one sign identifying each public entrance to a subdivision or multifamily development such as apartments or townhouses, of not more than six square feet in area. In addition, each family unit may be identified by a single sign of not more than one square foot.

§ 175-58.2. Commercial and industrial districts.

In all other zoning districts, the following signs are permitted:

- A. For a structure containing a single commercial or industrial business occupant and which is set back at least 30 feet from a street, a freestanding sign of an area not exceeding 32 square feet. Multiple occupancy business buildings may have one freestanding sign not exceeding 100 total square feet with signboards for tenants provided no sign/placard advertising a single tenant or the name of the building or commercial site may exceed 32 square feet. Where two or more businesses are located in a single building or within attached buildings or within a cluster of buildings sharing a common driveway, only one freestanding sign is permitted.
- B. For a structure containing a single commercial or industrial business occupant, one sign paralleling the street or customer parking area and attached flat to the facade of the establishment advertised as long as such sign does not exceed one square foot in area for each horizontal foot of building frontage.
- C. Multi-occupancy business buildings may also have wall signs per the following provisions:
 - (1) Residential-style office or retail buildings. Each unit may have a wall sign near its exterior building entrance, not to exceed three square feet. All signs must be of similar size and design.
 - (2) Multi-floor/multi-tenant industrial-style building. Each unit may have one wall sign not exceeding 32 square feet installed on the portion of the building the business occupies or near its building entrance. All signs must be of similar size and design.
 - (3) Strip mall retail buildings. Each unit may have one wall sign not to exceed 20 square feet. All signs must be generally consistent with other signs on the building. Stores or businesses sharing common private parking facilities such as shopping centers and strip malls may also cooperatively display one ladder sign in view of the public way or site driveway not to exceed 100 square feet in area provided no sign/placard advertising a single tenant or the name of the building or commercial site may exceed 32 square feet. Such ladder sign shall be located adjacent to the parking entrance. One occupant may have a sign on such ladder with dimensions two times as large as all other occupants' signs. All other occupants' signs shall be of the same or similar dimensions.
- D. Where there are three or more businesses on a lot, or there are businesses without an entrance on the street frontage, a directory sign may be permitted for the purpose of traffic direction and control. The

size of the directory sign shall not exceed nine square feet plus 1 1/2 square feet per business establishment.

- E. In TOD and CBD zoning districts one sign identifying each public entrance to a subdivision or multifamily development such as apartments or townhouses, of not more than 12 square feet in area.
- F. Retractable or fixed awnings projecting from the wall of a building for the purpose of shielding the doorway or windows from the elements may include signage on the valance. Any signage on a valance shall be in one row only and such signage shall not be included in the calculation of the total permitted sign area for the business, provided that no lettering or symbol is greater than six inches in height.
- G. Projecting signs may be substituted for wall signs with the following provisions:
 - (1) All projecting signs on multi-occupancy buildings must be of similar size and design.
 - (2) No projecting sign shall exceed eight square feet.
 - (3) For businesses with entrances on more than one side of a building, a projecting sign shall be allowed to be installed on no more than two sides of the building.
- H. Window signs may not occupy more than 25% of the total window area on any building wall.
- I. Digital signs or electronic signs are allowed only by special permit from the Zoning Board of Appeals, and shall comply with the following minimum requirements:
 - (1) Must be part of a nontemporary sign.
 - (2) Messages may not be changed any less than once every 60 seconds, unless a longer time is required by the Zoning Board of Appeals.
 - (3) Does not incorporate any form of scrolling, fading, or movement of any kind as part of the change of message.
 - (4) Does not incorporate any form of animation, moving letters, flashing images or flashing lights.
 - (5) Does not incorporate any form of chasing borders or animation of any kind in the sign structure or message.
 - (6) Does not incorporate or use live or recorded video feed or sound.
 - (7) Sign shall utilize auto dimming to external ambient light conditions.
- J. When signage is part of site plan review pursuant to the Zoning Bylaw, the Planning Board shall review the types of signage, size and location associated with a project under site plan review to determine compliance with this Bylaw. As part of its review, the Planning Board may obtain the written opinion of the Building Department as to whether the proposed signs are in compliance with this Bylaw. Waivers may be granted by the Zoning Board of Appeals in accordance with § 175-58.3 of this Bylaw.

§ 175-58.3. Waivers.

Consideration may be given to an application for a sign or sign program that deviates from the fixed criteria allowed under this Bylaw. In such cases the merits of the specific application will be considered relative to the context in which the signage will be located, particular attention paid to: site distances,

visibility, existing and proposed architecture, site and building entrances, neighborhood character, project scale, lighting and historic appropriateness.

A waiver of any regulation of this Sign Bylaw shall require a public hearing before the Zoning Board of Appeals, be thoroughly documented and shall not constitute precedent for similar signage on the same or any other property.

Public hearing. The Zoning Board of Appeals shall hold a public hearing within 45 days of the receipt of a complete application, and shall issue a written decision within 14 days from the time of the closing of the hearing, unless such time is extended by agreement between the applicant and the said Board of Appeals. Notice of the public hearing shall be given at least seven days prior to the hearing by publication and posting and by first class mail to abutters and abutters to the abutters within 300 feet of the property line of the subject property according to the most recent Assessors' listing.

The Zoning Board of Appeals may grant a waiver by a majority vote if the applicant sufficiently demonstrates to the Board that:

- A. A literal enforcement of the provisions of this Sign Bylaw would involve hardship, financial or otherwise, to the applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this Sign Bylaw; and
- B. That at least one of the two following conditions exists:
 - (1) The proposed signage is designed to be harmonious with, and not harmful, injurious or objectionable to existing or future uses in the area; and
 - (2) The unique conditions and circumstances are not the result of the actions of the applicant taken subsequent to the adoption of this Sign Bylaw.

§ 175-58.4. Temporary signs.

- A. A sign permit from the Building Department is required for temporary signs. All temporary signs must be installed with permission of property owners and must be removed within the time specified by the Building Department or this Bylaw when the permit is issued. Temporary signs are not to be attached to a utility pole, traffic signs, fences, trees or other vegetation. The Building Inspector or his/her designee shall be authorized to remove and dispose of any signs on public property which violate this restriction.
- B. Temporary signs shall not be illuminated.
- C. Temporary signs shall be located on the property of the business or use they serve, except real estate signs, and shall be limited in size to eight square feet per side.
- D. Temporary signs shall not be located on Town-owned property without written permission from the Town Manager or his designee.
- E. Temporary signs to identify a new business or use, which comply with the requirements for permanent signs, shall be allowed for up to one year while a new business is being established.
- F. A sign permit is required for temporary signs in all cases except for the following:
 - (1) Political, ideological, charitable, civic or religious message signs with the permission of the property owner.

- (2) Yard sale signs being displayed no more than two days prior to the event and removed within 24 hours following the sale. Yard sale signs shall not be installed on Town-owned or publicly owned lands, including commons, parks and open space.
- (3) Contractor or vendor signs (up to six square feet in total area) being displayed while the specific contractor or vendor is actively at work, or for no more than seven days following final building permit inspection, completion or suspension of such work. Business event signs, such as advertising an intermittent "sale," agricultural or unique product, when such signs are in compliance with temporary sign regulations and are attached to or part of an approved sign framework.
- (4) Freestanding special event signs for institutional, religious or not-for-profit organizations, which comply with temporary sign regulations. Such signs are not to be displayed for more than two weeks prior to the event, and are to be removed within two days following the event. No more than one such temporary sign shall be displayed on the same property.
- (5) "Grand Opening," "Open House" or celebratory signs, such as to welcome a returning soldier, up to 25 square feet, which are displayed for not more than two weeks.
- (6) A single small window sign, which is less than 1.5 square feet in size, not illuminated, displayed for not more than two weeks, and not displayed in conjunction with any other temporary sign posted in a window at the same address.
- (7) Signs pertaining to the lease or sale of a lot or building, provided that such signs do not exceed a total area of six square feet, until such time as all lots, apartments or buildings have been rented or sold.

§ 175-58.5. Special provisions.

- A. Off-premises sign. Requires a permit and a waiver from the Zoning Board of Appeals and must have the property owner's written permission.

§ 175-58.6. Definitions.

As used in this Bylaw, the following words shall have the meanings indicated:

AREA OF SIGN — The area of a sign shall include all lettering and accompanying symbols or designs, together with the background, whether open or enclosed, on which they are displayed. The area shall not include basic supporting framework and bracing.

The area of a sign painted directly upon a building shall include all lettering and accompanying designs or symbols, together with any background of a different color than the finished material of the building face on which the sign is painted.

The area of a sign consisting of individual letters or symbols painted or attached to a building, wall, or window shall be the area of the smallest rectangle or triangle which encompasses all of the letters or symbols.

A double-faced sign with a maximum of two faces shall be deemed to be one sign having an area equal to the area of one side.

A.
BUILDING DEPARTMENT — The Building Inspector or his/her designee.

BUSINESS ESTABLISHMENT — An independent economic unit, in a single physical location, conducting a business.

DIGITAL OR ELECTRONIC SIGN — A computerized or otherwise programmable electronic visual communication device used for advertisement purposes for goods and services, specifically manufactured for the outside environment.

FRAMEWORK — A decorative and/or functional structure designed to securely hold a changeable temporary sign panel and constructed of material(s) and a theme that are compatible with the building, use, or site which they serve.

FREESTANDING SIGN — A sign which is not attached to a building.

ILLUMINATED SIGN — A sign whose surface is lighted, internally or externally, and which identifies, advertises or attracts attention to a use or activity on the premises.

ILLUMINATED SIGN (EXTERNALLY) — Sign where the source of the illumination is outside the sign and light is reflected off the surface of the sign.

ILLUMINATED SIGN (INTERNALLY) — Signs where the source of the illumination is inside the sign or from behind the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source.

OFF-PREMISES SIGN — Any sign which announces, advertises or gives directions to a business, commodity, service, activity or person elsewhere than the lot or building where the sign is located.

PROJECTING SIGN — A sign supported by a building wall that is attached perpendicularly or at an angle to the wall on which it is mounted.

SIGN — Any object, device, display or structure, or part thereof, which is placed outdoors or which is placed indoors but intended to be visible from the outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. "Sign" shall include, without limiting the generality of the foregoing, billboards, pennants, ribbons, streamers, moving devices, marquees, and similar devices. "Sign" shall not include national, state or municipal flags, athletic scoreboards, official announcements or signs of the government, or temporary holiday decorations customarily associated with any national, local or religious holiday.

TEMPORARY SIGN — A sign or advertisement designed and intended to be displayed for a limited period of time and not permanently mounted. Some examples of temporary signs include special event signs and construction signs.

§ 175-59. Severability.

The invalidity of any section or provision of this Bylaw, or its application to any sign, shall not invalidate any other section or provision, or the application of the Bylaw to any other sign.

§ 175-60. Interpretation; conflicts.

This Bylaw is not intended to interfere with, abrogate or annul any other bylaw, regulation, statute, or other provision of law. Where any provision of this Bylaw imposes restrictions different from those imposed by any other regulation, bylaw, or other provision of law, whichever provisions are more restrictive or impose higher standards shall apply.

ARTICLE X
Environmental Performance

§ 175-61. General.

The requirements and regulations set forth in this section apply to all developments under this bylaw.

§ 175-62. Sewerage.

The disposal of sanitary wastes shall be accomplished in a safe and adequate manner subject to the rules and regulations of the Abington Board of Health and the Massachusetts Department of Environmental Protection. The proposed method of sanitary sewage disposal shall be shown precisely on plans.

§ 175-63. Surface water drainage. [Amended 4-3-2023ATM by Art. 22]

All surface water drained from roofs, parking lots, streets, and other site features shall be disposed of in a safe and efficient manner and shall not create problems of water runoff or erosion on the site in question or on other sites. Insofar as possible, natural drainage courses, swales properly stabilized with plant materials or paving when necessary, and drainage impounding areas shall be utilized to dispose of water on the site through natural percolation. Green roofs may be used on commercial, industrial, and similar construction for treatment of rooftop runoff, should appropriate site conditions and construction techniques allow for feasible implementation.

§ 175-64. Erosion control.

- A. All slopes shall be stabilized by adequate ground cover or other approved means to prevent erosion and to retard excessive runoff. Means of preventing erosion during construction shall be provided to the satisfaction of the Building Inspector.
- B. Natural slopes shall be retained insofar as possible when sitting structures. Finish contours shall direct surface drainage around structures rather than directly against them, using swales or other approved means.
- C. No portion of any lot whose slope equals or exceeds 20% shall have any structure built on it except by special permit from the Board of Appeals.
- D. Upon completion of grading and replacement of topsoil, slopes shall be appropriately stabilized according to the following guidelines: slopes greater than 35% should be avoided in most cases; slopes between 25% and 35%, riprap or terracing should be used; slopes between 10% and 25%, sod, or established vegetation or seedlings in association with webbing material placed over the soil; slopes between 4% and 10%, plant seed in association with webbing placed over the soil, or heavy mulch or gravel.

§ 175-65. Vegetation and preservation of tree canopy. [Amended 4-3-2023ATM by Art. 23]

- A. Purpose. The purpose of this section is to protect Abington's green canopy, help the Town mitigate the effects of climate change, keep Abington's roadways visually appealing, and meet the requirements of the Stormwater Permitting Authority's regulations, while providing applicants with appropriate and reasonable flexibility in their designs.
- B. As part of the documents required for a site plan review application or a definitive subdivision application, and in order to fulfill stormwater management requirements limiting site runoff caused

by the removal of trees, applicants shall file a document containing a survey of all trees greater than 6 inches in diameter at 4 1/2 feet above ground level, and a map of the areas where proposed clearing activities will take place. Natural tree coverage and other desirable natural foliage shall be preserved on all lots to the maximum extent possible, except for areas where essential construction activity and the creation of reasonable yard areas will be taking place. All trees greater than 6 inches in diameter shall be indicated on all appropriate project documents.

- C. The applicant shall plant trees at a ratio of 1 tree for every 3 trees of 6 inches of diameter or greater removed, and the trees shall be of a species suited to the soil and climate of the area, shall be in healthy condition, and shall be a minimum of 20 feet in height and 6 inches in diameter 4 1/2 feet above ground level when mature.
- D. In designing their landscaping plan, applicants may choose from one of the following options:
 - (1) Street trees - In order to provide a uniform streetscape look, the developer shall plant trees parallel to the street line and approximately every 90 feet if the trees are between 12-25 feet at full maturity, or every 70 feet if the trees are in excess of 25 feet of height at full maturity. A list of acceptable trees shall be available at the Planning Board office. Streetscape trees must be planted no closer than 5 feet from the edge of pavement or utilities.
 - (2) Custom Groves - The developer may opt to plant a minimum of 4 trees in a manner that provides additional canopy, a natural boundary between property lines, a grove-style landscaping feature, or other enhanced landscaping designs. The trees shall be at least 20 feet in height at full maturity. The trees shall consist of a mix of varieties of appropriate native species or cultivars. A list of acceptable trees shall be available at the Planning Board office.
 - (3) An alternative design that meets the spirit of this bylaw while also providing flexibility for the applicant based on topographical features, environmental needs, the location of utilities, or other factors that create a unique hardship.
- E. The permit granting authority shall review and vote whether to approve the landscaping plan as presented by the applicant if the landscaping plan meets the requirements of this bylaw.

§ 175-66. Buffer strips.

In order to protect residential land uses from potential noxious or disruptive effects of adjacent land uses of different character, the following buffer areas shall be provided:

- A. Where commercial, multi-unit residential or industrial uses adjoin existing residential properties or residential districts, whether developed or undeveloped, adequate buffering shall be provided along all lot lines adjoining the residential properties in addition to that required in § 175-29. A buffer strip of at least 20 feet in width shall be reserved and screening shall be provided in the form of a natural growth of trees, if existing; or a natural growth of trees and thick planting; or a double row of evergreen trees not less than eight feet in height and not more than 20 feet apart, the spacing of one row centered on the spacing of trees in the other; or a solid screen types fence six feet in height complemented by suitable plantings.
- B. Buffer strips shall be in conformance with the provisions of § 175-27.
- C. The owner of property adjacent to residential properties shall cause the buffer zones to be provided and constructed at such time as the property is developed as permitted under this bylaw.
- D. Established business and industrial properties actively engaged in business at the time of the

acceptance of this bylaw shall not be required to provide the buffer zone construction until such time that a building or the lot itself is expanded or enlarged. **[Amended 4-4-2022ATM by Art. 16]**

- E. The owner of said properties shall be required to maintain buffer strips in a clean and safe manner. Any trees or plantings which die shall be replaced.
- F. Any fencing or buffering along lot lines intersecting with a street shall be required to either terminate or be no higher than four feet within 20 feet from the street line, and shall in any event terminate at least 10 feet in from the street line. Strict compliance with these buffering requirements of § 175-66 may be waived or adjusted by a majority vote of the Planning Board during site plan review when good cause is shown, including, but not limited to, proposed topography and building locations, aesthetics and sight lines, existing vegetation on the locus and/or abutting properties which will likely remain, or other characteristics of the locus property and/or abutting properties. **[Added 6-8-2015 ATM by Art. 18]**
- G. No residential front yard may be completely enclosed by a solid fence, unless the portion of the fencing running parallel to any street is no higher than four feet, and no portion of the solid fence is located within 10 feet of any street line, or take any other action relative thereto. **[Added 6-8-2015 ATM by Art. 18]**

§ 175-67. Other site features.

All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities, or other utility facilities shall be located or visually screened so as not to create hazards, visual or other nuisances such as odor or attraction of vermin. Light fixtures, walls, fences, benches, recreation facilities, and other such site appurtenances shall be harmoniously designed, constructed, and located in relation to other site features.

§ 175-67.1. Outdoor lighting. [Added 4-7-2004 ATM, Art. 10]

- A. The purpose of this bylaw provision is to create standards for outdoor lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property within Abington. It is the intent of this section to encourage, through the regulation of the types, construction, installation and uses of outdoor electrically powered illuminating devices, lighting practices and systems that will:
 - (1) Reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of Abington;
 - (2) Conserve energy and decrease lighting cost without decreasing nighttime safety, security, and productivity; and
 - (3) Preserve the night sky as a natural resource to enhance nighttime enjoyment of property within Abington.
- B. The requirements of this section shall apply to all zoning districts, but shall exclude one- and two-family residential uses.
- C. Definitions. Except as noted hereinafter, all definitions are provided in the Zoning Bylaw. Unless the context clearly indicates otherwise, certain words and phrases used in this section shall have the meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Article II, Definitions.

COLOR RENDERING INDEX (CRI) — A measurement of the amount of color shift that objects

undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from zero to 100, where 100 represents incandescent light.

COLOR TEMPERATURE — Color temperature or chromaticity refers to the color appearance of the light that comes from a light source, also referred to as correlated color temperature (CCT). The apparent color of a light source is measured in degrees Kelvin or "K." A low color temperature corresponds to "warm." Incandescent lamps are in the range of 2,700 degrees K. "Cool" light comes from sources such as cool white fluorescent lamps operating at 4,100 degrees K. Lights appear bluer above 4,100 degrees K.

CUTOFF ANGLE — The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

DIRECT LIGHT — Light emitted directly by a lamp, off a reflector, or through a refractor of an outdoor light fixture or luminaire.

EFFICACY — Efficacy is the rate at which a lamp is able to convert electrical power (watts) into light (lumens), expressed in terms of lumens per watt.

FILTERED — When referring to an outdoor light fixture means that the fixture is to be fitted with a glass, acrylic, or other translucent enclosure of the light source.

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

FULLY SHIELDED LUMINAIRE — A lamp and fixture assembly designed with a cutoff angle of 90 degrees, so that no direct light is emitted above a horizontal plane.

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

HEIGHT OF LUMINAIRE — The vertical distance from the finished grade of the ground directly below to the lowest direct light emitting part of the luminaire.

INDIRECT LIGHT — Direct light that has been reflected off other surfaces.

LAMP — The component of an outdoor light fixture that produces light.

LIGHT TRESPASS — The shining of direct and/or reflected light produced by a luminaire beyond the boundaries of the property on which the outdoor or indoor light fixture is located.

LUMEN — A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of the bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

LUMNAIRE — Complete lighting unit, consisting of one or more lamps (bulbs or tubes that emit light), along with the socket and other parts that hold the lamp in place and protect it, wiring that connects the lamp to a power source, and a reflector that helps direct and distribute the light.

SHIELDED — When referring to an outdoor light fixture means that the fixture allows no up light and/or light trespass.

UP LIGHT — Direct light emitted by an outdoor light fixture above a horizontal plane through the fixture's lowest light emitting part.

- D. Shielding. All outdoor light fixtures subject to this bylaw shall be shielded.

E. Prohibited light sources.

- (1) Mercury vapor and quartz lamps. For the purposes of this bylaw, quartz lamps shall not be considered an incandescent light source.
- (2) Laser source light. The use of laser source light or any similar high-intensity light for outdoor advertising, when projected above the horizontal, is prohibited.
- (3) Searchlights. The operation of searchlights for advertising purposes is prohibited except by special permit.

F. Metal halide lighting. All outdoor light fixtures utilizing a metal halide lamp or lamps shall be shielded and filtered. Filtering using quartz glass does not meet this requirement.

G. Outdoor advertising signs. Outdoor light fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. Where internally illuminated signs are proposed only cool temperature lighting may be used.

H. Outdoor lighting plan.

- (1) Wherever outside lighting is proposed, every application for a building permit, a special permit, a special permit with site plan review, a variance, or an electrical permit for exterior lighting or lighted sign shall be accompanied by a lighting plan, which shall show:
 - (a) The location and type of any outdoor lighting luminaires, including the height of the luminaire;
 - (b) The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
 - (c) The type of lamp, such as: metal halide, compact fluorescent, high-pressure sodium with color temperature (Kelvin) and CRI indicated;
 - (d) A photometric plan showing the intensity of illumination at ground level, expressed in footcandles; and
 - (e) That light trespass onto any street or abutting lot will not occur in excess of 0.5 footcandles within 25 feet beyond the lot line. This may be demonstrated by manufacturer's data, cross section drawings, or other means. Minor violations of this standard may be waived by the SPGA or the Zoning Enforcement Officer where the objectives of § 175-67.1A will be achieved. **[Amended 6-8-2015 ATM by Art. 20]**
 - (f) The requirement of submission of a photometric plan may be waived by the applicable permit granting authority if the proposed location, height, luminaire specifications and other relevant information demonstrate that no light trespass issues will occur. **[Added 6-8-2015 ATM by Art. 20]**
- (2) When an existing outdoor lighting installation is being modified, replaced, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this section.
- (3) Standards:
 - (a) All outdoor light fixtures subject to this bylaw shall be shielded and control glare and light

trespass.

- (b) All outdoor light fixtures using a metal halide lamp or lamps shall be shielded and filtered. Filtering using quartz glass does not meet this requirement.
 - (c) Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.
 - (d) All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel. This shall not apply to any luminaire intended solely to illuminate any freestanding sign and/or the walls of any building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.
 - (e) All lamps subject to this bylaw shall have a minimum color temperature of 2,000 degrees K and a maximum color temperature of 3,700 degrees K.
 - (f) Lamp types shall be selected within the allowable color temperature range of 2,000 to 3,700 degrees Kelvin, for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer.
 - (g) The use of highly efficient lamp sources in conformance with this bylaw is encouraged.
- I. Hours of operation. Outdoor lighting and/or outdoor illuminated signs for commercial and industrial uses shall not be illuminated between 11:00 p.m. and 6:00 a.m., with the following exceptions:
- (1) If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than 1/2 hour after the activity ceases;
 - (2) Low-level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 footcandle.
- J. Wall pack lighting: shall not be used as direct illumination beyond 25 feet off the face of any building or structure. **[Amended 6-8-2015 ATM by Art. 20]**
- Exception: Decorative lighting fixtures with 70 watt maximum light fixture and municipal uses.
- K. Special permits. When site plan review is required, the Planning Board shall act as the special permit granting authority (SPGA) under this section, and otherwise the Zoning Board shall act as the SPGA. The SPGA may grant a special permit modifying the requirements of this section. **[Added 6-8-2015 ATM by Art. 20]**

ARTICLE XI
Nonconforming Uses, Structures, and Lots

§ 175-68. Applicability.

The provisions of this article apply to nonconforming uses, structures and lots as created by the initial enactment of this Bylaw or by any subsequent amendments.

§ 175-69. Continuance and enlargement.

Any lawful use of any structure or land or both may be continued although not conforming with the provisions of this bylaw, but no such lawfully nonconforming use or structure shall be changed, extended or enlarged in any manner except as provided for herein.

§ 175-70. Abandonment.

- A. Abandonment. If any nonconforming use of land or of a building is discontinued for a period of two years or more such land or building shall thereafter be used or developed only in accordance with the terms of the Abington Zoning Bylaw for the zoning district(s) in which such property is located.
- B. Restoration. Any nonconforming building or structure which has been damaged or destroyed by fire or other casualty may be repaired or rebuilt, provided, however, that the repaired or rebuilt structure shall be no less conforming than the structure that was so damaged or destroyed. All such reconstruction must commence within two years from the date of said damage or destruction.
[Amended 4-6-2005 ATM, Art. 27]

§ 175-71. Reduction.

- A. Any nonconforming lot or open space on the lot (including but not limited to yards, setbacks, courts, or building area) if already smaller than that required shall not be further reduced so as to be in greater nonconformity. Any conforming lot or conforming setbacks on the lot shall not be reduced so as to not conform with the requirements of this bylaw.
- B. Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

§ 175-72. Change of use.

- A. Any nonconforming use of a structure may be changed to another nonconforming use, provided the new use is not a substantially different use, as provided below and approval for such change is granted a special permit by the Board of Appeals. For the purpose of this section, a substantially different use is a use which by reason of its normal operation, would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics, from the existing nonconforming use.
- B. If any nonconforming use is changed to a conforming use, it shall not thereafter be put into any nonconforming use.

§ 175-73. Moving.

Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of such structure, and the use thereof, shall be conforming without the the issuance of a

special permit by the Zoning Board of Appeals.

§ 175-74. Unsafe structure.

Any structure determined to be unsafe may be restored to a safe condition provided that such work on any nonconforming structure shall not place it in greater nonconformity.

ARTICLE XII
Administration and Enforcement

§ 175-75. Administration officer and duties.

This bylaw shall be administered by the Building Inspector except as otherwise stipulated in this bylaw or in Chapter 40A of the Massachusetts General Laws. Duties of the Building Inspector under this bylaw shall include the receiving of applications, issuing building and use permits, inspection of premises, issuing certificates of occupancy, action on violations, and any other lawful actions necessary to assure conformance with this bylaw.

§ 175-76. Permits.

- A. It shall be unlawful for any person to erect, construct, reconstruct, or alter a structure without applying for and receiving from the Building Inspector a building permit.
- B. Such permits shall be applied for in writing to the Building Inspector.
 - (1) The Building Inspector shall not issue any such permits unless the plans for the buildings, and the intended use thereof in all respects fulfill the provisions of this bylaw, except as may have been specifically permitted otherwise by action of the Board of Appeals, provided a written copy of the terms governing any such permission be attached to the application and to the resulting permit issued.
 - (2) No building permit shall be issued without the approval and endorsement of the Water Dept. Sewer Department and/or the Board of Health, except those permits for which the Water Dept. Sewer Department and/or the Board of Health have previously notified the Building Inspector that their approval is not necessary.
 - (3) One copy of each such permit issued, including any conditions or exceptions attached thereto, shall be kept on file in the office of the Building Inspector; one copy sent to the applicant.
- C. Each application for a permit to build, alter, or move a building shall be accompanied by three copies of a plot plan of the proposed development. This plot plan shall be drawn to a usable scale, normally not smaller than one inch equals 10 feet for small proposals, or one inch equals 40 feet for large proposals.
 - (1) Such plan shall include:
 - (a) Location map;
 - (b) Actual size and shape of lot and structures, including foundation elevations;
 - (c) Dimensions, areas and location of sewage disposal systems;
 - (d) Abutting streets and ways, including approved street grades;
 - (e) Existing sanitary sewers, storm drains and water pipes in any street shown;
 - (f) Location of existing buildings on adjacent lots;
 - (g) Existing conditions and features of the proposed lot including contours at two-foot intervals;

- (h) Parking, screening, landscaping and other site elements required under this bylaw;
 - (i) Proposed finish grading at two-foot contour intervals, and all provisions for drainage affecting the site or adjacent properties; Such other information as the Building Inspector may reasonably require, including a plan of the entire subdivision in the case of single-family homes.
- (2) For additions to existing single-family homes, or for additions to other uses which would be less than 750 square feet in area, which would not be in any required yard, the Building Inspector may require only the size and shape of the lot, the existing structure, and the proposed addition be shown on the plan submitted.

§ 175-77. Site plan review.

A. General provisions.

- (1) Except as provided herein, no building construction, renovation or alteration; excavation or foundation activities; or change in use shall be initiated unless a site plan is first submitted and approved by the Planning Board acting as the reviewing authority and a building permit is issued by the Building Inspector; and no certificate of occupancy shall be given unless all construction and conditions conform to the approved site plan.
- (2) The following activities shall not require a site plan review or approval:
 - (a) The construction of or addition to single- and two-family detached residences and accessory uses to single- and two-family detached residences, such as: private garage, tool house, garden greenhouse, swimming pool or other similar use;
 - (b) Repairs or improvements to the interior of a building that do not involve a structural change or enlargement of the building as determined by the Building Inspector;
 - (c) Renovations or alterations to a building exterior which may include a vertical structural change and/or an extension or enlargement of the building of not more than 20% of the existing footprint's gross square area, so long as said change, extension or enlargement does not violate any height or setback requirements or encroach into any wetland areas. **[Amended 6-8-2015 ATM by Art. 25]**
- (3) Notwithstanding the provisions of Subsection A(2) above, the Building Inspector shall require a site plan review and approval by the Planning Board if, in his/her judgment, the proposed construction, alteration or change of use will negatively and substantially affect existing traffic circulation, drainage, landscaping, lighting, off-street parking or other elements of the environment. **[Amended 6-8-2015 ATM by Art. 25]**
- (4) Where a small addition (an addition to a principal building less than 2,000 square feet) to an existing structure is proposed, the standards established by the bylaw shall be applicable only to the new addition.
- (5) A public hearing with notification to abutters per Chapter 40A Section 11 shall be required for all commercial or industrial site plans that meet or exceed one or more of the following thresholds: **[Amended 4-2-2007 ATM by Art. 11]**
 - (a) Total floor area on the lot is equal to or greater than 20,000 SF.

- (b) Total parking spaces required by Article VIII, § 175-52 of this Bylaw is 50 or greater.
- (c) Total vehicle trips per day generated by the proposed use or uses exceeds 400 vehicle trips per day as determined by the Institute of Traffic Engineers (ITE) manual (current edition).
- (d) Projects which encroach into a residential zoning district per § 175-13.

B. Site plan submission requirements are set forth as follows:

- (1) The plan submitted shall be drawn to a scale of at least one inch equals 40 feet, and shall be prepared by a registered professional engineer and/or registered professional land surveyor as appropriate.
- (2) There shall be submitted at the same scale as the site plan a professionally surveyed plan of existing site features including the size of the property; the existing and proposed topography at two foot contour intervals; general soil types as indicated on soil maps available from the U.S. Soil Conservation Service; vegetation cover including accurate locations of wooded areas and major trees, as well as roads, structures, or other significant features.
- (3) A locus map shall be included to indicate the location of the property within the Town. This map shall include the zoning district(s) for the area.
- (4) In order to allow adequate consideration of the surroundings, a plan of adjacent properties shall be presented at a scale of not less than one inch equals 100 feet or at the same scale as the site plan if practical. This plan shall show the general characteristics of all lands within 300 feet of the proposed site, including structures, parking areas, driveways, pedestrian ways, and significant natural features.
- (5) The site plan and any other drawings necessary shall precisely indicate at least, but not necessarily be limited to, the following:
 - (a) Area of the site.
 - (b) Proposed uses of the land.
 - (c) Vehicular and pedestrian circulation system, including pavement widths and rights of way.
 - (d) Parking.
 - (e) Buffers and all landscaping.
 - (f) All proposed structures, including their exact location, relation to topography, height and bulk.
 - (g) Number and type of dwelling units, if any.
 - (h) Service access and facilities for all structures or uses including garbage and trash disposal facilities.
 - (i) Location of all existing and proposed utilities for water supply and sewerage.
 - (j) All site drainage including natural courses and storm drains including drainage calculations.
 - (k) The location of all open space including its intended use, all proposed landscaping

elements by size and location, and details required by § 175-65. **[Amended 4-3-2023 ATM by Art. 23]**

- (l) Finish contours of the topography, measures and structures to minimize soil erosion during construction.
- (m) Significant site appurtenances such as walls, light poles, and recreation areas.
- (n) Date, true North point, and the name of the owner and applicant.
- (o) Complete property dimensions, area, setbacks, zoning, including overlay zoning, and assessors reference.
- (p) Location of property on flood plain maps as well as the location of all waterbodies, or wetlands on or within 100 feet of the property, if applicable.
- (q) A design for the storm drainage systems prepared by a registered professional engineer demonstrating that post development rates do not exceed that pre-development rates.
- (r) Location of all existing and proposed easements.
- (s) Location of all outdoor refuse disposal areas, which shall be screened.
- (t) Lighting plan showing location, direction, and intensity of all existing and proposed lighting.
- (u) Location, size, and type of signs.
- (v) Elevation sketches or photographs indicating the proposed exterior architectural appearance of the building(s). **[Added 5-22-2017 ATM by Art. 18]**

C. Site plan review and approval.

- (1) The Planning Board, acting as reviewing authority shall adopt and from time to time amend rules relative to the form, content, style, number of copies of plans and specifications, and the procedure for submissions and approval of such application. A copy of said rules shall be filed in the office of the Town Clerk.
- (2) The reviewing authority shall evaluate each application on the basis of protecting the health, safety, and welfare of the prospective occupants, the occupants of neighboring properties, the provision of adequate services, and to preserve and enhance amenities of the Town. In addition to compliance with land space and building space requirements, each application shall provide for:
 - (a) Traffic safety and ease of access at street and highway entrances and exits of driveways, including proper grades, sight distances, and distances between driveway entrances, exits and the nearest existing street or highway intersections;
 - (b) Safety and adequacy of driveway layout, off-street loading areas for materials and products, off-street loading sites for customers, and sufficiency of access for service vehicles and emergency vehicles;
 - (c) Adequacy of pedestrian walks to include maximum safety and separation from vehicular traffic and to provide access to nearby open spaces or other pedestrian destinations when possible;

- (d) Safe and adequate means of disposal of sewerage, garbage and rubbish with visual screening of these facilities when needed, and safety and adequacy of water supply and distribution;
 - (e) Assurance of proper means to handle storm-water drainage and snow melt runoff from all areas on the site;
 - (f) Adequacy of night lighting as appropriate for safe use of streets, parking areas, and walks.
 - (g) Appropriateness of the proposed exterior architectural appearance, specifically that it generally conforms to the Historical New England character of the Town or the general character of existing surrounding structures. **[Added 5-22-2017 ATM by Art. 18]**
 - (h) Structures facing streets. Structures with main entrances/fronts facing away from the street shall incorporate additional architectural and landscaping details along the street front to improve the streetscape. If the structure is not visible from the street the applicant may request a waiver. **[Added 5-24-2021ATM by Art. 30]**
- D. Design/field changes. During the course of construction, if conditions necessitate the material alteration of the approved site plan, the applicant must notify the Planning Board in writing and must have the design changes approved and incorporated into an amended plan, which will require approval by the Board. Failure to do so will result in penalties as outlined in Subsection E. **[Added 5-24-2021ATM by Art. 26]**
- E. Penalties. Any failure to build in accordance with the approved site plan shall be subject to a penalty determined by the Board commensurate with the need to mitigate the extent of the failure of the applicant to build the project according to the approved plan or to have the applicant completely remove the unapproved work. See § 175-80, Enforcement, and § 175-81, Violations and penalties. **[Added 5-24-2021ATM by Art. 26]**

§ 175-78. Certificate of occupancy.

- A. It shall be unlawful to occupy any structure or lot for which a building or use permit is required herein without the owner applying for and receiving from the Building Inspector a certificate of occupancy.
- B. The certificate of occupancy shall state that the building and use comply with the provisions of the Zoning Bylaw and of the Building Code in effect at the time of issuance. The Building Inspector shall consult with the Board of Health or its designated agent prior to issuing said certificate and, in the case of structures in a subdivision undergoing development, with the Planning Board.
- C. A certificate of occupancy shall be required for any of the following in conformity with the Building Code and this bylaw:
 - (1) Occupancy and use of a building hereafter erected or structurally altered.
 - (2) Change in use of an existing building or the use of land to a use of a different classification.
 - (3) Any change in use of a nonconformation structure or use.

§ 175-79. Permit and certificate fees.

Fees shall be as established by the Board of Selectmen.

§ 175-80. Enforcement.

The Board of Selectmen shall enforce the provisions of this bylaw through the Building Inspector, as provided in this section, but nothing in the bylaw shall authorize the Board of Selectmen to issue a permit to any person for the constructing, reconstructing, extending or repairing a building or structure or for using a building, structure or lot.

- A. If a written complaint is made to the Selectmen or the Selectmen have reason to believe that any provision of this bylaw is being or is about to be violated, they shall make or cause an investigation to be made of the facts. Where complaint is made to the Selectmen, they shall take action upon such complaint within 14 days of receipt thereof and shall report such action in writing to the complainant.
- B. If the Selectmen find no violation or prospective violation, any person aggrieved by their decision, or any officer or Board of the Town, may within 10 days appeal to the Board of Appeals.
- C. If the Selectmen find a violation or prospective violation they shall give immediate notice in writing to the owner and to the occupant of the premises and shall order him to cease and desist and refrain from such violation. Any person aggrieved by their decision, or any officer or Board of the Town, may within 10 days appeal to the Board of Appeals.
- D. If, after such order, such violation continues and no appeal to the Board of Appeals is taken within 10 days, the Selectmen shall forthwith make application to the Superior Court for an injunction order restraining the violation and shall take such other action as is necessary to enforce the provisions of the bylaw.
- E. If after action by the Selectmen, appeal is taken to the Board of Appeals, and after a public hearing, the Board of Appeals find that there has been a violation or prospective violation, the Selectmen shall issue an order to cease and desist and refrain from such violation unless such order has been previously issued under § 175-80C.
- F. If such violation then continues, the Selectmen shall forthwith make application to Superior Court for an injunction or order restraining the violation and shall take such other action as may be necessary to enforce this bylaw.

§ 175-81. Violations and penalties.

Penalties for violations of any provision of this bylaw may upon conviction be affixed in an amount not to exceed \$300 for each offense. Each day, or portion of a day, that any violation is continued shall constitute a separate offense.

§ 175-82. Board of Appeals.

- A. Membership. There shall be a Board of Appeals of three members and two associate members.
- B. Appointment. Members of the Board in office at the effective date of this bylaw shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Enabling Act. All members of said Board shall be residents of the Town.
- C. Rules. The Board shall adopt rules to govern its proceedings pursuant to Chapter 40A and 40B. Such rules shall be public and a copy of same shall be filed with the Town Clerk.
- D. Powers. The Board of Appeals shall have the following powers:

- (1) To hear and decide upon an appeal by any officer or Board of the Town, or by any person aggrieved by any order or decision of the Building Inspector, or Selectmen, in violation of any of the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts or any amendments thereto, or any provisions of this bylaw.
- (2) To hear and decide applications for special permits as provided by sections of this bylaw.

Any special permit granted by the Board of Appeals shall lapse if substantial use or construction has not commenced within two years of the expiration date of the appeal period, or such time required to pursue or await the determination of an appeal whichever is later unless otherwise stated elsewhere in this Zoning Bylaw.

In case of conflict Chapter 808 of the Acts of 1975 as amended of the Commonwealth of Massachusetts shall govern.

- (3) To authorize a variance for a particular use of a parcel of land or for an existing building thereon after public hearing for which notice has been given by publication and posting as provided in Article XII, § 175-82E of this bylaw and by mailing to all interested parties. To grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of this bylaw where the Board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially deviating from the intent of this bylaw. The Board may impose conditions, safeguards, and limitations both of time and for use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner. If rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse and may be reestablished only after new notice and public hearing.
- E. Public hearings. The Board of Appeals or the special permit granting authority as the case may be shall hold a public hearing within 65 days from the receipt of an appeal or a petition, or a request for a special permit, give notice thereof in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication being not less than 14 days before the hearing, and by mailing postage prepaid a copy of such advertisement to the applicant and to each owner as appearing on the most recent tax list of land abutting and to the abutter of the abutters of within 300 feet of the lot of land in question, whichever distance is greater. All fees for required advertising shall be assumed and paid by the applicant directly to the newspaper in which the advertisement is carried. Legal notice is to be composed according to the requirements of Chapter 40A, and shall be constructed by the Zoning Board of Appeals or the special permit granting authority. All postage for required abutter notification will be provided by the applicant to the secretary of the Zoning Board of Appeals or SPGA, as the case may be.
- F. Decision. The Board of Appeals shall make a decision on the appeal, application or petition within

100 days after the date of filing except in regard to special permits. For a special permit, the Board or the special permit granting authority shall act within 90 days following the date of the public hearing. The decision of the Board of Appeals shall be filed with the Town Clerk along with detailed reasons therefore and all plans as finally approved. Copies shall be sent to the Building Inspector, the Planning Board, and to the applicant.

- G. Other requirements. The granting of any appeal by the Board of Appeals shall not exempt the applicant from any provision of this bylaw which has not specifically been ruled upon by the Board of Appeals or specifically set forth as expected in this particular case from a provision of this bylaw. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Board in authorizing a special permit or variance without appealing to the Board as a new case over which the Board shall have complete administrative power to deny, approve or modify.
- H. Appeal to District or Superior Courts. All appeals are to conform to the provisions stated in the Zoning Enabling Act, Chapter 40A, General Laws of the Commonwealth. A copy of the Zoning Enabling Act is on file with the Board of Appeals.
- I. In case of conflict, Chapter 808 of the Acts of 1975, as amended, of the Commonwealth of Massachusetts, shall govern.

Part II: Rules and Regulations

Chapter 200

SUBDIVISION RULES AND REGULATIONS

[Adopted by the Planning Board of the Town of Abington 1-22-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Wetland protection — See Ch. 171.

Zoning — See Ch. 175.

ARTICLE I

Scope**§ 200-1. Authority.**

Under the authority vested in the Planning Board of the Town of Abington by Section 81Q of Chapter 41 of the Massachusetts General Laws said Planning Board hereby adopts these "Rules and Regulations Governing the Subdivision of Land in the Town of Abington, MA."

§ 200-2. Purpose.

These Rules and Regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Abington by regulating the laying out and construction of ways in a subdivision providing access to the several lots herein, but which have not become public ways, and insuring sanitary conditions in a subdivision and in proper cases parks and open areas. The powers of the Planning Board and of a Board of Appeal under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in Abington and with the ways in neighboring subdivisions and towns. It is the intent of the Subdivision Control Law and these Rules and Regulations that any subdivision plan filed with the Planning Board shall receive the approval of the Board if said plan conforms to the recommendation of the Board of Health and to the Rules and Regulations of the Planning Board Governing the Subdivision of Land. The Board may, when appropriate, waive as provided for in Section 81R of the Subdivision Control Law, such portions of the Rules and Regulations as is deemed advisable.

§ 200-3. Planning Board procedures.

- A. Regular meetings of the Planning Board are held on the dates and times as posted with the Town Clerk. Except for executive sessions as provided for in Section 23A of Chapter 39 of the General Laws as amended, meetings of the Planning Board shall be open to the public to attend. Anyone desiring to meet with the Board shall do so by appointment except as provided for elsewhere in these Regulations. To secure an appointment, all applicants shall notify the Planning Board in writing 14 days before a regularly scheduled meeting by delivery to the secretary to the Board or care of the Town Clerk. In such notice the applicant shall state their name, address and a brief outline of the nature of the business to be discussed with the Planning Board.
- B. Any person attending an advertised public hearing may address the Board at the pleasure of the Chairman without prior notice and in so doing shall state their name, address and person represented, if any.
- C. All meetings of the Board shall be conducted formally under the direction of the Chairman of the Board. In the absence of the Chairman, the Vice Chairman shall act as Chairman. A majority of the members of the Board shall constitute a quorum but less than a majority may vote to adjourn, subject to the meeting being rescheduled as hereinafter provided. All other action of the Board shall require a majority vote of all the members. In the event that there is less than a quorum present at any scheduled meeting, the Chairman shall reschedule a meeting as soon as practicable thereafter.

- D. The Planning Board may require any applicant to produce evidence of ownership, or authority of an agent.

§ 200-4. Subdivision.

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town of Abington, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Board and endorsed by the Town Clerk as hereinafter provided.

§ 200-5. Effective date.

Approved as amended January 22, 2001.

§ 200-6. Reference to statutory provisions.

For matters not covered by these Rules and Regulations, reference is made to Chapter 41, Sections 81K to 81GG, of the Massachusetts General Laws, as amended.

ARTICLE II
General Provisions

§ 200-7. Definitions.

- A. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, most recent edition.
- B. For the purpose of these Rules and Regulations, unless a contrary intention clearly appears, the terms and words defined in the Subdivision Control Law shall have the meaning given therein. The following other terms and words shall have the following meanings:

ABUTTER — Owners of land directly adjacent to property lines of the applicant and owners of land directly opposite on any public or private street or way, as they appear on the most recent tax list, notwithstanding that the land is located in another city or town.

ABUTTER'S LIST — A list of abutters as defined by these Rules and Regulations, and which has been certified by the Board of Assessors.

APPLICANT — All the owners of record of the land stated in the application for subdivision. An agent, representative or his assigns may act for an owner, provided written evidence of such fact is submitted to the Board. Evidence in the form of a list of their officers and designated authority to sign legal documents shall be required for a corporate owner.

BOARD — The Planning Board of the Town of Abington, Massachusetts established under Section 81A of Chapter 41 of the Massachusetts General Laws.

BOARD'S AGENT — A duly authorized consultant retained or appointed by the Planning Board to review plans, observe construction, and/or administer these Rules and Regulations.

DEFINITIVE PLAN — A plan of a proposed subdivision or resubdivision of land drawn in accordance with Article III, § 200-12 of these Rules and Regulations that will be recorded in the Registry of Deeds or filed with the Land Court when approved by the Board.

DESIGNER — Professional engineer and land surveyor registered to practice in Massachusetts. All public and private utility design and other engineering practices as defined in Section 81D of Chapter 112 of the General Laws shall be done by or under the direct supervision of, and shall be endorsed by, a registered professional engineer. All layout of lands and subdivisions shall be done by or under the direct supervision of, and shall be endorsed by, a registered land surveyor.

DEVELOPER — An owner or their agent, representative, or assigns.

ENGINEER — A person registered or legally permitted to practice professional engineering in the Commonwealth of Massachusetts.

GENERAL LAWS — The General Laws of the Commonwealth of Massachusetts.

MHD — Massachusetts Highway Department.

NAVD — 1988 North American Vertical Datum.

PRELIMINARY PLAN — A plan of a proposed subdivision or resubdivision of land drawn in accordance with these rules and regulations.

ROADWAY or TRAVELED WAY — The portion of a street intended for vehicular use.

STREET OR WAY —

- (1) A way, street or road open and dedicated to public use, including a public way or a way certified by the Town Clerk to have been used and maintained by public authorities as a public way, a way approved and constructed under the provisions of the Subdivision Control Law, or a private way in existence prior to said Subdivision Control Law having become effective in the Town of Abington and having, in the opinion of the Board, adequate width, grades, and construction for the vehicular traffic and the installation of municipal services to serve the land abutting on such way and the buildings erected or to be erected thereon. The Planning Board shall not deem a way adequate for the purposes of the Subdivision Control Law whether approval is required or not required and these Rules and Regulations unless said way meets the following minimum standards:
 - (a) A right of way width of 40 feet.
 - (b) A traveled way of 16 feet exclusive of berms or curbs.
 - (c) An all-weather surface of bituminous concrete, which is in suitable condition to allow access for emergency vehicles.
 - (d) The way shall be properly graded so as to allow for drainage of surface water runoff as determined by the Board or its agent.
- (2) Streets shall be classified as follows:
 - (a) Arterial street: existing and proposed streets that are primarily used, or will be used by through traffic at speeds generally in excess of 40 miles per hour or as determined by the Planning Board.
 - (b) Collector streets: existing and proposed streets that carry or will carry traffic from residential or minor streets to the system of arterial streets at speeds generally between 30 and 40 miles per hour or as determined by the Planning Board. All commercial and industrial subdivisions shall be designed as collector streets.
 - (c) Minor streets: existing or proposed streets that are used primarily for access to abutting residential properties for traffic at speeds of generally less than 30 miles per hour.
 - (d) Local streets: existing or proposed streets that are used only for access to abutting residential properties, are permanently dead end, and provide access for no more than 12 dwellings.
 - (e) Dead-end: any street, group or extension of streets, which has only one means of access.

SUBDIVISION — The division of a tract of land into two or more lots and shall include resubdivision, and shall relate to the process of subdivision on the land or territory subdivided. The division of a tract of land into two or more lots shall not constitute a subdivision if, at the time it was made, every lot within said tract has frontage, in compliance with the Zoning By-Law, on a public way as laid out by the Selectmen or a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan previously approved under subdivision control, or a way in existence on March 8, 1947, having in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular and pedestrian traffic and municipal services in relation to the proposed use of the land abutting thereon or served. (See definition of "street" or "way.") Conveyances or other instruments adding to, taking away from, or

changing the size and shape of lots, or the division of a tract of land, on which two or more buildings were standing on March 8, 1947, into separate lots, on each of which one such building remains standing, shall not constitute a subdivision.

SUBDIVISION CONTROL LAW — The power of regulating the subdivision of land granted by Section 81K to 81GG, inclusive, of Chapter 41 of the General Laws and any acts in amendment thereof, addition thereto or substitution therefor.

SURVEYOR — A person registered or legally permitted to practice land surveying in the Commonwealth of Massachusetts.

THESE RULES AND REGULATIONS — The "Rules and Regulations Governing the Subdivision of Land in Abington, MA" as adopted and amended by the Planning Board pursuant to Section 81Q of the Subdivision Control Law.

UTILITIES — Municipal services, including stormwater drainage system, sewerage systems, water supply piping, fire alarm conduits and equipment, cable, electric, telephone and other communications wiring, gas and all appurtenances thereof.

ZONING BY-LAW AND ZONING MAP — Zoning By-Law shall mean the Abington Zoning By-Law, as amended; Zoning Map shall mean the Abington Zoning Map, as amended.

§ 200-8. Plan believed not to require approval.

A. Submission requirements.

- (1) Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that the plan does not require approval under the Subdivision Control Law shall submit to the Planning Board:
 - (a) The original plan and three copies.
 - (b) The required filing fee as set forth in Appendix C of these Rules and Regulations.
 - (c) Two Form A applications, both with original signatures.
 - (d) Any other evidence to show that the plan does not require approval under the Subdivision Control Law.
- (2) Application shall be made at a scheduled meeting of the Planning Board. The plans shall not be deemed to be submitted until receipt has been acknowledged by the Planning Board's signature on each copy of the application form. Said person shall also file, by delivery or certified mail, a notice with the Town Clerk stating the date of submission to the Board, accompanied by a copy of said receipted application.
- (3) If the Board determines that the plan does not require approval, it shall, without a public hearing, endorse forthwith on the plan the words "Planning Board approval under Subdivision Control Law not required." Such action shall not be construed to indicate compliance with the provisions of the Zoning By-Law. Said plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its action in writing.
- (4) If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within 21 days of the date of submission give written notice of its determination to the Town Clerk and to the applicant by delivery or certified mail.

- (5) An applicant may submit a plan for approval as provided by law and the Rules and Regulations of the Board, or may appeal from the determination of the Board in the manner provided in MGL Chapter 41, Section 81BB.
- (6) If the Board fails to act upon a plan submitted under this section within 21 days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.

B. Contents.

- (1) A plan shall be legibly drawn in accordance with the latest rules and regulations of the Registry of Deeds, pertaining to plan size, material, lettering and related requirements. The plan scale shall preferably be 40 feet to the inch or such other scale as the Board may accept and shall contain the following:
 - (a) Identification of the plan by name of owner of record and location of the land in question; Abington Assessors' map(s) and parcel(s) numbers on which the land is located; the scale, North point and date; and the name, signature and stamp of the registered land surveyor.
 - (b) Sufficient space for the date and the signature of the Clerk of the Board shall be provided.
 - (c) Zoning classification; the location of any and all zoning district boundaries including all flood zones established by FEMA which may lie within the locus of the plan.
 - (d) In the case of the creation of a new lot, the new lot area and remaining land area and frontage of the land in the ownership of the applicant shall be shown.
 - (e) Notice of any decisions by the Zoning Board of Appeals, including but not limited to special permits and variances, regarding the land or any buildings thereon.
 - (f) The names of abutters adjacent to the land and across adjoining ways as obtained for the most recent local tax list unless the applicant has knowledge of any changes subsequent to the latest available Assessor's records.
 - (g) The names and status (private or public) of streets and ways shown on the plan.
 - (h) The location of all existing easements of record as well as existing buildings and the location of septic systems, if any.
 - (i) The location of all brooks as well as all wetland areas as defined by the Wetlands Protection Act⁵⁵ shall be shown.
- (2) A locus map shall be provided at the same scale as the Zoning Map.

§ 200-9. Basic requirements.

No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any land within the Town, or proceed with the improvements or sale of lots in a subdivision, or the construction of ways, or the installation of municipal service therein, unless and until a definitive plan of such subdivision has been submitted to, approved and endorsed by the Planning Board as well as endorsed by the Town Clerk, as hereinafter provided.

⁵⁵ Editor's Note: See MGL c. 131, § 40.

§ 200-10. Number of dwellings per lot.

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. Such consent may be conditioned upon providing of adequate ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.

ARTICLE III

Procedure for Submission and Approval of Subdivision Plans**§ 200-11. Preliminary subdivision plans.**

- A. General. A preliminary plan of a subdivision in a residential zoning district may be submitted by the subdivider for discussion and action by the Board. In the case of a nonresidential subdivision the subdivider shall submit to the Planning Board and the Board of Health a preliminary plan in accordance with these Rules and Regulations. The submission of such a preliminary plan will enable the applicant, the Board, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared.
- B. Filing procedure.
- (1) Any person submitting a preliminary plan shall give written notice to the Town Clerk, by delivery or registered mail of a Form B;⁵⁶ such notices shall identify the tract, the date of submission to the Planning Board, and the name and address of the owner. A plan shall not be deemed to have been submitted unless it has been delivered at a scheduled meeting of the Board or when sent by certified mail to the Board, care of the Town Clerk. If so mailed, the date of mailing shall not be the date of submission of the plan, but the date of the next scheduled Board meeting shall be deemed to be the date of submission.
 - (2) In order for an application to be deemed complete the applicant shall file:
 - (a) Two copies of a Form B application, each with original signatures.
 - (b) A list of abutters certified by the Board of Assessors.
 - (c) The required filing fee as set forth in Appendix C of these Regulations.⁵⁷
 - (d) Eighteen sets of prints filed with the Planning Board and one print filed with the Board of Health.
 - (e) Addressed and stamped envelopes in a quantity sufficient to deliver a first-class mail notice to each abutter regarding the scheduling of the Board's meeting to discuss the preliminary plan.
 - (3) The Planning Board shall file within 14 calendar days copies of the plan with the Conservation Commission, Water Department, Sewer Department, Highway Department, Building Inspector, the Board of Selectmen, the Police Department, and Fire Department, for their review and written comments.
- C. Contents. A preliminary plan shall be at a scale of one inch equals 100 feet or larger. The preliminary plan shall identify all easements, rights-of-way, covenants, or restrictions applying to the proposed subdivision. In addition, the preliminary plan shall provide the following information:
- (1) The subdivision name, boundaries, magnetic North point, date, scale, legend, and the title "Preliminary Plan;"
 - (2) The name(s) of the owner of record, the applicant; the stamp and signature of a registered land

56. Editor's Note: Form B is included at the end of this chapter.

57. Editor's Note: Appendix C is included at the end of this chapter.

surveyor if surveying information is shown and the stamp and signature of a registered professional engineer if the plan shows the design of road pavements, water pipes, sewerage or other utilities;

- (3) The existing and proposed lines of streets, ways, easements, and any public areas within and adjacent to the subdivision in a general manner;
 - (4) The proposed system of drainage and utilities, including adjacent existing natural waterways, showing the approximate locations of all inlets, outlets, pipes and drains and other appurtenances to the proposed drainage system;
 - (5) The approximate boundary lines of all existing and proposed lots within and abutting the tract, with approximate areas and dimensions;
 - (6) The names, location, approximate area, and approximate dimensions of existing and adjacent streets, ways, easements and public areas;
 - (7) The proposed locations and depths of other municipal services and utility installations where possible;
 - (8) The topography of the land in a general way, footprints of existing buildings and significant structures, site features such as ledge outcroppings, bodies of water, streams or other waterways, walls, fences, existing easements, delineated wetlands, and predominant vegetation;
 - (9) Zoning classification(s) of the area and the approximate location of any zoning district boundaries.
- D. Key plan. The plan shall also include a copy of the Town Zoning Map at a scale of one inch equals 600 feet showing the location of the proposed subdivision drawn to scale.
- E. Planning Board action on preliminary subdivision plans.
- (1) The Planning Board will meet with the applicant to discuss the proposed plan and any modifications or corrections to the preliminary plan. The Board may also visit and inspect the property proposed for subdivision under the provisions of Section 81CC of Chapter 41 of the General Laws as amended. Furthermore, the Planning Board will notify the applicant as well as all abutters to the proposed subdivision by regular mail of the date, time and place at which the Board will discuss the preliminary plan.
 - (2) The Board may approve, disapprove, or approve with modifications in writing such preliminary plan within 45 days after submission of the plan. In case of disapproval, the Planning Board shall advise the applicant in writing of the specific reasons for which the plan is disapproved, thus enabling the applicant to resubmit the plan.
 - (3) The rules and regulations of the Planning Board in effect at the time of submission of the preliminary plan shall govern the definitive subdivision plan evolved from such preliminary plan provided such definitive plan is submitted within seven months of the date of the submission of the preliminary plan. Further, approval of a preliminary plan does not constitute approval of a subdivision or waivers of the regulations, but it shall be deemed an expression of approval to the layout submitted on the preliminary plan as a guide to the applicant's preparation of a definitive plan.
 - (4) Written notice of the Board's actions must be given by the Board to the applicant, and Town

Clerk within 45 days of the date of submission. Failure to act within that time shall be considered as an approval of the preliminary plan.

- F. Preliminary sketch. A preliminary sketch, showing less information than required for a preliminary plan, may be submitted by an applicant for an informal review and comments from the Board. Such preliminary sketch will not have the status of a preliminary plan, and the comments or the recommendations of the Board shall be conditioned on the extent of information shown on the sketch. Applicants are urged to submit such preliminary sketches in order to obtain the Board's comments regarding the overall layout and the location of proposed streets in a future subdivision, thus avoiding the expense and delays necessitated by changes in a definitive plan, if submitted without such preliminary plan review.

§ 200-12. Definitive plan of subdivision.

- A. General. The subdivision rules and regulations and the Zoning By-Law in effect at the time of the submission of the preliminary plan shall govern the definitive plan if said plan is duly submitted within seven months of the date of the filing of the preliminary plan. If a preliminary plan has not been submitted, the Subdivision Rules and Regulations and the Zoning By-Law in effect at the time of submission of the definitive plan to the Planning Board shall govern the definitive plan until final action has been taken by the Planning Board or the time for such action has elapsed.
- B. Filing procedure.
- (1) In order to be deemed complete, applicants submitting a definitive plan of a subdivision for approval, or for approval of a street profile, or for approval of improvements to so-called "paper streets," or for a revision of a subdivision previously approved, where such revision requires a public hearing shall submit to the Planning Board the following:
 - (a) Two copies of a properly executed Form C application,⁵⁸ provided by the Planning Board, each with original signatures.
 - (b) A list of abutters certified by the Board of Assessors.
 - (c) Addressed and stamped envelopes in a quantity sufficient to deliver first-class mail notice to each abutter regarding the scheduling of the Board's meeting to discuss the definitive plan.
 - (d) The required filing fee as set forth in Appendix C.⁵⁹
 - (e) Eighteen sets of prints filed with the Planning Board and one print filed with the Board of Health.
 - (f) Three copies of any supplemental materials relating to the definitive plan, including but not limited to drainage calculations, traffic studies, etc.
 - (2) The definitive plan shall not be deemed to have been submitted unless it has been delivered to the Planning Board at a scheduled meeting or has been sent via registered mail to the Planning Board care of the Town Clerk. If so mailed, the date of mailing shall not be the date of submission of the plan, but the date of the next scheduled Board meeting shall be deemed to be the date of submission.

58. Editor's Note: Form C is included at the end of this chapter.

59. Editor's Note: Appendix C is included at the end of this chapter.

- (3) Simultaneously, a complete set of prints of such definitive plans will be submitted to the Board of Health, the Conservation Commission, the Sewer Commissioners, the Water Commissioners, Highway Department, Building Inspector, Selectmen, Police Department, and Fire Department by the Planning Board. The applicant shall also by delivery or registered mail file written notice to the Town Clerk stating the date of submission of the definitive plan accompanied by a copy of the receipted completed application (Form C)⁶⁰.

C. Contents.

- (1) All sheets of the definitive plans shall be clearly and legibly drawn in accordance with the current rules and regulations of the Registry of Deeds. The plans shall be drawn in waterproof ink (or an ink with equivalent cohesiveness) on polyester film, single matte with a thickness of 0.004 mils, and must have an opacity so as to allow consistent diazo and microfilm reproduction or any other material as required by the Registry of Deeds or Land Court. Plan sizes shall be 24 inches by 36 inches with three-fourths-inch border. The minimum letter size on plans presented for recording shall be 1/8 inch.
- (2) Drafting standards shall include the following: dimensions shall be in feet and decimals to the nearest hundredth; bearings in degree, minutes, and seconds; the boundary of the subdivision to be indicated in a solid heavy line; existing topography in dashed lines; proposed topography in solid lines; and if multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision with match lines and with a key plan on each sheet properly orientated and a title block on each sheet properly labeled.
- (3) A list of abutters certified by the Board of Assessors shall accompany the definitive plan and shall include the name and mailing address of all the abutters as they appear on the most recent tax list.
- (4) A vicinity map shall be drawn at a scale of one inch equals 600 feet to show on one sheet all of the proposed subdivision, all of other adjacent land of the applicant and other adjacent properties to the nearest existing street in every direction. Important ground features such as brooks, public areas, lot lines, easements and streets only need be shown in a general manner and labeled. No dimensions need be given except where of specific importance in evaluating the subdivision. The limits of the proposed subdivision shall be indicated by a heavy line or by use of color. Existing and proposed features should be distinguished by different lines, labeling or other methods.
- (5) Each sheet of the definitive plans shall contain the following information:
 - (a) Subdivision name, boundaries, magnetic North, date of submission (and revision dates), legend and scales, suitable space to record the action of the members of the Planning Board. A three-and-one-half-inch square reserved for Registry of Deed use and a certification clause signed by the preparer stating that he/she has conformed with the rules and regulations of the Registry of Deeds in preparing the plan shall be provided on all sheets to be recorded.
 - (b) Name and address of the record owner(s) and applicant; the stamp and signature of a registered land surveyor and registered professional engineer.
 - (c) Suitable space to record the notice of the Planning Board covenant and the date thereof as

60. Editor's Note: Form C is included at the end of this chapter.

well as the Town Clerk certificate of no appeal shall be provided on each of the lotting sheets.

- (d) Existing and proposed lines of streets, ways, lots, easements, waterways and public or common areas within the subdivision. The purpose of all easements shall be clearly indicated.
- (e) Location of all permanent monuments properly identified as to whether existing or proposed. All benchmarks shall be tied to and employ the NAVD datum system if possible.
- (f) Location, names and present width of streets, bounding, approaching or within 300 feet of the subdivision.
- (g) Existing and proposed topography at one-foot contour intervals; existing contours to be shown by dashed lines and proposed contours to be shown by continuous solid lines, properly labeled.
- (h) Lengths, radii, bearings, and central angles to determine the exact location, direction, and length of every street and way line, lot line, easement line and boundary line.
- (i) Zoning classifications, including FEMA floodplain zones. Wetlands as defined by the Wetlands Protection Act shall also be shown along with the name of the firm responsible for the delineation and the date of the delineation.
- (j) Watercourses, marshes, ledge outcrops, walls, fences, and trees over 10 inches in diameter at six feet above grade and other significant natural features.
- (k) Size and location of existing and proposed storm drainage, sanitary sewerage, and water supply systems. Existing and proposed electric/telephone/gas/CATV and other utilities shall also be shown.

The following items shall be submitted and must be prepared and/or certified by a registered professional civil engineer.

- (l) Soil conditions in a general way, using if desired, the U.S. Department of Agriculture Soil Conservation Study for Plymouth County, latest edition, to describe the relationship of soils to seasonal high-water table, soil limitations for roads and soil limitations for house sites, and hydrologic soils group.
- (m) Storm drainage system including invert and rim elevations of all catch basins and manholes together with surface elevations of all waterways within the subdivision at one-hundred-foot intervals and approximate depth of water at these points. Surface elevation and approximate depth of water shall be shown at each point where a drainage pipe ends at a waterway.
- (n) Location of all the following improvements unless specifically waived in writing by the Board: street paving, sidewalks, and street signs, including but not limited to stop, warning, directional, and speed limit signs, streetlighting standards, all utilities above and below ground, curbs, gutters, street trees, storm drainage, public sewerage if appropriate, all easements, and the fire alarm boxes.

- (o) Profiles of the proposed streets and drainage/sewer lines outside of the street layout indicating the following information:
 - [1] A horizontal scale of one inch to 40 feet.
 - [2] A vertical scale of one inch to 4 feet.
 - [3] Existing center line in fine dashed line with elevations shown at fifty-foot stations.
 - [4] Proposed center-line grades and elevations, with elevations shown at twenty-five-foot stations, except that in vertical curves elevations shall be shown at fifty-foot stations, and at all high and low points.
 - [5] All existing intersecting walks and driveways shown on both sides.
 - [6] Rates of gradient along with vertical curve data shall be shown.
 - [7] Size and location of existing and proposed water mains and their appurtenances and surface drains and their appurtenances.
 - [8] Profiles shall show vertical location of waterlines, drainage lines, sewer lines and other utilities as well as required new waterways. Sizes of all pipes shall be shown as well as inverts of all pipes at each manhole or catch basin, together with center-line stations, rim and invert elevations of all catch basins, and manholes; and invert elevations of all cross drains, sanitary sewers, or culverts. Complete profiles shall be included for each proposed main water line, all proposed sewerage system lines, all proposed drainage lines, whether or not within the subdivision or in the roadways.
- (p) Cross section of typical catch basins and sewer and drainage manholes.
- (q) Three copies of all computations and worksheets originally sealed and endorsed by a registered civil engineer, used in designing the storm drainage system.
- (r) Any special construction details or detailed drawings or other pertinent information that the Planning Board may request as is necessary to evaluate the feasibility of the proposed design of the subdivision.
- (s) Detail drawings: Any special construction features, deviating from or not covered by standard specifications, shall be shown on detail drawings. Such detail drawings may be incorporated as part of a utility plan or profile or may be executed on separate sheet or sheets and shall provide information as to dimensions, locations, inverts, rim elevations, elevations, materials, etc., of the construction details involved. The requirement for detail drawings shall be applicable, but not limited to, bridges, culverts, structurally stabilized slopes, utility piping encased in concrete, ditches and brooks shaped or constructed to a definite cross section, dams and spillways, stormwater management devices, detention basins, steps within the exterior lines of the street and similar construction features.
- (t) The applicant shall provide base flood elevation (level of one-hundred-year flood) data for any land being developed within the federal flood insurance district, as shown on the latest FEMA mapping. For subdivisions in an unnumbered "A" Zone, the applicant shall be responsible for establishing the base flood elevation as required by the latest FEMA regulations.

D. Earth removal. The approval of a subdivision by the Planning Board does not constitute an authority

to remove earth materials from the site. The developer shall be required to comply with the provisions of all by-laws, and with any other laws and regulations relative to the removal of soil, loam, sand, gravel, rock, and other earth materials.

- E. Review by the Board of Health as to suitability of the land. The Board of Health shall report to the Planning Board, in writing, its approval or disapproval of said plan. The Board of Health shall make its report to the Planning Board within 45 days after the filing of the definitive plan. In case of disapproval, it shall make specific findings, the reasons for them, and, where possible, make recommendations for adjustments. Any special conditions imposed by the Board of Health, such as lots which cannot be used for building sites, shall be either inscribed on the plan or contained in a separate document. The applicant shall abide by the Board of Health regulations pertaining to subdivisions and should consult with the Board of Health for a copy of its current rules and regulations and for other requirements necessary for Board of Health review prior to drafting definitive plans.
- F. Public hearing. Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Board at the expense of the applicant in each of two successive weeks by advertisement in The Enterprise and The Patriot Ledger or any other newspaper of general circulation in the Town of Abington as determined by the Planning Board. The first notice being not less than 14 days before such hearing; the second notice being not less than seven days before such hearing. The Planning Board shall notify by first-class mail the abutters (as provided by the developer in the submission of the definitive plan) to the proposed development. If the proposed definitive subdivision plan contains or abuts land in an adjacent community, the Board shall also notify the Planning Board of that community.
- G. Certificate of approval.
 - (1) The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions. Final approval, if granted, shall be endorsed on the original drawing(s) of all of the sheets that constitute the definitive plan by the signature of a majority of the Board but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk, and said Clerk has notified the Board that no appeal has been filed. Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.
 - (2) The Board may, as a condition of granting approval impose reasonable requirements designed to promote the health, convenience, safety, and general welfare of the community and to benefit the Town. In such event, the Board shall endorse such conditions on the plan to which they relate, or set forth a separate instrument attached thereto, to which reference is made on such plan and which shall for the purpose of the Subdivision Control Law be deemed to be a part of the plan.
 - (3) The following shall constitute standard conditions applicable to all approvals. Additional specific conditions may also be included by the Board as part of its approval of a definitive subdivision plan.
 - (a) Prior to endorsement of the plan by the Planning Board, the applicant must sign a covenant (see Form F⁶¹) and reference to the covenant shall be clearly shown on the definitive plan;

- (b) Prior to endorsement of the plan by the Planning Board, notification of the expiration of the statutory twenty-day appeal period must be received from the Town Clerk's office;
 - (c) Prior to endorsement of the plan by the Planning Board, the applicant shall provide the Planning Board with a copy of any and all "Order of Conditions" relative to the subdivision construction as issued by the appropriate agency, and recorded by the applicant, pursuant to the Wetlands Protection Act. Proof of recording shall be provided to the Planning Board. Any changes to the definitive plan, required under the "Order of Conditions," shall be presented to the Planning Board, by the applicant, for review and approval as a modification to the definitive plan. Except for very minor changes to the approved plan, a public hearing will be held on the modification plan. The Planning Board reserves the right to negotiate with the issuing authority any mutually acceptable modifications to the "Order of Conditions" that may be deemed appropriate by the Planning Board and the Planning Board's consulting engineer. After the public hearing and acceptance of the modifications to the plan, the Planning Board shall take action on the plan, reporting said action to the Town Clerk. The notification of the expiration of the statutory twenty-day appeal must be received from the Town Clerk's office for the modification.
 - (d) The waivers, as voted by the Planning Board, shall be listed in detail on the plans being recorded at the Registry of Deeds;
 - (e) Prior to the endorsement of the plan by the Planning Board, the applicant shall provide the final revised plans that incorporate the items as presented in the conditions of approval voted by the Planning Board and all required documentation to the Board and its consultant for review; and
 - (f) The applicant shall provide a copy of the receipt from the Registry of Deeds indicating that the endorsed plan and covenant if applicable have been duly recorded.
- H. Performance guarantee. Before endorsement of approval of a definitive plan of a subdivision the subdivider shall either file a performance bond or deposit money or negotiable securities in an amount determined by the Board or its agent to be sufficient to cover the cost of all or any part of the improvements shown on the definitive plans, the maintenance of such improvements for two years, and include a percentage contingency factor per year, at the discretion of the Planning Board, or follow the procedure outlined in § 200-14 below.
- (1) Final approval with bonds or surety. Such bond or security if filed or deposited shall be approved as to form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer and shall be contingent upon the completion of such improvements within two years of the date of the bond. The Board may decide at any time during the term of the performance bond that:
 - (a) The improvements have been installed in a satisfactory manner in sufficient amount to warrant reduction in the face amount of such bond, or
 - (b) The costs of the improvements have risen substantially and the performance guarantee is no longer sufficient to cover the costs, then the Board may modify its requirements for any or all such improvements and the face value of such performance bond shall thereupon be increased by an appropriate amount.

- (2) Final approval with a covenant.
- (a) Instead of filing a bond or depositing surety, the subdivider may request approval of his definitive plan on condition that a covenant running with the land has been duly executed and recorded and inscribed on the plan, or a separate document referred to, on the plan, in accordance with Section 81U of Chapter 41 of the General Laws. Such covenant shall provide in part that no lot may be built upon or sold until all of the improvements as required in this regulation have been completed and approved as provided hereafter. The Board may set a two-year or other approximate time limit within which all construction must be completed. An applicant may request a time extension subject to Planning Board review and approval.
 - (b) Upon completion of such required improvements and as shown on a submitted as-built plan (described in § 200-13K) the subdivider shall so notify the Planning Board and the Town Clerk, by delivery or registered mail, requesting release from such covenant, but will post a maintenance bond to be in effect until the roadways have been accepted by the Town as public ways or for two years from the date of final release of covenant for the completed improvements, whichever is earlier. The amount of said maintenance bond will be determined by the Planning Board. The Board shall act on such request within 45 days of receipt of such request.

ARTICLE IV

General Requirements and Design Standards**§ 200-13. General.**

- A. Basic requirement. The subdivider shall observe all design standards for land subdivision as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived, only as provided in Section 81R of the Subdivision Control Law.
- B. Conformance with Master Plan. Any proposed subdivision should conform, as far as practicable, to the proposals and intentions of the Abington Master Plan as adopted in whole or in part by the Planning Board, unless substitute proposals may be shown to the satisfaction of the Board to better serve the general area of the subdivision and the Town.
- C. Compliance with zoning. The proposed plan shall be in compliance with the existing Zoning By-Law, as amended, particularly relating to shape, width, frontage, and use of lots within a subdivision before the Board will grant approval.
- D. Protection of natural features. Due regard shall be shown for all natural features, such as large trees, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. The Board may exercise its right, in accordance with the provisions of Section 81CC of Chapter 41 of the General Laws as amended, to visit the applicants property to determine which natural features might be preserved.
- E. Design objectives. The subdivision design, including consideration of the resulting building sites, shall reduce to the extent reasonably possible, the following:
 - (1) The volume of the cut and fill;
 - (2) The area over which existing vegetation will be disturbed, especially if within 200 feet of a river, pond, wetland or stream, or on land having steep slopes.
 - (3) The number of trees greater than 10 inches in diameter (at six feet above ground) removed;
 - (4) The increase in peak rates of stormwater runoff;
 - (5) The number of building site frontages or driveway egresses onto collector streets;
 - (6) The disturbance of important wildlife habitats, outstanding botanical features, and/or scenic or historic environments;
 - (7) Soil loss or instability during and after construction;
- F. Access through another municipality. In case access to a subdivision crosses land in another municipality the Board may require certification, from appropriate authorities, that such access is in accordance with the Master Plan and subdivision requirements of such municipality and that a legally adequate performance bond has been duly posted or that such access is adequately improved to handle prospective traffic.
- G. Lot frontage at cul-de-sac. The allowable street frontage for a lot fronting on a cul-de-sac shall be measured along the side line of the street approaching the cul-de-sac as though the street line continued through the cul-de-sac uninterrupted, and not along the outside radius of the cul-de-sac. For lots across the end of a cul-de-sac in a permanently dead-end way the frontage shall be measured along the arc of the street line intersection with the side lot lines.

- H. Reserve strips. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- I. Further subdivision. In the event a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the logical and economic extension of streets, utility easements, drainageways, and public areas into such parcels. Adjacent parcels shall also be considered for logical, economical extensions of streets, sidewalks and utilities, etc.
- J. Resubdivision. The resubdivision of all or part of land covered by an existing plan shall be governed by these regulations. Such resubdivision plans shall show clearly that area or areas which are being replated and shall show all previous plans of these same areas with dates of recording information. All land last subdivided more than eight years previous to the date of application shall be resubdivided in accordance with the the Rules and Regulations and Zoning By-Laws currently in effect.
- K. As-built plan. The developer shall provide the Board with an original and six copies of a final as-built plan drawn to the required standards of these Rules and Regulations after the completion of a subdivision or a portion of a subdivision, showing the precise location of streets, easements, storm drainage facilities, public sewerage facilities if appropriate, all other utilities and bounds. The plan shall clearly identify where the as-built conditions differ from the approved plan. The as-built plan shall bear the stamp and signature of a registered land surveyor and a registered professional engineer. A digital copy in AutoCad format (current release) on a CD-ROM shall also be provided.
- L. Street acceptance plan.
 - (1) At the time the street or way or portion thereof is ready for acceptance and to facilitate acceptance by the Town of Abington, the developer shall have prepared and certified by a registered land surveyor a plan of acceptance drawn to Registry of Deeds standards showing widths, lengths, and bearings of all boundary lines of streets and easements and radii, tangents and central angles of all curves in street lines. It shall show and certify that all permanent monuments have been set.
 - (2) The surveyor shall place a certification on the plan stating: "The street (or way or portion thereof) is laid out and the bounds have been set as shown on the plan" and shall be dated, signed and the surveyor's stamp affixed thereon. The plan shall be submitted to the Board of Selectmen upon final review approval as to form by the Planning Board.
- M. Conveyance of utilities and easements to the Town. Prior to the final release the Planning Board of a surety bond or deposit, or, in the case of a covenant, the issuance of a certificate of completion, the applicant shall execute an instrument transferring to the Town, without cost, valid unencumbered title to all common sewers, storm drains and water mains, and appurtenances thereto, constructed and installed in the subdivision or portion thereof to be approved. Such instrument will convey to the Town without cost and free of all liens and encumbrances, perpetual right and easements to construct, inspect, repair, renew, replace, operate and forever maintain the aforesaid underground utilities, with any manholes, pipes, conduits and other appurtenances, and to do all acts incidental thereto, in the subdivision or portion thereof to be approved. If any such utilities have been constructed and installed in land not within such streets, then said transfer shall be in, through and under an easement as shown on the definitive plan.

§ 200-14. Streets.

- A. Arrangement. The proposed streets shall be considered in their relation to existing and planned

streets, to topographic and geologic conditions and to public convenience and safety. They shall provide for:

- (1) The appropriate continuation and interconnection of arterial, collector and residential streets,
 - (2) The extension of arterial and collector streets into adjoining land,
 - (3) The maximum attractiveness, livability and amenity of the subdivision.
- B. Access to arterial street. Intersections of collector and residential streets with arterial streets will not normally be allowed at intervals of less than 400 feet. Subdivisions of 50 or more lots will be required to have more than one access to an existing arterial or collector street or to a proposed collector street which is to be built in conjunction with the proposed subdivision.
- C. Street jogs. Street jogs are herein defined as offset crossing intersections. Street jogs in arterial and collector streets with center-line offsets of less than 250 feet shall not be allowed. Street jogs in minor and local streets with center-line offsets less than 125 feet shall not be allowed.
- D. Right-of-way width and alignments. On all classification of streets the following characteristics shall be the minimum acceptable:

Street Class	Right-of-Way (feet)	Minimum Radius of Curve (feet)	Sight Distance (feet)	Maximum Grad.	Minimum Grad.
Arterial	80	500	300	6%	1%
Collector	62	300	200	8%	1%
Minor	52	150	200	10%	1%
Local	40	100	100	10%	1%

- E. Intersection. Rights-of-way (ROW) shall be laid out so as to intersect as nearly as possible at right angles. No ROW shall intersect any other ROW at less than 60°. Property lines at ROW intersections shall be cut back to provide for a curb radius on the roadway of not less than 20 feet except where the angle of intersection varies more than 10° from a right angle in which case the radius of the curve connecting the acute angle may be less, and the opposite radius must be correspondingly greater. Where street grade at the approach to an intersection exceeds 3%, a leveling area shall be provided having grades not exceeding 1% for a distance of 50 feet from the nearer exterior line of the intersecting street.
- F. Dead-end streets.
- (1) Dead-end streets shall not exceed 600 feet in length, as measured to the center of the turnaround and shall be provided with a turnaround having a property line diameter of at least 120 feet. The turnaround centers shall be crowned, loamed, seeded and planted with trees and shrubs. A landscaping plan for the island area shall be included as part of the submission of a definitive plan. Any easement obtained for turnaround purposes at the end of a temporary dead-end street shall provide for termination upon construction of an extension.
 - (2) A twenty-foot-wide minimum easement shall be required at the end of culs-de-sac to provide for continuation of pedestrian traffic and/or utilities to the next street, unless waived by the

Board in writing.

- G. Driveway cuts. Driveway cuts shall not be allowed within 55 feet of an intersecting street.
- H. Street names. Proposed streets shall be named after servicemen from Abington who were killed in action. A listing of available names may be obtained from the Veterans Service Agent. If such names are not available, proposed street names shall reflect the history of the Town of Abington or the history of the parcel being subdivided. Names similar to existing street names shall not be allowed. All proposed names of streets shall be approved by the Abington Fire Department.
- I. Reduced density subdivisions of land.
 - (1) In accordance with MGL Chapter 41, Section 81Q, the Planning Board has determined that within subdivisions of land where the number of dwellings is reduced to less than the maximum allowed by the Zoning By-Law the prospective amount of travel upon the various ways within a subdivision will be less and therefore design and construction standards may be adjusted accordingly. Furthermore, the Planning Board has determined that a reduction in development density and road construction will assist the Town in growth management by minimizing impacts on public services, and therefore is in the public interest. For the purpose of this section, density shall be defined as the number of single-family residential dwelling units divided by the total land area available for development and the total land area shall not include any area contained within any existing or proposed roadways, rights-of-way, travel/access easements and furthermore, each lot must contain at least 30,000 square feet of contiguous upland area. (For example, in the R-40 Zoning District, density is equal to one dwelling unit per 40,000 square feet. A development at 1/2 density would be equal to one dwelling unit per 80,000 square feet while a 1/3 density development is equal to one dwelling unit per 120,000 square feet.)
 - (2) The following road design and construction standards shall apply to reduced density residential subdivisions:
 - (a) Where the density of a subdivision is equal to 1/2 the density allowed under the Zoning By-law the following standards shall apply.
 - [1] Minimum horizontal center-line radius: 100 feet.
 - [2] Property line radius at street intersection: 20 feet.
 - [3] Cape Cod berm curbing.
 - [4] Layout width: 40 feet.
 - [5] Maximum center-line grade: 10%.
 - [6] Pavement width: 22 feet traveled way plus 1.0 Cape Cod berm each side.
 - [7] Sidewalks: one five-foot walk.
 - [8] Design storm: ten-year for pipe size (Rational Method).
 - [9] Alternative turnaround area designs are encouraged.

Where the density of a subdivision is equal to or less than 1/3 the allowed density the following standards shall apply:

- [10] Minimum horizontal center-line radius: 75 feet.
- [11] Property line radius at street intersection: 20 feet.
- [12] Cape Cod berm curbing/no curbing as required by the Planning Board.
- [13] Layout width: 40 feet.
- [14] Maximum center-line grade: 12%.
- [15] Pavement width: 18 feet traveled way plus 1.0 Cape Cod berm each side.
- [16] Sidewalks: none required.
- [17] Design storm: ten-year for pipe size (Rational Method).
- [18] Alternative turnaround area designs are encouraged.
- (b) Reduced-density preliminary subdivision submissions must include accurately located, field determined, wetland/upland areas; and calculations supporting the number of lots within the subdivision.
- (c) Reduced-density definitive subdivision submission packages that were not presented as a preliminary reduced-density subdivision shall include accurately located, field determined wetland/upland areas; and calculations supporting the number of lots within the subdivision. The definitive plan lotting sheet shall clearly indicate that the plan is a reduced-density subdivision and any further development or creation of additional lots will require the roadway to be upgraded to full design and construction standards including the submission of a definitive plan modification to the Planning Board.

§ 200-15. Easements.

- A. Layout. Easements shall have a minimum width of 20 feet and the limit located by bearing and dimension. Greater widths may be required by the Planning Board where additional area is required to adequately access the easement area. All easements (except for tree planting) shall be bounded by the placement of granite monuments in accordance with § 200-19Y.
- B. Watercourses. Streams or watercourses shall be provided with a drainage easement conforming substantially with the line of its course, but not less than 20 feet in width. The relocation of streams or watercourses into open channels or covered culverts shall be kept to a minimum. Any stream diversion or relocation shall be done in accordance with the Massachusetts Wetlands Protection Act and the developer shall be required to submit such proposals to the Abington Conservation Commission prior to the approval of a plan.
- C. Utilities. Utility easements shall generally follow lot lines and shall be not less than 20 feet in width.

§ 200-16. Pedestrianways.

Pedestrianways or footpaths will normally be required to provide convenient circulation or access to schools, playgrounds, shopping, churches, transportation, parks, conservation areas, adjacent subdivisions, and/or other facilities. Such ways shall consist of a right-of-way of at least 20 feet.

§ 200-17. Open space, parks and playgrounds.

- A. Areas for open space, parks, and/or playgrounds may be required to be set aside in accordance with the proposals and intents of the Master Plan and Chapter 41, Section 81U of the General Laws as amended. Such areas shall be of reasonable size but generally not less than 5% of the total area of the proposed subdivision. No building may be erected or placed on such an area for a period of three years without the approval of the Board.
- B. Any open space, park or playground shall provide at least 50 feet of continuous frontage on a street, and pedestrianways will normally be required to provide access from each of the surrounding streets, if any, to which the open space, park or playground has no frontage.
- C. Further, such parks and/or playgrounds may be required to have maintenance provided for by covenants and agreements acceptable to the Board, until public acquisition by the Town of Abington.

ARTICLE V
Required Improvements

§ 200-18. Basic requirements.

- A. The subdivider shall install all of the improvements itemized herein unless waived in writing by the Board. All work done under this article shall be done under the direction of the Planning Board, or the Board's agent.
- B. No aforementioned bond or covenant shall be released until full approval in writing of all work done under this article is received by the Planning Board from the Board's agent. Such approval shall include a completed checklist. (See Appendix.)

§ 200-19. Improvements specifications.

- A. Typical cross section. Street construction shall conform to the Typical Cross Section of streets included in Appendix D of these Rules and Regulations.⁶² Grass strips and driveway entrances shall be so graded as to prevent surface water on the street from running onto private land.

- B. Minimum width requirements (in feet).

Street Class	Pavement Width (feet)	Planting Strips (feet)	Sidewalks (feet)
Arterial (with 10 foot center strips)	2 @ 22	2 @ 7.5	2 @ 5
Arterial (without center strip)	50	2 @ 9.5	2 @ 5
Collector	36	2 @ 7.5	2 @ 5
Minor	26	2 @ 7.5	2 @ 5
Local	22	4.5 and 9.5	1 @ 5

- C. Minimum compacted pavement depth requirements (in inches).

Street Class	Binder Course (inches)	Finish Course (inches)
Arterial	4	2
Collector	3	1 1/2
Minor and local	2 1/2	1 1/2

- D. Street grading.

- (1) The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not designated for preservation.
- (2) The full length and width of the proposed paved surface area shall be excavated or filled, as

62. Editor's Note: Appendix D is included at the end of this chapter.

necessary, to a depth of at least 16 inches below the finished surface for minor and local streets; at least 18 inches for collector streets; and at least 24 inches for arterial streets. However, if the soil is soft and spongy, or contains undesirable material, such as clay, sand pockets, peat, loam or topsoil or stones over six inches in diameter, or any other material detrimental to subgrade, such material shall be removed and replaced with suitable well-compacted material. In no case shall wood of any form be used as fill material within the street right-of-way.

- (3) The subbase shall be observed by the Planning Board agent prior to the placement of any gravel base course. (Seventy-two hours' written notice prior to the placement of gravel is requested.) Sufficient grade stakes shall be available to the agent so that the profile can be checked.

E. Finished base course.

- (1) Roadway gravel base course shall be provided with a least 12 inches of compacted thickness. No base course material shall be placed on frozen material. Base course material shall be placed in layers not exceeding eight inches in thickness, and compacted to 95% maximum density at optimum moisture content. This composition shall be certified in writing to the Planning Board agent by a licensed testing firm, at the expense of the developer.
- (2) Base course material shall consist of hard durable stone and coarse sand in conformance with MHD standards, having the following gradation:

Sieve	Percent Passing
1/2	50 - 85
No. 4	40 - 75
No. 40	10 - 35
No. 200	0 - 10

- (3) Maximum size of stone in gravel shall be three inches.
- (4) Base course material shall be compacted with no less than a ten-ton roller. The base course shall be placed to the lines and grades indicated on the approved drawing. Any depressions that occur shall be filled with additional gravel and rerolled until the surface is true and even. The base course shall be observed by the Planning Board agent during its placement and just prior to placing the bituminous binder course. A written request for inspection shall be provided to the Planning Board and its agent. The Planning Board agent shall be provided with a testing report noting its acceptability, prior to the placement of pavement. The Board's agent, upon review of the testing report demonstrating acceptable material, will authorize the placement of pavement. Authorization is not a guarantee by the Planning Board that the base course has no defects or deficiencies.

F. Paved surface.

- (1) Paved surfaces shall be constructed for the full length of all streets within the subdivision shown on the plan. The center line of such paved surfaces shall coincide with center line of street rights-of-way unless a minor variance is specifically approved by the Board.
- (2) The minimum width of the paved surface shall coincide with the requirements of § 200-19B of these Rules and Regulations or as determined by the Board.

- G. Pavement. Upon receipt of the Planning Board agent's report for the base course, a binder course of bituminous concrete Type I-1 as specified by the Massachusetts Highway Department shall be placed, compacted and rolled to the thickness conforming to the lines and grades indicated on the approved plans. The Planning Board and its agent shall be notified in writing in sufficient time to allow the agent to inspect the placing of the binder course. (Seventy-two hours' written notice prior to the placement of pavement is requested.)
- H. Curbing. Each and every street proposed to be built shall be required to have straight-faced granite (V-4) curbing, (See Appendix D), on both sides of the street for its entire length including all radii regardless of grades. Driveway entrance curbing shall be two-foot minimum length transition granite curbing. All granite curbing shall be installed to the lines and grades as shown on the drawings with a six-inch curb reveal. Transitions for ADA compliant ramps shall be provided as required. All curbing is to be supported on both sides with concrete.
- I. Sidewalk construction. All materials shall be removed for the full width of the sidewalk to a subgrade 12 inches below the finished grade as shown on cross-section; and all soft spots and other undesirable material below such subgrade shall be replaced with good binding gravel material and rolled. This excavated area then shall be filled with eight inches of good quality gravel as specified for finished base course (§ 200-19E), and rolled with a pitch toward the curb of not less than 3/8 inches nor greater than 1/2 inch to the foot. Wood forms shall be set to grade filled with three inches of compacted bituminous concrete to be applied in two courses (two-inch base course compacted and one-inch finish course compacted); provided, however, that if a granolithic surface is desired and/or specified by the Board, specification of the Massachusetts Highway Department shall be complied with. At intersections and elsewhere as necessary sidewalks shall be ramped in accordance with current ADA requirements.
- J. Storm drains and appurtenances.
- (1) Storm drains, culverts and related installations, including catch basins, gutters and manholes, shall be installed within the subdivision as necessary to permit unimpeded flow of all natural watercourses, to insure adequate drainage of all low points along streets, to control erosion, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained. Catch basins shall be required on both sides of the roadway on continuous grade at intervals of not more than 300 feet. Storm drains and culverts shall be no less than 12 inches inside diameter and shall be of greater size when required by design conditions. The type of pipe used shall be reinforced concrete pipe conforming to AASHTO-M170 Standard for Class III Pipe Wall B. All pipe 24 inches in diameter or smaller shall be bell and spigot type. Pipe larger than 24 inches in diameter shall be tongue and groove or bell and spigot. Pipe joints shall be thoroughly wet before filling them with cement mortar. The mortar shall be placed around the entire circumference of the pipe. Catch basins shall be constructed in accordance with the applicable portions of Paragraph 201.61 of Section 201, Basins, Manholes and Inlets, of the Massachusetts Highway Department Standard Specifications for Highways and Bridges.
 - (2) In addition, the following specific requirements shall be met:
 - (a) Catch basins shall be placed before intersections.
 - (b) Distances between manholes should not exceed 300 feet.
 - (c) Scour protection in the form of riprap and riprap paving shall be placed at the outfalls of all drain pipes. The riprap apron for all pipes flowing at velocities greater than two feet per

second shall extend at least 10 times the nominal diameter of the discharge pipe.

- (d) Velocities in grassed channels shall not exceed four feet per second. Man-made channels flowing at velocities greater than four feet per second and radically curved channel sections shall be paved with stone riprap.
- (e) Manholes with paved inverts will be required for any change in the line or grade of a drain pipe.
- (f) Headwalls or flared end sections shall be required at both ends of culverts and at the discharge ends of storm drains.
- (g) Security bars shall be provided at the entrance to, and exit from, all culverts or open pipe drains over 18 inches in diameter.
- (h) The Rational Method shall be used to determine the runoff flowing to each catch basin and to determine the design flow and velocity of each drain line. Storm drainage calculations shall be prepared by a registered professional engineer (civil).
- (i) Design analysis: A design analysis shall be submitted with each definitive plan submitted for approval. The design analysis shall include the following information. The data shall include consideration of the entire watershed and the calculations used in designing the drainage system including area calculations, intensity of rainfall, coefficient of runoff, time of concentration, discharge, pipe coefficients of roughness, and quantity and velocity of flow under design conditions (not full pipe conditions).
- (j) Storm drains shall be designed to have two feet six inches minimum cover over the pipe. All backfill material shall contain no stone larger than three inches and backfill material shall be placed in eight-inch lifts and compacted.
- (k) Any drain pipe (but not including perimeter cellar drains) connected to the proposed drainage system whose purpose is to drain wet lots must be shown on the definitive subdivision plans, and manholes shall be provided at all such connections. Perimeter cellar drains or sump pumps shall not be connected to an approved street subdrain or drainage system.
- (l) Proper connections shall be made with existing drains. Where, in the opinion of the Board, after consultation with the appropriate Town department, the capacity of an existing drain is inadequate to accommodate the entire subdivision, only that portion thereof which, in their opinion, can be adequately accommodated shall be so connected.
- (m) Storm drains shall be designed on a basis of the ten-year storm event and shall be such as to insure a rate of flow of not less than 2 1/2 feet per second nor more than 10 feet per second under design conditions (not full pipe). No drains shall be backfilled until they have been observed by the Planning Board's agent.
- (n) Where adjacent property is not subdivided, provisions shall be made for extension of the utility systems by continuing appropriately sized drains to the exterior boundaries of the subdivision, at such size and grade as will allow for their proper projection. Such drains shall be capped.

K. Manholes and catch basins.

- (1) Manholes and catch basins shall be constructed in accordance with the requirements detailed in Appendix D.⁶³
 - (2) Manholes or headwalls for drain lines over 30 inches in diameter shall be constructed in accordance with the Commonwealth of Massachusetts Highway Department book of construction standards.
 - (3) Frames and covers shall conform to the shape and size of castings as shown in E. L. LeBaron catalog, Item LK 110A, cut with three-inch letters (Drain), or approved equal.
 - (4) Frames and Grates shall conform to the shape and size of castings as shown in E. L. LeBaron Catalog item LK-120A (three flange) or LK-120B (four flange), or approved equal.
 - (5) No drainage structures shall be backfilled until they have been observed by the Planning Board's agent. The approval of equals shall be approved in writing by the Planning Board's agent.
- L. Setting of manholes, catch basins, and water gates. All manhole, catch basin and water gate rims shall be set at subgrade elevations flush with the bituminous concrete binder course until such time as the roadway is approved for installation of the bituminous concrete wearing course. At that time the manhole, catch basin and water gate rims shall be adjusted to finish grade, with concrete collars being placed.
- M. Subdrains. Where side slopes are steep and where soils are poorly drained (especially in clay or semi-impervious soils) the Board, after consulting with its agent, may require a subdrain be provided on both or one side of the roadway depending on site conditions. See the requirements for subdrain construction detailed in Appendix D.
- N. Water.
- (1) NOTE: Developers are directed to contact the Water Department early in the approval process to insure the availability of water capacity to service the proposed subdivision.
 - (2) Water pipes and related equipment and materials such as hydrants, main shutoff valves and laterals shall be installed to serve all lots on each street in the subdivision in conformity with the rules and regulations set by the Abington Water Department.
 - (3) Connection to existing Town water facilities to assure adequate supply shall be the responsibility of the developer.
 - (4) Hydrant locations are to be approved in writing by the Fire Department. No water service shutoffs are to be allowed in proposed driveways.
- O. Sewerage.
- (1) NOTE: Developers are directed to contact the Sewer Department early in the approval process to insure the availability of sewer capacity to service the proposed subdivision.
 - (2) Unless otherwise determined by the Sewer Department sewer lines shall be installed and lots connected to the public sewerage system. Furthermore, unless otherwise determined by the Sewer Department sewer lines shall be installed for future connection to the public sewer system where capacity is not currently available.

63. Editor's Note: Appendix D is included at the end of this chapter.

- (3) If public sewerage connections are not required according to the above, the applicant shall install private on-lot systems.
- (4) Where public sewers are required, the following design standards shall apply:
 - (a) Public sewers shall be designed according to accepted professional engineering practices and the specific requirements of the Abington Sewer Department.
 - (b) Public sewers shall be not less than eight inches in diameter.
 - (c) Manholes shall be located at every change in grade of horizontal alignment but not more than 300 feet apart. The use of sewage pumping facilities shall only be allowed in accordance with Town specifications and at the discretion of the Sewer Commissioners, the Board of Health, and the Water Department.
 - (d) If the applicant is required to provide other than public sewerage, the design and construction of private on-lot sewerage systems shall conform with and be subject to the approval of the Abington Board of Health.
 - (e) Cellar drains or sump pumps shall not be connected to the public sewerage system or to the in-street drainage system or subdrains.
- P. Utilities. All utilities shall be placed underground unless otherwise approved by the Board. (Sewer, water, drain, gas, electric, telephone, fire alarm, cable TV).
- Q. Retaining walls. Retaining walls should be avoided and shall be installed only where deemed necessary by the Board and shall comply with specifications set forth in Massachusetts Highway Department "Standard Specifications for Highways and Bridges, "as amended. The design of retaining walls shall be prepared by a professional structural engineer and be shown on the approved plans. When allowed adjacent to a sidewalk, the retaining walls shall be provided with appropriate fencing and railing in accordance with the latest State Building Code.
- R. Fire alarm system. There shall be installed within a subdivision development a sufficient number of fire alarm boxes. The type, number and location are to be established in writing by the Chief of the Abington Fire Department, prior to approval. Fire alarm boxes shall be installed prior to the occupancy of any dwellings within the subdivision.
- S. Shade trees. Such trees as are suitable, in the opinion of the Tree Warden, for preservation shall be preserved. Where, in the opinion of the Tree Warden, existing trees are inadequate, shade trees having a caliper of 3 1/2 inches at 18 inches above the soil line and of a suitable variety as approved by the Tree Warden shall be planted at the rate of at least three per house lot. Evidence of the Tree Warden's approval in writing shall be filed with the Planning Board by the applicant. The following note shall be placed on the definitive lot sheet: "Shade trees shall be located in a ten-foot-wide permanent tree planting easement adjacent and parallel to the street layout line. The tree planting easement is for the purpose of planting, maintaining or replacing a minimum of three trees per lot for the benefit of the developer, his assigns and successors."
- T. Planting strip. There shall be planting strips as required in § 200-19B and as shown on the typical cross section in Appendix D. Said area shall be surfaced with not less than six inches of quality loam which shall be seeded, fertilized, limed and rolled and protected from damage or erosion until there is a satisfactory stand of grass to the satisfaction of the Board.
- U. Street signs. Street name signs shall be furnished by the applicant and erected at all street intersections

prior to the occupancy of any building on the street. Street names, street signs, and their placement shall be approved by the Fire Department and the Highway Department.

- V. Stop signs. Stop signs shall be installed at all intersections within the subdivision, and at the intersection of the subdivision streets with Town ways as required by the Planning Board and approved by the Police Department. Stop signs shall be installed prior to the occupancy of any building on the street.
- W. Streetlights. Streetlights shall be installed as required by the Selectmen after consultation with the Police Department and the Fire Department. If not specified by these Departments the Planning Board will determine the locations. Streetlighting shall be provided by the developer before the first house is occupied. The construction and operating costs of said lights are to be borne by the developer until acceptance of the street as a public way or two years from the final completion of the subdivision, whichever is earlier. Streetlighting is normally required at all intersections.
- X. Guardrails. Guardrails conforming to MHD standards shall be installed as required by the Planning Board. The type, size and location of guardrails shall be determined by the Planning Board after consultation with the Highway Department and Police Department.
- Y. Monuments.
 - (1) Granite bounds shall be placed at the beginning and end of all curves, at all intersections of streets, at easements and at such other places as may be required by the Board. On any curve with a tangent distance of over 500 feet, intermediate bounds shall be set at intervals of 250 feet measured from one end of the curve. Bounds shall be of sound granite, not less than 36 inches long and not less than five-inch square. A one-half-inch drill hole shall be accurately placed at the top of each bound.
 - (2) The setting of the bounds shall be supervised and certified as to their installation by a registered land surveyor. No permanent bounds shall be installed until all construction which would disturb or destroy the bounds is completed. If a driveway is installed in an area of a proposed monument, the monument shall be set and the driveway patched.
 - (3) Upon completion of setting the required number of bounds, a written certification shall be delivered to the Board from a registered land surveyor or engineer stating that they have been placed with drill holes in accordance with the locations shown on the approved plans.
 - (4) Lot markers. Lot markers in the form of capped one-half-inch rebar shall be installed on all lot lines within a subdivision. Said markers shall be driven to a point three feet minimum below grade and set flush to finished grade.
- Z. Construction details. In the event of any question as to construction details, specifications for the composition of material, workmanship, and the method of applying materials the latest standards of the Massachusetts Highway Department shall apply in each instance.
- AA. Cleaning up. Before sale of a lot, the subdivider shall clean up any debris within the layout caused by street construction and installation of utilities. All areas within a street layout destroyed or altered in construction operations shall be restored as to vegetation or other finish satisfactory to the Board.
- BB. Safety.
 - (1) All precautions should be taken by the developer and his subcontractors to observe common sense safety requirements. The Board designates the Health Agent, Building Inspector, Police

Chief, Fire Chief, Highway Superintendent and/or the Planning Board's agent to report all unsafe activities in preparation of the subdivision to the Board.

- (2) The Town of Abington assumes no responsibility for construction site safety, which shall remain the liability of the developer and their subcontractors.

CC. Maintenance of roadways including utilities and easements.

- (1) The subdivider shall be responsible for maintaining all roads and other improvements in a subdivision for a period of two years after the final release of a performance bond or covenant as required in Article III herein, or until the roads are accepted by the Town Meeting, whichever time is shorter. Maintenance shall include the responsibility for streetlighting, snow plowing and sanding all streets within the subdivision as well as the cleaning of all drainage and stormwater management facilities.
- (2) To assure such responsibility the subdivider shall guarantee the maintenance of the roads in a subdivision to the satisfaction of the Planning Board and the Highway Department by posting with the Town adequate surety as determined by the Board.
- (3) At the time lot releases are requested the subdivider shall pay a subdivision maintenance fee in the amount required in Appendix C.⁶⁴ This nonrefundable fee shall be used by the Town of Abington to partially offset the costs associated with adding the new roadways(s) to the Town system and maintaining the drainage easements within the subdivision.

64. Editor's Note: Appendix C is included at the end of this chapter.

Appendix

Chapter A300**GENERAL LAW ACCEPTANCES****§ A300-1. General Law acceptances.**

The following is a listing of the General Laws accepted by the Town of Abington:

Statutory Reference	Subject	Adoption Information
c. 44, § 53F1/2	Water Department Special Revenue Fund	4-4-2022 ATM, Art. 6
c. 44, § 55C	Municipal Affordable Housing Trust Fund	10-19-2020 STM, Art. 25
c. 59, § 5K	Reduction in property tax liability for persons over age 60 in exchange for volunteer services	5-22-2017 ATM, Art. 8

Derivation Table

DERIVATION TABLE

Chapter DT

DERIVATION TABLE

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Town of Abington adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The original publication of the Code included general and zoning bylaws and amendments thereto adopted through the Special Town Meeting of November 10, 2003.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 10	4-7-2004	Zoning amendment (outdoor lighting)	Ch. 175
ATM, Art. 11	4-7-2004	Zoning amendment (phased development)	Not approved by Attorney General
ATM, Art. 29	4-7-2004	Town Meetings amendment	Superseded by 4-3-2006 ATM, Art. 8
ATM April 2004	Referendum 4-10-2004; approved by Legislature c. 259, L. 2004	Charter	Charter
ATM, Art. 17	4-6-2005	Zoning amendment	Ch. 175
ATM, Art. 18	4-6-2005	Zoning amendment	Ch. 175
ATM, Art. 20	4-6-2005	Zoning amendment	Ch. 175
ATM, Art. 21	4-6-2005	Condominium conversions amendment	Superseded by 4-3-2006 ATM, Art. 8
ATM, Art. 27	4-6-2005	Zoning amendment	Ch. 175
ATM, Art. 30	4-6-2005	Zoning amendment	Ch. 175
ATM, Art. 31	4-6-2005	Zoning amendment	Ch. 175
ATM, Art. 8	4-3-2006	General Bylaws	Chs. 1 through 171
ATM, Art. 13	4-3-2006	Zoning amendment	Ch. 175
ATM, Art. 14	4-3-2006	Zoning amendment	Ch. 175
ATM, Art. 11	4-2-2007	Zoning amendment	Ch. 175
ATM, Art. 15	4-7-2008	Zoning amendment	Ch. 175
ATM, Art. 10	4-6-2009	Marijuana	Ch. 106
ATM, Art. 12	4-6-2009	Fire alarm systems	Ch. 69
ATM, Art. 2	4-2-2012	Personnel: classification and salary plan amendment	Repealed by 6-16-2016 ATM, Art. 5

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 14	4-2-2012	Illicit discharges to municipal separate storm sewer system	Ch. 128, Art. II
ATM, Art. 15A	4-2-2012	General penalty amendment	Ch. 1, Art. I
ATM, Art. 15B	4-2-2012	Fire alarm systems amendment	Ch. 69
ATM, Art. 15C	4-2-2012	Town Meetings amendment	Ch. 152
ATM, Art. 15D	4-2-2012	Town offices amendment	Ch. 155
ATM, Art. 15F	4-2-2012	Dumping amendment	Ch. 49
ATM, Art. 15G	4-2-2012	Peddling and soliciting amendment	Ch. 117
ATM, Art. 15H	4-2-2012	Sale of vehicles amendment	Ch. 164
ATM, Art. 15I	4-2-2012	Sale of vehicles amendment	Ch. 164
ATM, Art. 15K	4-2-2012	Boards, committees and commissions amendment	Ch. 17
ATM, Art. 15L	4-2-2012	Town Meetings amendment	Ch. 152
ATM, Art. 15M	4-2-2012	Finance Committee amendment	Ch. 67
ATM, Art. 15N	4-2-2012	Sale of vehicles amendment	Ch. 164
STM, Art. 1	5-21-2012	Zoning amendment	Ch. 175
STM, Art. 6	10-29-2012	Town Meetings amendment	Ch. 152
Chapter 407, Acts of 2012	1-4-2013	Charter amendment	§§ 2-8, 3-8, 6-5
ATM, Art. 19	6-9-2014	Pawnbrokers	Ch. 111
ATM, Art. 20	6-9-2014	Dumping amendment	Ch. 49
ATM, Art. 24	6-9-2014	Licensing: failure to pay taxes	Ch. 102, Art. I
ATM, Art. 25	6-9-2014	Zoning amendment	Ch. 175
ATM, Art. 17	6-8-2015	Zoning amendment	Ch. 175
ATM, Art. 18	6-8-2015	Zoning amendment	Ch. 175

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 19	6-8-2015	Zoning amendment	Ch. 175
ATM, Art. 20	6-8-2015	Zoning amendment	Ch. 175
ATM, Art. 21	6-8-2015	Zoning amendment	Ch. 175
ATM, Art. 22	6-8-2015	Zoning amendment	Ch. 175
ATM, Art. 23	6-8-2015	Zoning Map amendment	NCM
ATM, Art. 25	6-8-2015	Zoning amendment	Ch. 175
ATM, Art. 26	6-8-2015	Zoning amendment	Ch. 175
Ch. 113, Acts of 2015	10-30-2015	Charter amendment	§§ 4-2-1, 4-2-2, 5-7
4-30-2016	Referendum 4-30-2016; approved by Legislature c. 445, L. 2016	Charter	Charter
ATM, Art. 5	6-6-2016	Personnel administration	Ch. 119
ATM, Art. 9	6-6-2016	Various amendments to General Bylaws; Saving Abington With Green Energy ("S.A.G.E.") Committee	Ch. 1; Ch. 11; Ch. 17; Ch. 35; Ch. 49; Ch. 63; Ch. 67; Ch. 69; Ch. 71; Ch. 75; Ch. 113; Ch. 117; Ch. 122; Ch. 126; Ch. 138; Ch. 152; Ch. 155; Ch. 164; Ch. 167
ATM, Art. 4	5-22-2017	Revolving funds	Ch. 124
ATM, Art. 8	5-22-2017	General Law acceptances	Ch. A300
ATM, Art. 14	5-22-2017	Stretch Energy Code	Ch. 145
ATM, Art. 17	5-22-2017	Licensing: failure to pay taxes amendment	Ch. 102, Art. I
ATM, Art. 18	5-22-2017	Zoning amendment	Ch. 175
ATM, Art. 19	5-22-2017	Zoning amendment	Ch. 175
ATM, Art. 20	5-22-2017	Zoning amendment	Ch. 175
ATM, Art. 21	5-22-2017	Zoning amendment	Ch. 175
ATM, Art. 17	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 18	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 19	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 20	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 21	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 22	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 23	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 27	5-21-2018	Zoning Amendment	Ch. 175

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 28	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 29	5-21-2018	Zoning Amendment	Ch. 175
ATM, Art. 31	5-21-2018	Zoning Amendment	Ch. 175

Enactment	Adoption Date	Subject	Disposition	Supp. No.
ATM, Art. 11	5-20-2019	Zoning Amendment	Ch. 175	13
ATM, Art. 23	5-20-2019	Plastic Bag Ban	Ch. 127	13
ATM, Art. 24	5-20-2019	Dumping Amendment	Ch. 49	13
ATM, Art. 15	10-19-2020	Stormwater Management: Construction and Post-Construction Requirements	Ch. 140, Art. I	15
ATM, Art. 25	10-19-2020	Affordable Housing Trust; General Law Acceptances Amendment	Ch. 18; Ch. A300	15
ATM, Art. 27	10-19-2020	Zoning Amendment	Ch. 175	15
ATM, Art. 16	5-24-2021	Affordable Housing Trust Amendment	Ch. 18	15
ATM, Art. 20	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 21	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 22	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 23	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 24	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 25	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 26	5-24-2021	Zoning Amendment	Ch. 175	14

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ATM, Art. 27	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 30	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 31	5-24-2021	Zoning Amendment	Ch. 175	14
ATM, Art. 6	4-4-2022	General Law Acceptances	Ch. A300	16
ATM, Art. 13	4-4-2022	Zoning Amendment	Ch. 175	16
ATM, Art. 16	4-4-2022	Zoning Amendment	Ch. 175	16
ATM, Art. 19	4-3-2023	Zoning Amendment	Ch. 175	16
ATM, Art. 21	4-3-2023	Zoning Amendment	Ch. 175	16
ATM, Art. 22	4-3-2023	Zoning Amendment	Ch. 175	16
ATM, Art. 23	4-3-2023	Zoning Amendment	Ch. 175	16
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